

Legal Responsibility of HOA Boards Regarding Reserves

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The Battle:

It's the board against Mother Nature and Father Time: a courageous Knight fighting the ferocious dragon. At stake is the safety, sustainability, and financial stability of the association. The obstacles are short term thinking ("We don't need to fund Reserves... nothing's going to happen for a few years, at least not while I'm on the board!"), trying to minimize assessments, or simply the "momentum" that comes from years of financial mismanagement.

The Rules of Engagement:

So how does our brave Knight fight the dragon? How does he stay safe? What are his resources, and defenses? They include following the Governing Documents, acting as a fiduciary (entrusted to care for the assets of others), following the Business Judgment Rule, etc.

How to Slay the Dragon:

Follow your documents. Follow State Law. Follow the principles of being a fiduciary. Budget to pay your bills (keep repeating to yourself: owning real estate is expensive!). Update your Reserve Study regularly (on the basis of a diligent site visit at least every third year), fund as recommended, and then spend as recommended! And expect that emerging victorious is as much communication as it is financial.

Other Links:

The Adams|Stirling law firm's website [here](#).

Their very popular website on CA Law pertaining to community associations [here](#)

Sign up for the popular Adams|Stirling newsletter [here](#)

CAI's national [Reserve Study Standards](#) (updated 2023)

"Understanding Reserves" book (**updated for 2025**). Order single copies on Amazon [here](#), or download chapter one for free [here](#).

Want an experienced professional to help with your Reserve Study update, ensuring appropriate component selection, life estimates, pricing, and development of an appropriate Funding Plan custom designed for the needs of your association? Launch a free online proposal request by clicking [here](#).

Looking for local expertise?

Click [here](#) to see our network of offices across the country (serving clients in all 50 states!).



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Webinar Questions Asked by 2025 Attendees

LEGAL AND COMPLIANCE QUESTIONS

Q: Can previous boards be sued for not funding reserves properly or maintaining common areas properly?

A: Past boards are not immune from being sued. When that happens, it is common for the association's insurance to step in and defend the director.

Q: Does D&O insurance cover your attorney fees if you're on the board and get sued?

A: Yes. Directors & Officers (D&O) insurance is designed to protect volunteer board members against legal costs arising from their official duties. If, for some reason, there is a problem with insurance, associations owe a duty to defend and indemnify volunteer directors who act on behalf of their associations.

Q: As a volunteer board member can we be held liable personally? By that I mean can we be sued as individuals and be liable for all legal costs and judgements?

A: Directors can always be sued—it does not mean they will be personally liable. Directors are not liable for mistakes in judgment if they followed the business judgment rule. That means: (i) acting in good faith, (ii) in the best interests of the association, (iii) after reasonable inquiry. An example where a director can be personally liable is embezzling the association's funds. If you steal from the association, you will be personally liable.

Q: Can we insulate the board from lawsuits by specifying a dispute resolution process instead of court?

A: You can reduce exposure by having clear ADR (Alternative Dispute Resolution) provisions in your governing documents. They can be drafted to compel the association and members to use ADR instead of the courts to resolve disputes. Such provisions are enforceable provided, however, they are strictly followed.

Q: For any reserve funds held by the HOA, what is the legal obligation for the association to maintain a current study?

A: In many states like California, associations are required by law to perform a reserve study every 3 years and update it annually. Even if not mandated, it's a best practice and a critical part of fulfilling your fiduciary duty to plan responsibly.

Q: I'm on the HOA board with one other board member. The other board member, who is the president, refuses to raise the dues, or spend money on deferred

maintenance. Since it takes both of us to approve spending money, which I'm in favor of, am I also personally liable for any future lawsuits regarding the unresolved deferred maintenance?

A: If you document your objections and efforts to remedy the issue, you should not be liable. Having only two directors is not ideal. You need a tie-breaking third director. In addition, encourage a like-minded member to run for the president's seat.

Q: Can former board of director members who have sold their units and were contributors to NOT properly fulfilling their duties, and purposely had knowledge and participation of "short cutting" proper maintenance be held liable for their actions?

A: Chasing past board members who sold and moved is not productive. Energies are better spent in properly funding the association's reserves.

Q: Is it legal for the board to borrow from reserves without owner consent?

A: Often yes—but with conditions. In California, for example, the law allows temporary borrowing if the board adopts a repayment plan and notifies the membership. Check your state laws and governing docs.

Q: Is there a legal percentage requirement for reserves as a percent of fully funded balance, in Washington State?

A: Washington law requires a Reserve Study and encourages associations to disclose funding levels, but it does not mandate a specific percentage. However, the law emphasizes transparency and disclosure, so underfunded reserves must be clearly reported.

Q: Two years ago, our small HOA borrowed \$70K from the reserve account. Scheduled repayment was not consistent, and about six months ago the board "forgave" the remaining amount. Your thoughts on this matter?

A: If it occurred in California, the borrowed funds must be repaid. California Civil Code § 5515 states "the transferred funds shall be restored." To ensure repayment, boards are required to record in the minutes "describing when and how the moneys will be repaid to the reserve fund." Forgiving the loan violates state law. It also defies common sense—they borrowed the money and then forgave themselves. Try that with a bank and see what happens.

Q: We have a master reserve fund for the whole Association, and we also have reserve funds to cover the cost center. We hope to dissolve the cost center next year when we revise our governing documents, although it is subject to votes. As we hope to eventually dissolve the funds as well, are we obligated legally to keep an active, up-to-date reserve study to account for the assets covered up until the time that such a dissolution may happen?

