

On behalf of all of us at Keough & Moody, we wish you all a very relaxing and happy Thanksgiving!

Chuck, Dawn & Gabby



WINTER IS COMING - IS YOUR ASSOCIATION READY?

Ready or not, winter is just around the corner. There are things associations can do now, before the first deep freeze and before the first snowfall, to make sure they are ready for all winter may bring.

1. Who You Gonna Call?

While emergencies can happen at any time, winter seems to bring the highest risk for situations where immediate contact is important. From ice dams to pipe breaks to heating failures, cold months mean that owners may need to reach management or the board on short notice, and management may need to reach one or more owners on an emergency basis. Before the emergency call needs to be made, the association should send a blast to the community providing general contact telephone numbers and email addresses. Remind owners who they should call in a time of need (while also reminding owners if the emergency has them concerned for their life or safety, they should call 911 FIRST). Now is also a good time for an association to remind their owners to provide the association with their current contact information and an emergency contact. Management or the board should review the association's records to make sure that this information has been collected and is within the association's records. Remember, if a unit is occupied by someone other than the owner, both resident and owner contact and emergency contact information should be within the association's records.

Similarly, be sure that the association knows which vendors to call if there is an emergency. A list of vendors and numbers should be created so that there is an easy "cheat sheet" when

needed and no one is scrambling to locate the number for the insurance agent, plumber, snow remover, furnace repairman, etc. In addition, it should be discussed in advance WHO will make these calls on behalf of the association when an emergency strikes. If you live in a professionally managed association, your manager will likely be the one to reach out to necessary vendors. If you live in a self-managed association, the board should designate who will handle after-hours and other emergency calls, and their authority should be specified. That is, for self-managed associations, it is critical that the designated board member knows what he is authorized to do in an emergency situation.

2. Make Sure Contracts are Current...

Review contracts for snow and ice removal to ensure they are ongoing for the upcoming snow season. Ensure that insurance is periodically reviewed and updated and that there is coverage for a pipe burst. It is a good idea to talk to your association's agent and confirm that the association is adequately covered if there are any winter emergencies.

3. ...and Make Sure You Know How to Use Those Contracts.

Often issues that occur over the winter affect multiple units and common elements. The reaction of many boards is to first determine who has to pay for what, but that is putting the cart before the horse. The first step is to address any emergency repair and remediation needs – stop the leak, restore the heat to full function, etc. Everyone involved should be told to contact their respective insurance carrier. Then, after it is determined what insurance will and will not do, the board can decide how to allocate the costs for the repairs made.

4. Review Association Infrastructure.

Before the freeze is the best time to have your seasonal review of necessary services that may be impacted by the cold. Are the pipes in serviceable shape? Are boilers operating properly? Have sprinklers and hoses been drained? Have pools been properly winterized? Do windows need to be re-sealed or draft stoppers replaced on doors? Are generators or other backup energy sources available for necessary utilities? Owners should also be reminded to get their units ready for the winter to help minimize any loss.

5. Are Your Rules Ready for the Cold?

Boards should have protocols in place for accessing units on an emergency basis. In addition to having emergency contact information on file, some associations request that keys are available (either maintained by the association, or another resident, or another local and trusted person with contact information on file with the association), especially if the owner will be out of town during the winter. Owners should be encouraged to provide a key to someone in the building. Many associations have management keep a key for each unit. To ensure owners feel comfortable with giving their key, now is also a good time to remind owners of the strict protocol the association has adopted to safeguard each owner's key. Not only should associations have a key or know how to obtain a key if access to a unit is needed, but the association should also have written authorization to gain access to a unit when there is an emergency. This protocol for the collection of keys and accessing a unit is commonly included within the association's rules and regulations.

Owners should also be reminded what they should do before leaving for the winter. For example, again they should be reminded to leave a key with someone, to keep the unit at a minimum temperature, and to have someone go inside and check on the unit on a regular basis. Again, rules can be the place to include this language, especially for the community that has a

lot of snowbirds. Even so, a blast to the community right now is also a good idea.

6. Plan for the Things You Cannot Plan For!

No matter how vigilant an association is about winter preparation, sometimes the weather overpowers planning. There is always a winter storm that is snowier than expected, or a cold snap that lasts longer than it should have. While you cannot avoid every problem that winter may bring your way, having a plan in place to address the unknowns is helpful. Be sure you have a good way to communicate quickly with all owners. Have necessary supplies on hand – stock up on salt/de-icers, gas for generators, and slip-proof mats for entryways. Check weather forecasts so you can better anticipate what may be coming, and follow the above steps as much as possible in advance of the storm!



