

Association Action After Turnover

**The Management Group, Inc.'s
February 24, 2007
Director's Workshop**

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Overview

- Conduct a legal audit of contracts and governing documents, including bylaws, CC&R's and declaration
- Review and, if necessary, revise the association budget
- Conduct a building envelope investigation to ensure proper construction
- Conduct a reserve study
- Work closely with the management company and take a proactive role with community members
- Resale certificates

Legal Audit of Contracts and Governing Documents

- Contracts
- Warranties
- Insurance
- Governing Documents (CC&Rs)
 - Statute → Declaration → Bylaws
- CPA / Other professional consultants

Statutory and Common Law Warranties

- Condo Act
 - Implied Warranties
 - Express Warranties
 - Conversion Condominiums
- Warranty of Habitability
 - New Construction
- UCC Warranties
 - Fit for its ordinary purpose

Express Warranties From The Developer

- Public Offering Statement
 - Usually provide less coverage than implied warranties
- Other Written Materials Signed by the Declarant
 - Words such as “warranty” or “guarantee” are not required

Express Warranties From Others

- Product Warranties
 - Declarant should pass these on to first purchasers and/or the association
- Vendors
- Subcontractors
- Homebuyer Warranty (2-10)

Popular Declaration Amendments

- Rental Cap and Restrictions
 - Grandfather clauses
 - Hardship exceptions
 - Tenant screening
- Insurance Deductible
- ADR
- Enforcement
- High Risk Components

Association Budget

- Statutory requirement
 - “. . . estimated current common expense liability. . .”
- Resale certificate
 - “The current operating budget of the association”

Building Envelope Investigation

- Not a reserve study
- Investigate design and construction conditions
- Focus on water intrusion issues
- Definition
 - Differs from ordinary home inspection

Reserve Study

- Financial report to ascertain long-term cash flow model
- Not statutorily mandated in WA
- Nuts and bolts
 - List of common and limited common areas under the association's management responsibilities
 - Current conditions and estimated useful life expectancy for each common component

Reserve Study (cont'd)

- Replacement and/or maintenance costs for each common element
- Maintenance requirements and frequency for each common element
- Projected reserve funding needs for set time period, contemplating funding of replacement of components with pertinent life expectancies
- Percentage level of reserve funding based on the current association reserve balance and the current projected need

Maintenance Plans

- Oregon only
- Effective 1/1/06
- Requires 30-year plan
 - “The reserve study shall include a 30-year plan for the maintenance, repair and replacement of common elements and association property...”
- Amendment to current reserve study statutes

Disclosure Requirements

- Washington
 - Resale Certificate (RCW 64.34.425)
- Oregon
 - Multiple disclosure statutes (ORS 100.720-.750)

Board/Association Mgr Team

- Work closely with management company and take a proactive role with community members
 - Communicate
 - Coordinate
 - Educate
 - Cooperate
 - Celebrate (Community)

Board Action After Association Turnover

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