- A:** Yes. Until dissolution is legally finalized and approved by membership, the assets still exist and the association is responsible for maintaining them. That means a current Reserve Study remains necessary.
- Q:** **Are you aware of any lawsuits against a board for using reserve funds for something they shouldn't have?**
- A:** I am not aware of any lawsuits. Even so, boards can be liable for using reserve funds for purposes not authorized by statute.
- Q:** **Our prior board used our reserves to pay for unexpected expenses thinking they would be able to put the money back. We are now funded at less than 5%. We have 3 roofs failing and driveways in serious need of repairs and are forced to impose a special assessment to fund these repairs. Is the association liable as well as the board or just the board?**
- A:** If the board was acting in good faith, in the best interests of the association, following reasonable inquiry, board members will not be personally liable. Insurance would defend but likely not pay if there is a judgment. That would result in a special assessment against the members to fund the repairs. It does not accomplish anything. It would be better to get a bank loan to make repairs and spread the special assessment over the term of the loan to repay it.
- Q:** **Does California law require any unpaid special assessment balance be paid off totally when a property is sold?**
- A:** No. Depending on how the assessment is structured, the buyer can begin making payments on the special assessment. However, it is more common for the seller to pay the balance owed, which the association uses to pay down the loan, which is then re-amortized.
- Q:** **Should meeting minutes reflect which board member voted for or against a motion, expense, etc. to document who was following their fiduciary duty spending reserves?**
- A:** Normally, that only occurs when one or more directors are on the losing end of a vote and want to make sure they are protected by documenting how they voted on a particular motion. However, if a board wants to record how each director votes on all motions, they can do so.
- Q:** **Does the reserve study requirement apply to commercial associations as well?**
- A:** In California, commercial and industrial associations are not required to perform reserve studies. Even so, it is good practice to perform studies and follow them.
- Q:** **If our HOA does not have bylaws, is there any way to implement the term limits provision of Davis Stirling act here in CA?**

- A: Sorry – please discuss with your legal counsel.
- Q: **Regarding the troublesome example you stated of having a Governing Document requirement that all our assets be in "first class" condition, what would you recommend instead?**
- A: “Safe and functional” is a good start, but please discuss with your legal counsel.
- Q: **We are a 350 single family home HOA in a resort area of Colorado. The last Reserve Study we had grossly underestimated the costs of common element maintenance. Our board (made up of a great mix of professionals including some in construction management) has decided to do our next study in-house. Does this pose additional liability for our board?**
- A: Yes. It is better to discuss your concerns with your Reserve Study professional, asking them to address your concerns (and create a revised report, as appropriate). A qualified independent expert, in any field, is regularly your best choice and provides the board with insulation from liability (remember the third part of the Business Judgment Rule... “after reasonable inquiry”).
- Q: **In your three-part Business Judgment Rule example, what does "reasonable inquiry" mean?**
- A: It means the Board must ask good questions, seeking expert advice where the answer is not patently obvious. Sometimes it is described as being “prudent”.
- Q: **What legal standards have courts used to assign personal liability to board members? What is largest personal liability you are aware has been deemed to a Board member?**
- A: Liability often arises from negligence or breach of fiduciary duty (failing to follow Governing Documents or State Law) or failing to follow the Business Judgment Rule. Please discuss specifics with your legal counsel.
- Q: **How does the Reserve Fund strength affect Board liability? As an example, if reserves are at 25% according to an updated Reserve Study, what are the concerns?**
- A: The question is not what was done in the past, the question is what the choices the board is making at this time in the role of “fiduciaries” of the physical and financial assets of the association. Per the Business Judgment Rule, the board needs to operate in “good faith” (making decisions to take good care of the assets of others), “in the best interests of the association” (meaning prioritizing the needs of the association over their own self-interests), and “after reasonable inquiry” (meaning they sought wise counsel when the answer was not patently obvious).
- Q: **What resources does a board have other than reasoning, patience, threatening, fines, denying use of common elements, liens, and charging back to owners for the**

work was done to repair the owner's private property in alignment with the Governing Documents?

A: Discuss with your legal counsel for a solution appropriate for your association, the problem at hand, and the owner.

Q: **Our Board is made up of 5 members. A three-member majority (president & two friends) control all the decisions. Almost everything is a 3 to 2 vote. There's nothing the two of us in the minority can do. So... what can we do, and are we potentially liable for "wrong" actions taken by the 3-member majority?**

A: What can you do? Gather other like-minded homeowners and run for the board, replacing at least one of the 3-member majority. Are minority board members potentially personally liable for the actions of the majority? No, if their dissent is documented in official minutes.

Q: **I'm a new board member, I've learned that prior boards used Reserve funds to "help out" a specific owner and fund Operating Budget cost overruns (depleting Reserves in the process) and never provided meeting minutes to owners during their tenure in leadership. Are those prior boards liable for their actions? What happens to the HOA due to their excessive spending and hiding their actions?**

A: Discuss with your legal counsel for a solution appropriate for your association. This is too complicated a question to answer in this format.

Q: **In our HOA, the carelessness of our board who has served for decades seems endless. Their response to my request for Bylaws is "we don't have any". The financial reports are irregular and don't make "add up". They ignore term limits and never lose an election (the only replacements have been upon death). What can we do?**

A: There are some law firms that specialize in the plight of owners at the mercy of "rogue" boards. For instance, lscarlsonlaw.com. Search for others, and see if one is open to taking on your case. That may get your board's attention. It certainly can't be worth it to them to get sued for what they're doing.

GENERAL RESERVE QUESTIONS

Q: **"Common areas in a first-class condition." What is the best wording for this?**

A: "First-class" can be subjective and legally vague. A more practical and defensible term is "maintained in a safe and functional condition". This aligns with the board's fiduciary duties and community expectations without setting an unrealistically high or expensive standard.

- Q: Are HOA boards supposed to be provided with a copy of the Reserve Study?**
- A:** Absolutely. The Reserve Study is a fundamental budget planning tool. Each year, not only should the HOA board have an updated copy to use in setting their budget, but key parts—such as the Executive Summary, should be shared with the owners. Check with your legal counsel or local credentialed Reserve Study professional to learn if there are other requirements in your State.
- Q: Can reserve funds for one category or project be used or transferred to another category (project) that has insufficient reserves?**
- A:** Technically, yes. Reserves are generally one “pool” of funds unless yours is one of the minority of associations where the Funding Plan has been prepared according to the less advantageous “Component” (aka “Straight Line”) Method. In that case, funds are designated each year towards specific expense line items. Even so, those funds can be re-allocated each year as appropriate.
- Q: What if the Reserve Study recommends a Reserve transfer that the board thinks is inadequate (might lead to a shortfall). Is there any issue with the board increasing and even doubling the amount?**
- A:** Not at all. A Reserve Study is a recommendation, not a restriction. The board may choose to increase funding (accelerating their preparedness for future projects). That may be prudent financial leadership.
- Q: Is a licensed architect or licensed civil engineer required to sign and stamp plans, drawings, specifications, reports, documents and instruments of service for multiple dwellings containing more than four dwelling units and more than two stories in height? For the same dwelling types, is a licensed architect or licensed civil engineer also required for investigation, evaluation, consultation, advice, planning, schematic and preliminary studies?**
- A:** Sorry, we’re a Reserve Study company, and the signature requirements for other professionals is outside our scope of expertise.
- Q: The board plans to reduce the budgeted Reserve transfer amount after advertising to members the new budget for our fiscal year. Can they do that?**
- A:** Technically, yes—budgets can be amended—but doing so after communicating the budget to owners can undermine trust and raise legal or procedural concerns. Please check with your legal counsel on this matter.
- Q: I am a homeowner and former board president in CA. What is my role now after finding the current board is regularly overspending our Reserves and underfunding even by historical standards? They regularly retain an expert to prepare a Reserve Study, but they ignore it. Deferred maintenance is growing, and I am concerned**

about our ability to care for the physical needs of the association. The management company appears to not care. What do I do?

