

# A reserve study can put board on the right path

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Q. We have a 9-year-old building and with a reserve fund of \$40,000 in a money market fund. I am concerned that we are not building a reserve fund fast enough. How do I go about getting a reserve study as a member of the board? Is this a job for an engineer or another professional?

A. Yes, your directors have a cause for concern regarding the size of your reserve fund. The board should hire a firm specializing in reserve studies. The reserve study will determine the condition and remaining useful life of the major components of your property and the cost to replace them.

While the Illinois Condominium Property Act states that the board of directors is not bound by the findings of the reserve study, the directors should use the study as a guide toward identifying future areas of repair and replacement and the funds needed for the work projected into the future.

By the way, move the reserve funds out of the money market fund to a higher yielding investment vehicle. Most associations invest reserve funds in certificates of deposit by buying these instruments at intervals. By "laddering" certificates of deposit, the board can take advantage of interest rate changes. The directors are also not precluded from investing reserves in mutual funds, but keep in mind the need for liquidity with funds that may have to be used for repairs on short notice.

Q. We are a 96-unit Gold Coast condominium association with individually owned parking spaces. We have recently been told that our garage needs a \$2 million reconstruction.

Who should pay for these repairs? Is it proper for non-space owners to pay for a benefit in which they have no stake? Isn't this the space owner's responsibility?

What is the proper method of payment for garage reconstruction?

Shouldn't the association take out a long-term loan and pay it off gradually rather than asking unit owners to pay a seven-figure assessment all at once?

A. First, look at the declaration. Does the document assign responsibility for garage repairs only to persons who own spaces or use them as limited common elements? Generally, a garage is part of the common elements, which all owners pay to maintain through assessments. While some owners may not receive the direct benefit because they do not own automobiles and spaces, when selling their unit, these owners will welcome offers from buyers looking for a parking space in the building.

To fund the garage repairs, the board will first look to the association's reserve funds to finance a substantial portion of the project. Given recent experience, however, major projects in large buildings often require additional funding over and above reserves, which a condo board may not deplete.

The board will obtain additional funds from a special assessment, and a loan is the best means to secure the money needed to complete the project. By paying a loan over a period of years, the financial burden of the owners is less than a large lump-sum assessment. The board of directors must balance this factor with the additional interest required from a loan payment. The owner's primary concern is usually the monthly cost for assessments, which a loan can reduce.

Q. We are a 20-unit condominium community. The association was turned over to the owners in 2002. The developer sold several units that had defects in workmanship, materials and mechanical components. The affected owners notified the developer, in writing, within the one-year warranty period. The developer did not respond to the warranty claim until after the one-year warranty period, then stated that the problems were the responsibility of the association. The board disagrees and does not feel that association reserve funds should be used to pay to repair building defects.

What might the association do to hold the developer responsible?

A. If the defects covered portions of the units, and the owners made a timely warranty claim, the owners should make the repairs and seek to recover these costs by litigation, if the amounts justify a lawsuit.

If the defects cover common-element problems, the board can use reserve

funds to make the repairs and take the same route against the developer to recover the repair costs. The board may have to use reserve funds to pay for repairs, because the primary obligation of the directors is to maintain the common elements.

In either case, the owners or the board should have initiated action two years ago. Parties cannot sit by and ignore defective conditions until such time as the developer writes a check.

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