



COVID-19

FREQUENTLY ASKED QUESTIONS FOR BOARD MEMBERS



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Over the past several weeks, many questions have been raised by boards in response to COVID-19. The following is a compilation of those questions and our answers for managing the Association during these challenging times. Note: we recommend the Board review any contemplated changes to the rules and regulations with legal counsel prior to implementation.

Communication

How should the Association communicate with our homeowners and how often?

Effective communication is critical during times such as these and will alleviate many issues as well as increase the likelihood of the association having success of connecting residents with the association because of the challenges COVID-19 brings to your association. This becomes even more important in communities where many common elements and amenities exist.

Many different messages will be circulating throughout the community and it is important that the board control the official message.

If the association has not already collected the email addresses and preferred contact information for homeowners and residents, now is a great time to obtain them. These can be kept on file in the management system for ease of communication.

3 Basics of Communication

- 1. Official Channel:** Determine the communication channel that is most effective and set that up as the official mode of communicating with members. It is critical for homeowners to know what policy/procedures are truly set by the board and must be obeyed versus those that are inaccurate or speculation. Thus, communications from the Board should be easily identifiable as an official communication versus a posting that may be made by a resident. Options for an official channel include:
 - E-mail
 - Website
 - Community board (physical or electronic)
 - Social media (Facebook as an example)
 - If you plan to use social media, it is always best if the Board is the official administrator of an authorized community channel. In this way, responses by others can be monitored or removed from the site, if necessary.
- 2. Transparency:** The single biggest complaint of homeowners is not knowing who, when, why. Be sure to answer all those questions. Be clear on timeframes of any temporary restrictions or rules such as amenity closing (for example, through the end of the month or indefinitely). Answering the why will save a second communication on the same topic.



3. **Credibility:** Effective communications will be enhanced through establishing credibility with the audience. A few suggestions:
- Create a cadence for the official communication, perhaps pick a day of the week where these will be delivered and posted. It is acceptable if the official communication states that there is no update – just be consistent in frequency of communications.
 - Obtain sound advice from professional advisers – management company, legal counsel, insurance broker and vendors.
 - Expect disagreement. Many decisions that will be made currently will be controversial and may not be received well by some owners. Avoid the urge to debate with homeowners that give negative feedback – never going to win those arguments through e-mail and social media.
 - Communications need to be clear and concise.
 - Posting at the pool, clubhouse, fitness center, tot lots, pocket parks, bulletin boards, etc.:
 - a. Post both the closure and the reason/justification (Local municipality/state order/CDC guidelines)
 - b. Post in an open and obvious location
 - Have multiple people read written communications before posting, perhaps a communication committee, to help ensure the message is clear and correct.
 - Avoid misspellings and bad grammar – fastest way to lose credibility
 - It is OK to over-communicate a bit during this time while still being respectful of the recipient's time.

Board Meetings

Should board meetings be held during this time?

The business of the association must continue uninterrupted. There are items that require prompt attention, such as decisions on amenity closure and maintenance, the type and frequency of communications to homeowners, and how the board will proceed on managing assessments and collections. In these cases, the meeting should be held. Other decisions such as landscaping changes or similar items can be postponed – focus on what is most important right now.

Boards should attempt to shorten agendas where possible and any discussion or action items that are postponed should be put on the calendar with a specific date so homeowners will see that these items are not just getting dropped.

Is it acceptable to “meet” using electronic means?

Generally, board meetings may be held via a conference call or some other acceptable method. All board members need to be able to hear each other. Additionally, all requirements of posting and notification need to be followed. It is important that governing documents and state statutes be examined prior to holding a meeting in this format.

The electronic meeting method will need to be determined based on availability of the proper equipment and an understanding of appropriate use. Existing options include GoToMeeting, Zoom, Skype to name a few. Be sure to practice using that software or medium at least once before the actual meeting. It is a good idea to communicate in the meeting notice what the method will be so that directors and homeowners can be adequately prepared to participate.



Meeting standards and rules of engagement should be established, no different than an in-person meeting. These standards should be reviewed at the beginning of the meeting. For example, being recognized by the chair prior to speaking will assist participants in not talking over one another. As usual, Robert's Rules of Order should be followed.

If we meet electronically, how will homeowners participate in the discussion?

Homeowners will be able to access the meeting by calling in or connecting to the software. Ground rules for speaking should be established, for example, the amount of time that will be allowed and raising a hand to speak or submitting online questions.