A: Gather some other like-minded owners, and run for the board. Try to get Reserve Funding back in place to provide for the needs of the association after a few years of “short term” or “magical” thinking. If not, consider moving or setting aside your own Reserve Fund for the inevitable upcoming special assessment.

Q: Do you know how many (by percentage) HOAs at least partially fund reserves with NORAs?

A: NORAs—Non-Operating Revenue Accounts—are generally undesignated “extra cash” associated with the Operating Fund (an “operating reserve”). Typically associations hold 2-4 months of income in their Operating Fund to manage cash flow through the year. Beyond that, check with your accounting or legal counsel if or how some of these “excess” funds could be transferred to Reserves. I do not believe many associations hold such funds, and if so, I doubt moving those funds officially to the Reserve account would make a material difference.

Q: How can one change other board members to think long term and take reserve funding seriously?

A: Mother Nature and Father Time are real. Since the beginning of time, physical assets have deteriorated over time. That is a fact of life on this planet. Couple that with the predictable nature of common area deterioration (roof life, asphalt life, paint life, etc.) and board responsibility to sustain the physical and financial assets of the association, boards have a responsibility to take reserve funding seriously.

Q: I have an owner who refuses to remediate interior windows mold. What is the HOA responsibility for a window interior mold neglected by owner?

A: Mold on interior window surfaces is generally the owner’s responsibility, but this varies by governing documents. The HOA may need to act if it affects common areas or violates health codes. Check with your legal counsel on this matter.

Q: I have heard that patients don’t sue doctors that they like, even if they’re poorly treated. Can HOA board members benefit from good relations with owners in the same way?

A: Absolutely. Relationships matter. Be transparent, and communicate effectively. Make it clear that this is a “community” – owners and board members, working together. While being “liked” doesn’t eliminate liability, clear communication and respectful engagement can reduce friction and foster goodwill—even during tough decisions.

Q: If an expense has been part of the Reserve Study, can the board decide to create an assessment for the same amounts? How do you calculate our association’s Percent Funded?

- A:** We've seen boards do crazy things. If your Reserve provider believes Reserve cash flow is sufficient, there is no need for a special assessment for a particular Reserve project. And by the way, Percent funded is calculated according to national Reserve Study Standards. See [here](#).
- Q: If an unexpected "Reserve" cost arises which is not listed among our other Reserve projects, can "available" reserve monies be assigned to that cost?**
- A:** Generally yes, as long as the expense qualifies as a Reserve project (passes the national Reserve Study Standards three-part test... see [here](#)) and if the cash is truly "available". Please discuss with your Reserve Study professional, and update your Reserve Study at your earliest opportunity.
- Q: If you deplete reserves for a project, how quickly should you plan on replenishing the reserve account?**
- A:** Some states have specific requirements how fast borrowed Reserves need to be repaid (such as 12-24 months). Please discuss with your legal counsel and credentialed Reserve Study provider. Those two can ensure you remain legally compliant, and have a Funding Plan moving forward that replenishes borrowed cash to the Reserve Fund. Without strict state requirements, depending on your Reserve Fund Strength and upcoming projects, repayment may be spread over the next 2-10 years.
- Q: In our Cooperative, managing agents over the years did not fund our Reserve Account, and one managing agent actually converted Reserve Funds to General Operating Account for years, spending those resources. What recourse does Cooperative have?**
- A:** Spent money is gone. It sounds like it was not embezzled (a criminal act), just spent unwisely on short term common area projects. Discuss with your legal counsel to double-check if there are any legal consequences. Then update your Reserve Study to find out the size of Reserve transfers needed to get back on track, sustaining the association. Don't rely on your manager. This is something the board is responsible to accomplish.
- Q: Is a Reserve Study a spending plan or a savings plan?**
- A:** Both. It projects future association expenditures and outlines an ongoing Funding (savings) Plan to offset ongoing deterioration and ensure there is sufficient cash in the fund to perform the anticipated projects in a timely manner.
- Q: If one of our assets are at the end of their Useful Life (but showing no signs of failure), must we replace it?**
- A:** Not necessarily. Some projects you should do proactively (painting, deck sealing, asphalt sealing, roof replacements, boiler replacements) because waiting until failure

is expensive, unwise, or disruptive. Some projects are ok to “wait and see”. Check with your local credentialed Reserve Study provider to determine which is which.

Q: Is there a % restriction on how much Reserve Funding can be increased from one year to another?

A: Generally not. Some states or Governing Documents restrict overall assessment increases (of which Reserve funding is a part), but I’ve yet to see a restriction on Reserve Funding increases from one year to the next. Check with your legal counsel on this matter.

Q: Is there a plan to provide a webinar specific to NJ, which requires shortfall funding of deficient reserves?

A: Our national webinars present general principles, of which shortfall funding is a component. Earlier in 2025 we presented on this topic in your local CAI-NJ chapter. Expect we’ll continue to provide relevant local content. Please stay in touch with our [local NJ office](#) to learn of any state-specific Reserve training.

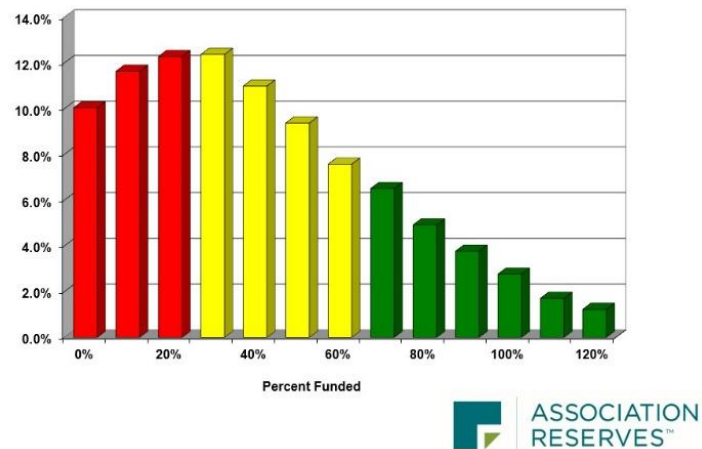
Q: My board is in a nested regime. Should both my master and residential have the same amount of funds in reserve?

