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New Year, New Changes to WA Reserve Study Law

Barker Martin Webinar
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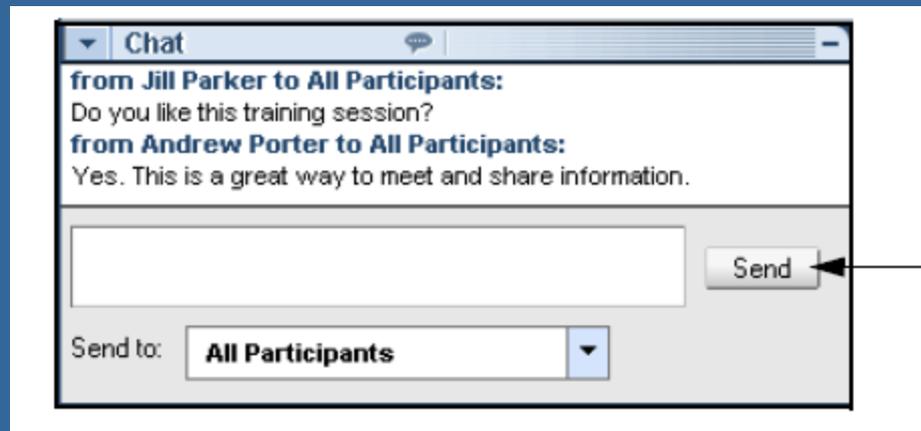
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Reserve Study Overview

- A Reserve Study is a budget/cash flow model to ensure there is money to complete repairs with NO special assessments
 - COMPARE TO HEALTH INSURANCE
 - NOT a maintenance or repair plan
 - NOT a building envelope inspection
- Reserve Studies provide information for owners and buyers
 - Whether funded or not, should provide buyers with notice of upcoming repair expenses
 - Whether funded or not, may affect sale-ability and market value of units
 - Monthly dues *affect* borrowing capacity of purchasers, which may *affect* prices
 - Unfunded reserve requirements affect lender willingness to fund loans



Reserve Study Overview (cont.)

Why they are recommended or mandated by some:

“Condominium owners across the State could ill-afford these special assessments often resulting in foreclosures and always resulting in ownership dissatisfaction”

-- WA Legislator

“Owners sell their units to new purchasers without disclosing the potential for special assessments. 'Condominium roulette' is devastating to new owners who face huge special assessments shortly after their purchase with no warning”

-- WA Legislator



WA Law Requires Reserve Studies

- Specifies how often
- Specifies content and some format
- Specifies who can/must perform
- Requires inclusion in Resale Certificates and Public Offering Statements and Budgets
- DOES NOT require funding
- DOES NOT have penalties for failure to comply with law



WA Law Requires Reserve Studies (cont.)

- Requires a “Reserve Study Professional”
 - New RCW 64.34.020 (35); 64.34.380(2) and (3)
- “Independent person suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study.”
- Required for initial study and every three years to do visual inspection
- Not required for annual updates between site visits.



Exceptions for Small Condo Associations or “Unreasonable Hardship”

- Amended in 2009 to allow Condos with 10 units or fewer to exempt themselves by 2/3 vote of owners
- “Significant assets” is the new threshold—whether total maintenance/repair/replacement of reserve components is 50% or more of gross budget of Association, excluding reserve account. 64.34.020(43)
- “Unless doing so would impose an unreasonable hardship”
- Language repeats through new statute. 64.34.380
- Hardship not defined, but does exist if cost exceeds 10% of annual budget. 64.34.386(2)



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2012 Changes Affecting Every HOA

Changes to RCW 64.38:

- Reserve Study Required
 - With site visit every 3 years
 - Without site visit each year in between
- Disclosure in annual budget required
- Mirrors Condo Act requirements almost exactly



Excluded HOAs

Not required to get a reserve study if:

- Cost of reserve study exceeds 5% of budget
- HOA has no significant Assets (as defined in the Act: total replacement cost of all common assets exceeds 75% of the HOA's operating budget) 64.38.010(19)
- There are 10 or fewer homes in the HOA
- It would create an unreasonable hardship