Sentry Management sent a Community Builder on 4/23/2020 (see Volume 12 Issue 7) to all board members with helpful tips on managing meetings that are held via conference call or video conferencing.

What if we have an emergency in the community – are we required to convene a board meeting to take action?

On occasion, an emergency will arise that requires immediate attention and decision. Ahead of this type of event, consider passing an emergency action resolution allowing that two directors may make an emergency decision. Outline the guides, the definition of an emergency, the spending authority, and the date such authority expires unless extended by additional Board action.

It is acceptable practice to make a decision without convening a board meeting if lack of action could put the community at risk. Be sure to document the action(s) taken including the reasoning behind the action. It is highly encouraged that the board share with the community and emergency actions taken. Lastly, be sure to include any actions taken in the minutes of the next board meeting as these do not need to be ratified in a formal setting. Of course, ensure that any decision-making process complies with your state laws and governing documents by consulting legal counsel.

Committees

Should committees continue to function during this time? What guidelines should be followed?

Generally, most committee meetings can be postponed or held electronically, similar to board meetings. The items that a committee will continue to undertake need agreement ahead of time. These might include decisions on architectural changes, violations and fining.

The Architectural Review Committee, if the ability to meet remotely exists, may be able to consider the business at hand. If not, this needs to be communicated to all homeowners. If the committee cannot properly review applications, they may consider rejecting applications for a period of time and encouraging homeowners to resubmit at a later date. Remember to explain the "why." Keep in mind that some governing documents include a default approval if a decision is not rendered within a certain time frame or for non-response.

The Fining and Violations Committee, if one exists, may also have a need to meet on occasion. In general, it is not recommended to stop the enforcement process during this period.



Assessment Management

Is the Association required to extend the due date for assessments as a result of COVID-19?

No – an extension of payment terms is not required. A lesson was learned in 2008-2009 that those Associations who were more lenient with managing the collection activities were faced with unpaid accounts reaching such high dollar amounts that owners gave up trying to pay. The board is not doing homeowners any favors by allowing the accounts receivable to go unaddressed. Attempting to collect on a larger debt is more difficult than trying to collect on a smaller debt.

Should the Association continue to enforce existing collection policies?

Many of the accounts in the collection process began before COVID-19. For these cases, the normal collection policy and actions should continue. Many law firms are recommending that the lien continue to be filed when applicable to protect the Association's financial position in the delinquent account.

The Association has financial obligations to maintain the common elements and amenities. Collections policies should be enforced as written and put into practice. However, compassion should also be exercised in working with individual situations. Encourage members the importance of communicating individual circumstances. Keep in mind that the Board should never be selective; what is done for one must be done for all if similar circumstances exist.

Should penalties, late fees and interest be waived?

This is a decision that each board will need to consider as part of their business judgment; however, it is recommended that if late fees and interest are part of the collection policy, these should continue. It is also important to treat all homeowners equitably.

What documentation should be required if a payment plan or deferral of payment is requested?

Payment plans are generally an effective means for exercising leniency and compassion during a crisis such as this. Any resident needing a payment plan should submit, in writing, the request for such petition. The board should consider all known factors and create a plan that can be met and that will eliminate the delinquency in a defined period of time. Be sure that your payment plan document is reviewed by legal counsel before implementing.

How should requests to lower assessments be handled as a result of amenity closures?

There may be some homeowners who believe that assessments should be decreased since access to the amenities have been temporarily suspended. Residents should be reminded that the closure of the amenities was a health and safety concern, not one driven by financial need. It is quite possible that some unanticipated costs will increase such as cleaning and maintenance for sanitary reasons. Remind owners that although there is a closure, the amenity still needs to be maintained and insured.

Can access to amenities be denied to delinquent owners?

The association governing documents, collection policy and state statutes need to be considered when making this determination and as suggested in other areas, consult with legal counsel.

Should the Association send any communication to our homeowners reminding them of our existing collections policy and that it will be enforced?

Communicating during challenging times is always recommended. If this is a determined action, work with Sentry Management and your collections professional on the type and content of communication



that should be distributed. And, as noted above, be sure to encourage homeowners to communicate if their situation is causing hardship.

Covenant Enforcement

Should covenant enforcement continue while under stay at home restrictions?