A: No. The Master has its own list of Reserve obligations, and should have its own Reserve Fund. Sub-associations have their own list of Reserve components, and should have their own Reserve Fund. Each should have appropriately sized Reserve transfers to prepare for their upcoming projects. Funding and repair/replacement projects should be unique to each. Don’t copy, coordinate.

Q: Not knowing of any boards that are 100% Reserve Funded, what would an acceptable baseline be? I inherited a situation where the community is only 41% funded in their reserves. How bad is that?

A: Being 41% Funded puts your association in the 30-70% “Fair” range, above the 0-30% “weak” range where special assessments are common, yet below the 70% level where special assessments and cash flow problems are rare. Being 41% Funded is not a crisis, but it’s a call to action to improve. See the national Percent Funded profile below:

National Percent Funded - 2024



Q: Our documents are nearly 40 years old. How can we overcome member apathy to get restated documents approved?

A: Discuss with your legal counsel. They can likely quote a long list of problems (that are likely costing you money) caused by old, outdated, and confusing Governing Documents. It’s worth the cost to get them updated.

Q: We had a reserve study done and the costs that it says are way below the bids we have gotten to do the job. How do we handle it?

A: If it is a Reserve Study prepared for the current year, discuss these concerns with your Reserve Study provider. If the Reserve Study was prepared years ago, update your Reserve Study to base your funding and spending on current pricing.

Q: We have a reserve study, and our budget keeps the reserves fully funded. However, 2 projects came up with bids that are a million dollars over what was budgeted. How do we explain that to the members?

A: Be transparent. Explain inflation, scope changes, or surprises during inspections. Having well funded Reserves enables your association to weather the blows of such unexpected but essential costs. Update your Reserve Study, and develop a new plan moving forward based on your (soon to be) lower Reserve balance, and higher expectation for these types of expenses.

Q: We have a reserve study that gets updated annually and refreshed with a site visit every 3 yrs. However, we are finding that costs as outlined in reserve study are not

realistic (low compared with actual market prices) and often various items missing – how do we address this?

A: Challenge your Reserve Study provider with your actual cost experience to “get it right”, or move on to a new provider. You have every expectation that your Reserve Study provider should “get it right”.

Q: **We have many, many problems due to not having a structural engineer or construction specialist inspect our property periodically (every three years like our Reserve Study?). Now that we have done closer inspections on our own, we have discovered many that were not included in our Reserve studies. How can we prevent this in the future?**

A: Success is a combination of a Reserve Study provider to evaluate your assets that deteriorate on a normal, cyclical basis, and an infrastructure inspection that looks for deep or concerning structural deterioration unique to your building(s). Both those professionals should communicate with each other, so the projects revealed in the structural inspection get listed and funded through your Reserve Study.

Q: **What determines the amount that your reserves should be? Is it the reserve study?**

A: Yes – a parameter called the “Fully Funded Balance” is calculated in your Reserve Study. It is the amount of common area deterioration you have at your property. This is ideally how much Reserves you should have on hand... always keeping up with, and offsetting, ongoing deterioration. In other words, the more your building is deteriorated, the more Reserve cash you should have.

Q: **What does D&O mean?**

A: Directors and Officers (liability) Insurance—which defends board members when they are challenged based on their decisions or processes.

Q: **What is the CAI link in the presentation?**

A: See [here](#) – the link to their State Law summary of Reserve legislation.

Q: **What is the calculation to figure out an association’s Reserve Fund strength (Percent Funded)?**

A: Percent Funded is your actual cash in Reserves divided by your Fully Funded Balance (the cash value of the deterioration at your association). See more [here](#). This is a standard calculation performed by your credentialed Reserve Study professional that should appear in your Reserve Study.

Q: **When can you special assess? Do you have to have an actual signed contract for the work?**

- A:** You don't need a signed contract. A special assessment is a very disruptive financial event at your association, but may be necessary if you have an imminent upcoming expense. Work with your local credentialed Reserve Study provider to know all your talking points (and alternatives) before going to your homeowners for a vote. You need to be well prepared enough, and convincing enough, that the vote passes.
- Q:** **Where reserve study is not required, and the board decides the cost of a reserve study is not feasible, what would be an alternative?**
- A:** You should consider the cost of a Reserve Study as part of the cost of being in business as a community association. Reserve Funding is often approximately 25% of your total budget, and having the guidance of an independent and experienced professional is prudent. Anything less, and you're making dangerous compromises on providing for the needs of your association.
- Q:** **If I am not on the board and feel they are being negligent by failing to establish reserves, what is my recourse other than selling?**
- A:** Speak up – encourage the board to offset the very real ongoing deterioration throughout the association. That cost is real. Run for the board. Get other like-minded homeowners to run for the board with you. And if that fails, set aside your own Reserve Fund (equivalent to 25% of your monthly assessments). That way you'll be ready when the inevitable special assessment comes.
- Q:** **In my experience, many times the component pricing found in a Reserve Study is in the range of 20% less than market pricing by the time we seek proposals. Is there a way to have greater accuracy?**
- A:** Work with a reputable (credentialed) Reserve Study provider who uses real bids, and local cost data as a basis for their cost estimates. Make sure you are working with fresh data... not a Reserve Study from years ago. And if your Reserve Study is for the current year, confront your Reserve Study provider with this information and seek a revision or explanation.

RESERVE COMPONENT QUESTIONS

- Q:** **How does Association do preventive maintenance on drain lines if they are inside the walls or ceilings?**
- A:** Preventive maintenance doesn't always require destructive work. Associations can perform scheduled hydro jetting, use camera inspections, or access points in shared walls or ceilings. Staying proactive minimizes surprises, extends system life, and improves Reserve Study accuracy. Work with your plumbing company to get this accomplished, so you're always "on top of" issues.