Budgets (not just Reserve Studies)

- Intent of legislation was to provide disclosure to unit owners.
- Some boards did not share Reserve Studies
- Committee felt providing full Reserve Study was onerous
- Committee did not like some summaries
- Committee crafted specific list of information to be provided to all owners at Budget time. RCW 64.34.308(4)



Changes Affecting New Act Condos

- Tweaking of Reserve Study Contents
- Disclosure to owners of information from the Reserve Study during the budgeting process

Minor Changes to Reserve Studies:

- Funding methods now defined
- Baseline funding must be shown
- Full Funding Plan is to be fully funded at the end of 30 years, and must be shown
- Significant assets have been defined
- Specific components must be addressed: Roofing, painting, paving, decks, siding, plumbing, windows, and anything costing more than 1% of annual budget

Clarifies Contribution Rates

- Fixes some confusion over study contents
- Must show Baseline Funding level, just enough to keep reserves above ZERO
- Must show Full Funding Level, enough so that you are 100% funded in 30 years
- Must show Recommended Funding by Reserve Study Professional



Major Changes for Budget Process

- Requires disclosure of information from the Reserve Study, and how the CURRENT and PROPOSED BUDGET compare to the RECOMMENDED CONTRIBUTION rate
- Still no REQUIREMENT to save money



Specific Requirements of New Law for Budgets

- HOAs and Condos formed after July 1st, 1990
- Requirements of 64.34.308(4):
 - (a) State current, recommended, and proposed reserve contribution rates, and Funding Plan used by the professional to make the recommendation
 - (b) State if additional funding will be required, when it is due, and what it would be for. (Example: special assessment of \$100,000 to replace the roof in 2015). Show amount per unit per year and month for those expenses



Specific Requirements of New Law for Budgets (cont.)

- (c) State if the association will run out of money in the next 30 years at its CURRENT contribution rate. This is a YES or NO question
- (d) If the answer to (c) is "YES", then attach a spreadsheet showing for all 30 years when it is short, and by how much.
 - These are not easy calculations to do



Specific Requirements of New Law for Budgets (cont.)

- (e) State the projected year end:
 - Reserve Account Balance per the Study
 - Reserve Account Balance per Budget, and
 - The Percent Fully Funded as of the Reserve Study date

- (f) Estimated Year End Balance for the next 5 years at RECOMMENDED contribution rate, CURRENT rate, & PERCENT FULLY FUNDED each of those years



Specific Requirements of New Law for Budgets (cont.)

- (g) Estimated Year End Balance the next 5 years at the BUDGETED contribution rate, the FULLY FUNDED BALANCE for each of the next 5 years, and the PERCENT FUNDED each of the next 5 years at the BUDGETED contribution rate
- Intent is to show the Current, Recommended, and Budget comparison



Requirements of 64.34.308(4)

Well intended legislation, with a goal of fully informing owners about:

- 1 - How they are currently doing on saving for future needs, and what happens over the next 5 years
- 2 - What the professional is recommending and how that looks
- 3 - What the proposed budget includes and what that will do over 5 years

Challenges with this new law:

- Requires some difficult calculations
- Requires information that Reserve Study Professionals do not have, because they do not set the Budget for contributions
- Budgets usually are not done at same time as a Reserve Study
- Requires calculations for BUDGET PURPOSES that are NOT IN MOST RESERVE STUDIES



Reserve Study Professionals and this new law

- Many providers don't comply with current law because they don't understand it
- Some providers think they know what is best for their clients
- Some of the new definitions and clarifications will help, but only if the provider understands them
- Providers may not understand budget process
- Many will not understand what a “full funding plan” is, even with a definition

Positives from the new law:

- Owners should be better informed
- Boards should have better information to support increased reserve contributions
- What a "fully funded contribution" is should be more consistent now.
- Recommendations should no longer have giant reserve contributions to bring an association to 100% funded in 5 years



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Questions?