

March 5, 2021

“All Things are Ready if our Emergency Plan Be So” Dealing with Emergency Preparedness in California HOAs

By [Katrina Solomatina](#)

The Threats

California is used to wildfires. But the Golden State's record-breaking 2020 wildfire season was particularly brutal. A blistering heat wave fueled dozens of simultaneous fires – conditions that spurred Gov. Gavin Newsom to declare a statewide state of emergency. Tens of thousands of people were evacuated from their residences. But, was not – and is not – the only threats California residents face. The heavy rains earlier this year caused a collapse of a portion of Highway 1 near Big Sur due to a “debris flow” of trees, boulders, water and mud, leaving behind a 150-foot-wide gap. Thousands of Monterey County residents were impacted by evacuation orders. The COVID-19 pandemic has also caused many residents to question whether the common facilities they share with others are safe and to consider how to respond to an outbreak within their community.

A natural disaster can strike a development at any time. It can occur in a moment or gradually over time. In either case, most community associations are ill-prepared for the consequences. In most associations, disaster insurance is usually inadequate or non-existent, and there is often little reserve funding that can be tapped to rebuild the development. Regardless of whether you are dealing with landslides, mudslides, fire, flood, earthquake, civil unrest or a pandemic, every community association should have a plan in place that is unique to its common interest community during a time of crisis. In our experience, most community associations lack the most basic level of response – a written emergency plan.

The Plan

- *Investigate your Association's Exposure*

Community associations or owners associations (referred to here as an “Association”) are generally defined as the non-profit organizations, either incorporated or unincorporated, formed to manage planned communities, such as condominium or master planned developments, and enforce their governing documents. The owners of lots or units are the members of the Association. It is important to mention that Associations are not organized to benefit individual members. Rather, an Association owes a duty to its members to ensure that the Association's common area (including common structural

elements, access points, lobby, and amenities) and property is safe and secure. In addition, even though an Association is not responsible nor can it guarantee its residents' personal safety during a time of crisis, the failure to have a community-wide plan to respond to an emergency, may create potential liability to the Association as its members look to the Association's board for direction in times of disaster.

This is where the emergency response plan provides the greatest benefit. Associations looking to create an emergency plan should retain experts to investigate the vulnerability of their project to potential natural disaster, the need for heightened cleaning, vendor and contractor access and the closure of certain amenities. Consulting with and getting input from the Association's outside property management company is also important. For example, some of the more at-risk developments are older buildings, developments with hillside common areas, proximity to the San Francisco Bay or the ocean, constructed on engineered fill or bay mud, or developments having only one access road. Therefore, given current events, it is more important than ever that associations spend the time and resources necessary to have a comprehensive plan in place to which everyone can look to in times of disaster.

- *Review your Association's Insurance*

A review of the Association's insurance is imperative to preparing for a disaster. If the Association's insurance is inadequate, it is best to make that determination before a disaster strikes. After the disaster, an Association will be responsible to repair the common area regardless of whether it is insured. Even if the Association is well funded, major repairs may have to be funded through a special assessment of the members. So an assessment of the Association's insurance and reserves policy before a disaster strikes could potentially save major expenses or the need to go through a special assessment later down the road.

- *Review your Association's Governing Documents*

A review of the Association's governing documents will further help identify potential areas of concern, such as whether an Association has a right to come onto the members' property to clear debris and other damage or whether there is a specific timeframe within which the Association would have to rebuild common areas.

- *Create your Association's Emergency Plan*

An emergency preparedness committee can help an Association create, review and implement an emergency preparedness plan. The members of such a committee may serve as points of contact during the disaster. In addition, they can have access to all the necessary service provider phone numbers to summon immediate help and assistance when a disaster strikes. The plan, once in place, should be kept regularly updated and available on the Association's web-site, at its community management office, or at other locations where members can readily access their Association's important documents.

- *Educate your Association's Members about the Plan*

Once the plan is created, and adopted by the board, an Association should distribute the plan to its members and consider holding one or more training sessions. An Association should also educate members and residents concerning responsibility for their own safety and to function without community

management or services. In addition, an important step for an Association to figure out is how communications will be handled during an emergency if the power goes out or if there is no internet or phone connection. Associations should look to establish basic owner contact processes, such as central information hub or notes on residents' doors.

The End of the Road?

If the past year has taught us anything it is that we need to be better prepared when disaster strikes and that having an emergency plan is the first step on this long winding road. Identifying exposure, creating a plan, implementing the plan, and updating and practicing the protocols of the plan are all bricks to building this successful road as well.



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