- Q: Are underground assets; sewer, waste, electricity covered in Reserve study?**
- A:** A Reserve Study is by definition a visual inspection. That said, we seek information from association service providers (elevators, roofers, HVAC service providers, plumbers, electricians, etc.) to learn from them what they know about the association, so we can help the association prepare for “reasonably expected” upcoming projects.
- Q: We have water, sewer, and electrical assets underground. I was told they couldn’t be included in the Reserve Study. Can they? Can we use Reserve Funds for their repair or replacement?**
- A:** Be careful who gives you advice about Reserves. All projects that pass the national Reserve Study Standards three-part test (a common area maintenance responsibility, it is reasonably predictable, and of a cost that is significant to the association) can be funded from Reserves. The problem with the assets you describe is that their condition is difficult to identify visually (the limited scope of work of a Reserve Study), and ascertain their condition. But if we (your Reserve Study provider) can get a report from your plumber or electrician on the condition (and potential need for repair and replacement) to get us confident about the timing and size of an upcoming project, we’ll gladly include those projects in your Reserve Study for Reserve funding.
- Q: Can inspections of components be funded from reserves or operating budget?**
- A:** Both are possible. If the inspection passes the national Reserve Study Standards three-part test (a common area maintenance responsibility, it is reasonably predictable, and of a cost that is significant to the association), then yes. If it is trivial, fund from the Operating Budget as a minor expense.
- Q: How do reserve analysts determine the cost of significant reserve obligations, such as painting and the entire community?**
- A:** We primarily rely on our experience gained from other clients in your geographical area performing similar projects. We evaluate the quantity and any difficulty factors to scale the price to for the current client. The goal is to provide a realistic, inflation-adjusted current cost estimate.
- Q: In a resident owned mobile home park none of the major components- water lines, electrical lines, sewer lines and retaining walls are covered as they cannot be inspected and evaluated- BUT all those major components have a finite and predictable failure. How do we get a study that represents the true costs of items for reserves?**
- A:** As you suggest, even if hidden these systems have a finite life. We regularly interview the plumbers or engineers serving your association to learn from their expertise, finding if there are specific Reserve-type projects that can be included in the Reserve Study. We don’t need to personally “see” the component to responsibly plan for its eventual repair replacement.

- Q: Is it prudent (or allowed) for boards to spend reserve funds on items that are not listed in a Reserve Study? For example, we need to replace our exterior dryer vents, and the cost is outside of being contained in the operating budget. Can reserves be used here, or is this best funded by a special assessment?**
- A:** Remember that Reserve funds serve a defined purpose. Avoid reallocating them merely to offset Operating Budget expenses. Check with your local credentialed Reserve Study provider. If the project meets the national Reserve Study Standard three-part test (a common area maintenance responsibility, it is reasonably predictable, and of a cost that is significant to the association), likely they will green-light the expenditure from Reserves, and you should at your earliest opportunity update your Reserve Study to see how your Funding Plan needs to change due to the unanticipated expenditure and the expectation for future expenditures of this type.
- Q: Our 3-year update (CA) did not update “current replacement costs”. They only took new pictures. The 55 YO roof cost has not been updated since 2022. Should the current costs be updated with each RS update? What do I tell the board?**
- A:** Absolutely. Updating all cost estimates is one of the hallmarks of Reserve Study update. Challenge your provider on this point. If you don’t get satisfaction, change providers. Simple.
- Q: We are currently changing out our door locks/security system. Can we add this as a reserve component and use reserve money?**
- A:** Yes—see above. Check with your Reserve Study provider. If it meets the national Reserve Study Standards definition of a Reserve project (a common area maintenance responsibility, it is reasonably predictable, and of a cost that is significant to the association), they’ll likely approve the expenditure from Reserves. Then remember to update your Reserve Study in advance of your next budget cycle to account for this new expense, and expectations of future expenses regarding locks and access control in the future.
- Q: We are spending a significant amount (\$7-\$15K) a year on roof / siding related repair projects. We have a disagreement on the board whether these spot repairs should be considered Reserve Expenses. Some say “YES, as they are classic reserve elements”. Others say “NO. because these are spot repairs that are not significantly extending the life of overall roof / siding element”. What are your thoughts?**
- A:** Check with your local credentialed Reserve Study provider who knows your property. Get professional counsel on this matter. It could go either way. I don’t have enough information here to provide clear guidance.
- Q: We need a new roof. While reserves can partially fund it, a special assessment is needed also. If the HOA doesn’t approve the special assessment, can the board impose an emergency assessment, and if not, what should be done?**

- A:** If it's a health/safety issue, the board may have authority to levy an emergency assessment even if members vote it down. Consult your attorney on this matter. Make sure you increase your Reserve Funding to prevent this problem in the future!
- Q:** **We're building reserves for our association sewer line. It's hard to anticipate what kind of repairs that possibly could be needed. We're inspecting and hydro jetting every 18 months-2 years. Any other advice? Budgeting additional \$5K in addition to the hydro jet/inspection charge. Does that sound reasonable?**
- A:** Proactive hydro jetting every 18-24 months is wise. That sounds like something your Reserve Study provider can include in the Reserve Study. Put your Reserve Study provider in touch with the plumbing company performing these projects to see if there are other "significant and reasonably predictable" related projects that should also be funded through Reserves.
- Q:** **What level of details does the board need to provide regarding reserve disclosure?**
- A:** Reserve disclosures are typically done for three reasons: Gov Doc requirements, State Law requirements, and transparency to your owners. Check with your attorney for further guidance on this matter.
- Q:** **Why are some components deferred when they're based on an experts' opinion?**
- A:** If a subject matter expert recommends a project be performed, we schedule it in the Reserve Study. If a subject matter expert recommends a project be deferred for a while, we defer it for a while. We rely on the opinions of subject matter experts. That should be documented in your Reserve Study.
- Q:** **When a board authorizes repairs for a deferred maintenance issue (e.g. painting metal fencing surrounding homeowners' property) must the funds typically come from Reserves, or can they be sourced from the Operating Fund?**
- A:** Careful here. It depends on a number of things. If it is private property, the cost can be billed through to the owner. If it is common area, then the standard national Reserve Study Standards three-part test is applied. And that typically comes down to the cost being small (readily absorbed by the Op Budget) or large. Check with your credentialed Reserve Study provider to learn how to properly pay for the project.
- Q:** **Where do you start to repair items from the Reserve Study? Those with zero remaining useful life left?**
- A:** You repair things that need to be repaired. They don't need to have a zero Remaining Useful Life. Check with your local credentialed Reserve Study provider to ensure you're not throwing good money after bad (continuing to repair something that is better replaced).

Q: Can we include associated costs for doing projects, like permits, in the reserve expense?

A: Absolutely. Per national Reserve Study Standards, all related costs (permits, shipping, installation, disposal, etc.) are to be included in the “current cost” of the project. The Reserve Study is to reflect total cost (soup to nuts), not just materials or labor.