A new segment to the Keough & Moody Newsletter!

BUT WE'VE ALWAYS DONE IT THIS WAY...

In these segments, we will address various, let's call them, traditions in the world of community association living, and encourage boards and managers to critically examine whether it is time to change those traditions within their associations. That is, just because we have always done it this way, does not mean we should continue to do it this way! In this initial segment, we are going to address board meetings.

Once upon a time, it was determined that board meetings should always occur at 7:00 p.m., in person, at a local library or village hall. And so, it was the case that board meetings always were scheduled and held in this fashion. When the pandemic struck, board meetings generally ground to a screeching halt, given restrictions against gatherings and the closure of libraries and other governmental facilities. As the pandemic continued, boards were required to adapt in order to ensure that the business of the association was properly conducted. Thank goodness for Zoom and other virtual platforms!

Now that life has returned to (relatively) normal, boards are faced with the decision of whether to continue conducting meetings via Zoom or other virtual platforms or whether to return to conducting board meetings in the way it has always been done. In making that decision, boards should determine what works best for **them** (after all, the purpose of a board meeting is for the board to gather and conduct business) and not simply revert to the way things have always been done. Here are some things that we recommend that the board consider when determining when and how to conduct its meetings:

Board meeting time

Neither the Illinois Condominium Property Act, nor the Common Interest Community Association Act mandate that board meetings always start at 7:00 p.m. While we understand that many older By-Laws may include such a time, it is questionable whether, given the language of the statutes referenced above, those terms are still binding. In many cases, these By-Laws were drafted before technology played such a vital role in our everyday lives and there was no choice but to have a meeting in person and after work.

Boards have the choice of scheduling board meetings at whatever time works for them (and their community association manager). If a 12:00 p.m. virtual meeting works for a majority of the board, there is no reason not to have a meeting over the lunch hour. In fact, this may prove to be more beneficial for boards as board members are not only more mentally fresh earlier in the day (since they are not coming off a full day of work), but also more focused as there is a limited time for the board to conduct business. For other boards, a 5:00 p.m. meeting may work better for its members of the board. Boards should determine what works best for them in terms of a start time, as opposed to sticking with what the association has always done.

Board meeting venue

In addition to determining what time works best for a board meeting, boards (and their community association managers) should also determine what venue works best for it – in person or a virtual format. For some associations, it is most convenient for the board and its members to have their meetings in person. That may be because onsite meeting rooms make it easy to host in-person board meetings or because it may be difficult for board members to utilize technology effectively to participate in virtual meetings. For associations with those issues, continuing to meet in person may be what works best for the board.

For other associations, virtual meetings may allow for more efficient meetings with *better* participation from the membership. Attendance at in-person meetings is often impacted by things, such as travel time and inclement weather. With virtual meetings, owners can “attend” board meetings while preparing dinner or handling other personal chores (and board members can attend from their winter home in Florida). In addition, unless a snowstorm takes down the internet, inclement weather will not be a factor in attendance—either for board members or association members. Because of this, most associations saw a marked increase in owner participation at board meetings when meetings were shifted to a virtual platform.

Virtual meetings are also easier to control – thanks to the handy-dandy mute button. In-person board meetings are often interrupted by owners, who believe that the meeting is an owner meeting and not a board meeting. Sometimes, these interruptions are so problematic that either law enforcement is called or the meeting is adjourned, leaving association business left unaddressed. Virtual board meetings allow for the host (often the community association manager) to have greater control over the meeting, so that the board is able to conduct business in an efficient manner, generally free from interruptions. It also allows owners to be able to address the board without interruption. Further, for those contentious meetings, it allows all parties to remain in an environment where their safety is generally ensured and law enforcement is not needed to be called upon.

At the end of the day, the purpose of board meetings is to allow the board to conduct association business (in a setting, which is open to members who so choose to observe). Boards

should reevaluate what works for them, as well as their community association manager in order to ensure a productive board meeting. Changing from the in-person meetings or 7:00 p.m. start times may be beneficial to your board, your community association manager, and your association. Don't just stick with 7:00 p.m. meetings at the library because that is what you have always done – have the conversation about what dates, times and locations (virtual or in-person) work best for your board! Making meetings more efficient (shorter) and more accessible may encourage more members to become involved in their community.

If you have any questions or we can be of assistance to you and your community, please do not hesitate to contact us.

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