Covenant enforcement should continue, particularly for those items such as trash cans and yard care; however, leniency may be considered in the timing of ultimate compliance. Deadlines for compliance can be extended as needed and these should be very specific and clearly communicated. It is also time to be neighborly and try to find a path that avoids friction and arguments. Note that people are spending more time at home and may report issues at a higher frequency; therefore, it is important to ensure that the adherence to the association's governing documents and policies continue from the standpoint of compliance.

Residents

Does an owner who is infected with COVID-19 have an obligation to disclose this to the board?

Two aspects exist on this issue, legal and moral. Legally, an owner does not have to disclose contraction of the virus. However, a moral obligation may exist. The board may consider sending a general communication to the homeowners suggesting that for the safety and welfare of the other homeowners, please inform the board. The board, then, has the absolute requirement of confidentiality as noted below.

Does an association have an obligation to inform residents of a positive case of COVID-19 in the community?

This is a difficult issue as two factors are at play: the privacy of the individual and the safety of the residents. Generally, a board may consider two courses of action:

1. If the individual has given written permission to disclose the contraction of COVID-19, generally, this could be disclosed to the community so that all who came in recent contact with that individual could take the necessary precautions.
2. Without specific authority and permission to disclose, it is recommended that the board simply notify residents that an owner has tested positive and to take precautions. Do not disclose the individual's name or unit/address.

In all cases, consult with legal counsel **before** taking any action.

What precautions should be taken if a resident informs the board that they have contracted the virus?

See the guidelines above. Additionally, the board should notify residents of the steps they are taking to mitigate the risk of exposure and further contamination.

Limiting Guests

Can an association prohibit guests from entering the community during this time?

First, do not pass a rule that cannot be enforced. This will lead to frustration and loss of credibility. Further, the Association should not restrict certain types of visitors, such as health care providers.



Second, there is a difference between Homeowners Associations (HOA) and Condo Associations (COA). If the community is non-gated and has no amenities, there is very little to consider as these are mostly made up of single-family homes on public roads. As the community has greater control, such as a gated HOA, or especially a condominium complex, greater consideration is needed.

Most legal opinions on this topic indicate that entry by non-essential guests may be prohibited. However, any decision being considered should be made in consultation with legal counsel and should be clearly communicated so that owners know the expectations. There are a lot of landmines with this decision and any policy needs to be applied equally and within guidelines of any equal protections, Fair Housing Act, etc.

From a practical matter, it may be better to implement rules around what precautions visitors must follow versus banning all guests. Just because a Board can legally take action does not mean it is good practice. Be sure the decisions are reasonable and sound on both legal and practical levels.

Be cautious when restricting contractors that provide necessary services such as plumbing, HVAC and electricity to name a few. These types of vendors are often called on to provide a safe and habitable home and should be allowed with the precautions noted above.

Emergency Plan

Does the Association need an emergency plan even though this instance is so rare?

Every community needs an emergency plan in place, although it is highly unlikely that one was created for a pandemic. If one does not exist, do we need one and if so, where do we start?

In some states, plans are already in place for natural emergencies such as hurricanes, wildfires or tornadoes. In many ways, this pandemic is no different than a natural disaster – everyone in the community has a responsibility to participate in preparation, assisting in sustaining the well-being of the community, and in the recovery. For example, all individuals in a community can maintain a cleaner and safer environment by washing hands for 20 seconds with soap and water, wearing masks, limiting guests, and staying inside versus being in common areas.

The key components of an emergency plan include:

- Communication plan
- Checklist of actions to take – both in preparedness and in recovery
- Budget and financial plans
- Insurance considerations
- Emergency contact list
- Needed supplies

Sentry has published a *Community Disaster Plan* that can be accessed by contacting your Community Manager.



Vendors

Can the Association restrict vendors from entering the community?

This is a challenging time for vendors as so many are doing amazing work and are instrumental in keeping the operations of communities going. Vendors who are impacted are those that serve the association and those that serve the homeowners. Decisions need to be made what vendors will be allowed to continue working on the property.

Association Vendors

Many amenities will continually need service. Closing an amenity to owners is one thing; stopping maintenance to an amenity is another. It could be more expensive to repair or restart an amenity in the future than just keeping maintenance in place. An easy example is a pool, others may include routine inspections of common mechanical items. It is important to talk to the vendors as they are vested in the success of the community as well. They are interested in long-term relationships and may be willing to reduce services on a temporary basis. Ask them about best practices to avoid the spread of coronavirus as they conduct business. And prior to ceasing any maintenance, review the contracts to ensure that no provision will be violated with any changes in operations.