RESERVE FUNDING QUESTIONS

Q: As a low-income community, how does one fund reserves?

A: Fair question. Remember that Mother Nature and Father Time don’t give you a pass because you’re a low-income community. Every board has a responsibility to budget to offset the ongoing cost of deterioration. So do it. Owning Real Estate is expensive. Sorry to be blunt, but if you can’t afford to live there, you may consider leaving.

Q: We are fortunate that our Reserves are at the 125% Funded level. I am treasurer and have been told we should not exceed this limit. We are a large, simple HOA, with dues only \$42/month, with limited common area amenities. How conservative can we/should we be?

A: The great thing about a Reserve Study prepared by a local, independent, credentialed provider is that they take this decision burden off your shoulders. Explain your desire to be conservative... but not too conservative. They will outline a plan for your association that aligns with national Reserve Study Standards and takes the decision burden (and liability) off your shoulders.

Q: Can you explain what you mean by “funded reserves”? Do we need a separate Reserve Budget and a separate reserve account (in California)?

A: A separate Operating (checking) and Reserve (savings/MMkt) account is typically required by Governing Documents or State Law in which to hold association Operating and Reserve funds. Associations responsibly need a separate budget for both. Keeping reserves separated from your operating budget and properly disclosed is a fiduciary necessity.

Q: How can we calculate the 'fully funded' number so we can determine at what 'percentage' we are currently funded?

A: That is a standard calculation, defined in national Reserve Study Standards, performed as part of the Reserve Study by your local credentialed Reserve Study professional. See more [here](https://www.reservestudy.com).

Q: How do you balance the need to do "make-up" reserve funds (after previous board did not fund adequately) with the concurrent need to use funds from the reserve funds to do timely maintenance projects?

A: It's a balancing act. National Reserve Study Standards articulate the four Funding Principles that are to be balanced. In this case, balancing the need for adequate funds, against budget stability, an equitable distribution over time (over the ever-changing group of owners), and for something that is financially responsible (not financially reckless). Your local credentialed Reserve Study professional is familiar with balancing these principles on a regular basis.

Q: How does the HOA determine what the amount is for 100% funding of the reserves?

A: "Fully Funded" is a calculation defined in national Reserve Study Standards. See more [here](#). This should be a standard disclosure found in your regularly updated Reserve Study.

Q: If reserve funding is less than 100%, are current owners in effect paying less than they should and sticking future owners with part of what should have been current owners' costs?

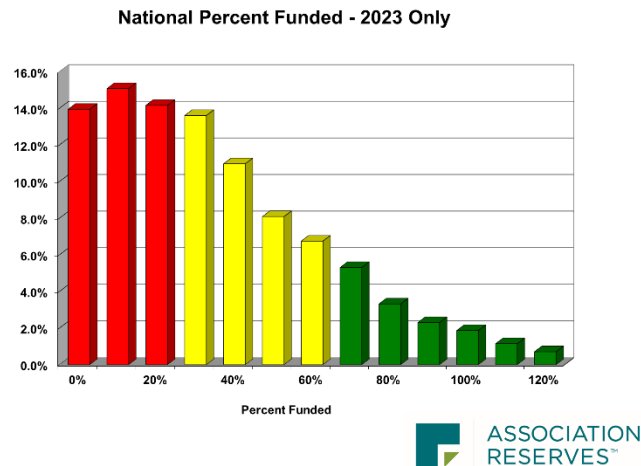
A: No. The question is the trajectory of the association's Percent Funded. If it is dropping, current owners are not paying enough to keep up with ongoing deterioration, and deterioration is "winning". If the association's Percent Funded is growing (even from 25% to 28%), current owners are paying more than the ongoing cost of deterioration, "making up for" underfunding in prior years.

Q: What % fully funded reserves is considered healthy/acceptable?

A: Above 70% Funded, your Reserves are in the "strong" zone, where special assessments and other cash flow problems are rare. Aim for the "bull's eye" of 100%, and begin to get comfortable that your Reserves are "strong" when you're above the 70% level.

Q: Can you give an average percent funded for all reserve studies you have performed in the last year or two?

A: Yes. See below, showing the cross-section of Percent Funded across the thousands of associations across the country we served in 2023. This shows that most communities are at moderate to high risk—which underscores the need for more responsible Reserve funding.



Q: For anticipated expenses 10-20 years from now, it seems like some % of the reserve fund investment in equities (stocks) would be a prudent policy to let the markets help slay the dragon, instead of only covering those costs with monthly dues. Is this allowed??

A: It may be technically allowed, but it is foolish. Just as the “average” growth of equities over years may appear attractive, it is a fundamental principle that equities go up and down. It is also a fundamental principle of being a fiduciary that you are careful to protect the assets of others. That means selecting only investments instruments where there is no chance of loss of principal. Zero. If you’re the treasurer the year after a market drawback and there needs to be a special assessment to pay for the roof, you have a very high personal liability exposure. You can’t take that risk.

Q: I am a member of an entirely new 5-member HOA board. The previous board actually reduced, year over year, the monthly dues and kept them level for 10 years. Did the previous board act lawfully?

A: It may have been legal, but it was financially irresponsible. Flat dues in the face of inflation means the association was moving backwards financially, likely setting the community up for future special assessments or deferred maintenance.

Q: I have an HOA that did a small special assessment for the fiscal year. They now do not have enough money to pay their upcoming and current bills. Can we do an emergency special assessment?

A: Check with your legal counsel on this matter.

Q: If reserves are underfunded and owners do not approve a special assessment or loan, and they don’t, what should a board do (other than resign)?

- A:** Don't resign. Don't give up easily. You have a job to do leading the association. Do more research, polish your salesmanship skills, communicate the need, show evidence of the problem, and try again. Consult your legal counsel and your Reserve Study provider and the provider of services that needs to be performed (plumber, roofer, elevator consultant, etc.) and figure out a way forward that will get a "yes" homeowner vote.
- Q:** **My HOA is severely underfunded. As a homeowner I've been suggesting a big Special Assessment. Is there anything else I can do?**
- A:** Educate your neighbors. Share reserve study findings, real repair costs, and the consequences of delay. Amass your own "reserve fund" and advise others to do similarly. Find other like-minded owners, and run for the board. Help others see that special assessments fix past mistakes and set the association up to pay its bills. Special assessments aren't punishments.
- Q:** **Our board just passed a special assessment due to our reserves being extremely low. We have several board members that want to keep making improvements for cosmetic changes. Our Treasurer keeps pointing out that we don't have funds to do the cosmetic improvements. How do you stop the board members from spending money and try to build the reserve funds back up?**
- A:** Encourage the board to stick to priorities. Hold them to the reason the special assessment was passed (roof, painting, asphalt, etc.). Cosmetic improvements should wait until the building is safe and secure. Your Treasurer is right—reserve funds should not be redirected towards aesthetic projects when they are essential for fundamental building integrity projects.
- Q:** **Our bylaws don't specify an increase in insurance premiums as an "emergency". In our case, our insurance premium increased from \$16K to \$120K annually due to a slip/fall incident. What can we do to address this type of financial "emergency"?**
- A:** Talk to legal counsel about what can be done to define this as an emergency at your association, which would expand your budget and special assessment options.
- Q:** **Our small 20-year-old community has had inadequate reserve funding for all of its first 16-17 years. Our current board is increasing regular assessments and implementing special assessments to fund for deferred maintenance. Owners need to approve both regular and special assessments. If community will not pass assessments, how does it have an impact on board liability?**
- A:** The board needs to do everything within its power, acting as a "fiduciary" of the association's physical and financial assets, and acting in line with the Business Judgment Rule. Don't give up easily. Your job is to care for the association. Document owner refusal, and continue efforts to educate the owners of the critical need for additional funds. Seek legal advice on alternative funding options.

- Q: My community avoided increases for years and now we had to double the dues and still have a special assessment. Do you have resources in how to educate why it is important for proper funding of reserves not only for Reserve projects, but also for operational costs?**
- A:** No. Association Reserves focuses on Reserves. We leave it to other industry professionals (attorneys, accounts, managers) to educate their boards that inflation is real, and that assessments need to increase to offset the increasing costs of ongoing daily, weekly, and monthly bills the association faces.
- Q: The problem is a special assessment in our HOA (single family, not condo) requires a 2/3 vote of approval from members to pass special assessment. Should the HOA send out the update reserve study to owners?**
- A:** Definitely. Do whatever you can. Be creative. You are convinced of the need for a special assessment, so do what is necessary to convince the owners. Have special meetings, invite your Reserve Study professional, etc. Note that it helps to have a background of transparency as Reserve cash flow problems don't appear overnight. Build that culture at your association, so this problem doesn't recur in the future.
- Q: We have a small community of 8 units that has traditionally severely underfunded reserves. In the past 4 years we've been attempting to turn this around. Increased communication has improved sentiment towards raising dues and increasing Reserve funding, but we still have some very vocal hold outs against raising dues, either due to fixed income or attempting to sell their units. Any tips for continuing the fight?**
- A:** Be persistent, and factual. Your job is to run the association. The job of owners is to pay their assessments. They may be vocal, but board members have the responsibility. If those homeowners can't afford to live there, they can move out. You should be compassionate, but the bottom line is that you are a board member with a job to do: and that is to provide for the needs of the association. You are not responsible to keep the association "affordable" to anyone.
- Q: What is the percentage of the HOA dues that should be accrued to reserves? What is the maximum and the minimum?**
- A:** It depends on your component list. There's no universal %, but it is typical that an association needs to set aside between 15–40% of its total income towards Reserves (a good number in the middle of the range and an easy % to remember is 25%). What's uniquely right for your association is found in your Reserve Study.
- Q: Can a board special assess when the reserves are over 105% funded as the board doesn't want the reserves to drop below 100%?**
- A:** I suppose you could, but you're missing the point. A special assessment should be your last resort, to collect essential funds. Don't special assess when not necessary. Your

goal is not to “keep our Reserves at or above 100%”. Your Reserves were collected to pay for Reserve projects. Spend Reserves as appropriate. Expect your (strong) Reserves to fluctuate around the 100% level. There’s nothing magic about the 100% point.

Q: Recommending that people move if they can’t afford HOA fees seems unrealistic. Especially in today’s market. Where do you see HOA fees impacting owners ability to sell?

A: Sorry, but it’s true. Don’t be cruel and say “pay or leave”. Say “This is simply the cost of owning a home in our association”. Let them make their own decision about buying a new car (or # of cable channels or where they go on vacation...) or staying in their home. Don’t worry about that... it’s not your responsibility to make or keep the association “affordable” for them. Besides, buyers value well-funded HOAs with no looming assessments. Low dues with crumbling assets or surprise assessments drag down home values. So minimizing homeowner assessments and dragging down home values is good for nobody. Reserve Funding is always a good Real Estate investment.

INTEREST/INFLATION QUESTIONS

Q: Can reserves be held in CDs or higher inter Money Market accounts to maximize return on investment?

A: Yes, and they should be. Reserve funds should be safe, liquid, and earn interest. CDs, Treasury Bills, and Money Market accounts are all excellent tools—just make sure they’re FDIC insured and laddered to ensure the funds are available in advance of anticipated expenditures. Every dollar earned in interest is a dollar less the homeowners have to pay.

Q: I just stepped on a board where the association is 30% funded. How do you build your reserve fund strength above 50% with nearly double the costs for construction projects over next 30 years due to inflation and tariffs?

A: Let go of the idea that owning Real Estate is inexpensive. Your choice is funding Reserves and watching home values go up, or not funding Reserves responsibly and watching your Real Estate asset crumble, physically and financially. Grit your teeth, tighten your belt, and make responsibly sized Reserve transfers year after year after year.

Q: Our reserve earns interest every year; do we use this interest amount towards our operating expenses? Are there any restrictions?

A: Typically, interest “net after tax” earned from the Reserve Fund remains in the Reserve fund as part of the Reserve Funding Plan. Speak to your local credentialed Reserve

Study provider if you have any questions about how you can use the interest your association is earning from its Reserves.

Q: Taxes on interest of a CD should be paid out of operating or reserves?

A: Great question. Most Reserve Studies have Funding Plans built on keeping interest “net after tax” in the Reserve Fund. In this case, tax from Reserve interest can be paid from Reserves, using a portion of the interest earned. If your published Reserve Funding Plan is calculated expecting all Reserve interest to remain in Reserves, then tax on Reserve interest earned should be budgeted and paid from the Operating Fund.

Q: We have large sums of our reserve funds invested in CDs and CDARs. Our CPA has advised us to pay the taxes on that interest earned from our reserve account. But the Adams Stirling newsletter just advised that the taxes must be budgeted and paid for from our operating account. What to do?