Determine if the association wants to implement any revised vetting procedures for new vendors. Best practices suggest that only vendors that have implemented practices that prevent the spread of COVID-19 should be considered.

Homeowner Vendors

The board should discourage homeowners from engaging the services of non-essential vendors whose suspension of services do not affect the safety of the community or residences. In general, vendors serving homeowners should be allowed for health/safety needs or that provide services that make a unit livable, for example, a plumber or an electrician.

Common Area and Amenity Usage

Can we close the gym, business center, pool facilities, etc. as a result of COVID-19?

In most states, closing of the amenities has been mandated in the interest of the safety and well-being of the residents. Once the decision is made and implemented, it needs to be clearly communicated to the residents. Be sure to clearly post any restriction being imposed and check regularly to ensure the posting is still visible. Please note guidelines set for in the Communications section of this document.

If a resident needs the pool or other amenity due to a “reasonable accommodation,” does this require different action?

Generally, it is likely that the protection and health and safety of the community would be the primary factors in the decision. For a definitive answer to this question, seek legal counsel.



Onsite Staff

Are there actions that the association should be taking if there is an onsite office and staff?

For the protection and welfare of both staff and homeowners, it is suggested that access to the onsite office be limited in order to minimize physical contact. Meetings with homeowners can be scheduled and completed by phone. Typically, most of the staff will be onsite to answer phone calls and meet with vendors as required. Be sure that this temporary operating policy is communicated to the homeowners.

Financial Considerations

What actions should the association consider now if facing financial issues as a result of the pandemic?

The financial impact from COVID-19 is very similar to what was experienced in the economic crisis of 2008-2009. Many individuals have recently lost employment or taken pay cuts. It is wise to consider options in the event that the cash flow of the association declines. Proactive leadership and actions are paramount during this time.

The board should be aware of the warning signs of cash flow issues. For example, pay attention to the following:

1. How many months of operating cash does the association have? Is the cash position declining each month? (As a general rule, consider maintaining three months of operating cash on hand.)
2. Is the delinquency rate increasing?
3. Are there more variances in actual to budget expenses?

In the event of cash flow concerns, some actions that the board can consider include:

- Analysis of essential and nonessential expenses and put off incurring those expenses that can be deferred or eliminated
- Consider the need for a bad debt provision in the upcoming budget
- Review contracts with key vendors and seek their advice on managing expenses
- Have an assessment collection policy in place
- Review expenditures for any that could be reclassified to reserves, thus freeing up additional operating funds
- Consider a deferral of transfers to reserves

Sentry Management has produced a video that addresses this very concern. This video can be accessed by clicking here. [Sentry Management Financial Challenges Video](#)

Is the association allowed to use reserve funds for normal operations?

Generally, the answer to this question is “no” and any usage of the funds other than the purpose for which they are intended most likely will require a vote of the membership. Please note that this is not the case in all states. However, there are practical considerations as well. If a real emergency exists or the incurrence of an expense is absolutely necessary, the Association may draw on reserves to protect the common elements. Generally, a loan from the reserves to the operating fund may be acceptable if



not disallowed by the governing documents or state statutes. Become aware of any repayment terms that are required by the legal documents or by the law. As in the case with many of these items, seek legal counsel before taking any action.

Can an association receive funding from the Paycheck Protection Program (PPP) or the Economic Injury Disaster Loan?

The provisions under the PPP loan typically disqualify associations unless the association has employees of its own, in which case it might be eligible.

It is possible that an association could be eligible to receive an Economic Injury Disaster Loan (EIDL). However, due to the many restrictions and information required as part of the application, it is not a recommended path.

If an association is interested in pursuing either of these options, consult with legal counsel.

Resources

Sentry Management

General information and Videos: <https://www.sentrymgmt.com/category/coronavirus/board-info/>
Click on this link for the [Sentry Management Financial Challenges Video](#).

Contact your Community Manager for the following:

Assessment Management: A Guide to Best Practices
Community Disaster Plan

Other Resources:

Centers for Disease Control and Prevention (CDC) <https://www.cdc.gov/coronavirus/2019-ncov/index.html>

World Health Organization (WHO) <https://www.who.int/>