A: Wording makes all the difference. You’ll note that in the Adams Stirling newsletter it stated that if all interest is built into the Funding Plan, then all that interest needs to stay in Reserves. But most Reserve Study Funding Plans are built on the assumption that only Reserve interest “net after tax” is built into the Funding Plan. In those cases, you can pay tax on Reserve interest from the Reserve Fund from a portion of the interest earned.

Q: Our reading of CA law does not include taxes as a legitimate Reserve expense. How can some associations pay taxes on interest earnings from Reserves?

A: Be careful about interpreting state law yourself. CA Law does not specifically address what is and isn’t a Reserve expense. National Reserve Study Standards do that. And no, per national Reserve Study Standards taxes are not a legitimate Reserve expense. So how can one pay taxes from Reserves? Because when you pay tax from interest earned, you are paying tax from interest, not Reserves. Only “net after tax” interest is considered part of Reserves. The top 30% of that interest was never built into the Reserve Funding Plan, so was never considered actually part of the Reserve Fund.

Q: To what extent in a planned development where members are exclusively responsible for maintenance of their separate interests does deferred maintenance and underfunded reserves negatively affect property values?

A: In such an association as yours, it is likely the condition of the (private) residential structure itself that primarily drives home values up and down. But the common areas do make a difference... the entry gate, the roadway, the greenbelts, the clubhouse and pool and tennis courts, etc. Curb appeal is real.

Q: We are an HOA in southern California. Is there a requirement to hold a board meeting each time we need to reinvest our maturing Reserve fund CD?

- A:** Usually not. Check with your attorney on this matter. Generally if the board has adopted a clear investment policy, authorized individuals (like the Treasurer or Manager) can reinvest in similar, zero-risk investment instruments. Still, it's wise to report transactions at the next meeting for transparency.
- Q:** **You mentioned raising dues to increase reserve funding. We can only raise our dues by 7% a year without a membership vote. That barely covers our inflation and insurance increases. The homeowners have repeatedly voted against raises above that amount. Can we (as a board) still be held liable for deferred maintenance?**
- A:** Potentially, yes. First, contact your attorney about getting your documents updated to increase the amount the board can increase assessments without going to a homeowner vote. The Business Judgment Rule expects boards to act reasonably, and inaction due to owner pushback isn't a defense. Be transparent. A bill is a bill. Not paying a bill is not good for the association. Owning Real Estate is expensive.
- Q:** **If your reserve is following the reserve study guidelines and close to fully funded can some portion of the reserves be invested in a stocks (equities) to get better interest? If so, is there a standard percentage that can be invested in riskier investments?**
- A:** No. Fiduciaries should never put the assets of others at risk. Especially when there are a lot of those assets! All Reserve investments should be safe (FDIC insured), liquid (as appropriate), and earn interest. CDs and TBills, for example, are commonly used safe investment vehicles that earn a reasonable amount of interest. Consult with a community association investment expert, such as HOAInvest.com, to develop an investment plan for your association.

FL SPECIFIC QUESTIONS

- Q:** **It appears Florida is rolling back the reserve laws. Is NJ planning to do the same?**
- A:** Florida's recent legislation has drawn national attention, particularly around mandatory reserve funding for safety-related components in condominiums. In 2025, FL has adjusted its Reserve requirements in a number of different areas. I would not describe them as being "rolled back". They have been clarified and associations have been given more time to comply. Their legislation is designed to minimize the chance of another Champlain Towers South tragedy. New Jersey has no "rollback" planned at this time. Owning Real Estate is expensive. Mother Nature and Father Time don't care about state laws. They are at work full time to cause you to need very expensive repair and replacement projects. You'd better get ready!
- Q:** **Our reserve study was prepared by our management company. It has a "contingency fund" as one of the components. Is this appropriate to include in a Reserve Study?**

It lists about 180 components including tables, chairs, carpet, cabinets, etc. They do not use any minimum dollar amount to be included on the list. Using a \$10K minimum (i.e. Florida) there are only 22 components. The "total" current replacement cost is \$1.4M for the 22 components vs. the (wildly inaccurate) \$2.8M for the 180 components. What do you suggest?

A: I suggest you let your mgmt. company manage, and let a credentialed Reserve Study provider prepare your Reserve Study. We are lousy at managing, and management companies are lousy at preparing Reserve Studies. As a board member I'd feel very nervous trusting the future of my association to a plan outlined in a Reserve Study such as you describe.

INSURANCE QUESTIONS

Q: Could you elaborate on the insurance implications of underfunded reserves, including examples if possible?

A: Insurance is for accidents. Reserves are for predictable events. When boards allow their common areas to decay to the point that accidents are more frequent, expect your insurance company to raise your premiums, carve out higher deductibles, or deny coverage. They have no interest in paying for "accidents" that were caused due to lack of maintenance. Please look for an entire webinar on insurance and Reserve issues on 9/24/25.

Q: Insurance is now 55% of our Budget. How does this impact the proper level of Reserves from the Budget?

A: Sorry to hear that. But remember, Mother Nature and Father Time don't care that your budget is tight, or insurance is more expensive than last year. Raise your assessments as necessary to pay the bills of the association. Owning Real Estate is expensive.

Q: If you have D&O insurance, how can a member sue the board?

A: D&O insurance doesn't prevent a lawsuit—it provides legal defense and potential indemnification if one occurs. Homeowners can file claims, but D&O protects board members (within limits) as long as they act in good faith, with reasonable diligence, and within their authority (think: the Business Judgment Rule).

Q: Is there a rule of thumb for determining the amount of liability insurance an HOA should carry for its directors based on size of budget or asset value?

A: Please speak to your local insurance agent/broker who specializes in associations to tailor appropriate coverage for the board at your association.

Q: Should the cost of an insurance deductible be included in the annual operating budget?

A: Yes. You should have some “margin” in your Operating Budget for some deductible costs. Large deductible expenses may be paid from a special assessment or a short-term loan from the Reserve fund.

Q: What situations would typical D&O liability insurance not protect board members when the association is losing the dragon slaying?

A: Common exclusions include:

- Intentional misconduct or fraud (not following Governing Docs or State Law)
- Gross negligence
- Unreasonable fines or penalties (or not uniformly applied)
- Breach of fiduciary duty to the association

The best protection is to follow professional advice, document decisions, and avoid “gut instinct” rulings that bypass process.

Q: Would you recommend a financially struggling board to raise the amount on their insurance deductible and why?

A: Possibly. That is a “risk/reward” choice. Raising deductibles lowers premiums, but increases the risk of an expenditure when a loss occurs. Review your loss history, your maintenance standards, and make an informed decision.