

Planning and Executing Large Association Projects

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Introduction

- Determining the Project Scope
- How will the Association pay for the Project?
- Setting up the Project Vendors
- Common Issues that may arise during the Project



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Determining the Project Scope

- What will the project involve?
 - Repairs?
 - Replacements?
 - Additions?
- Is this an Association responsibility?
 - What do the declaration and bylaws say?



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How will the Association Pay for the Project?

- Reserves?
- Special Assessment?
- Loan?



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How will the Association Pay for the Project?

- Reserves

- Is this something that Reserves can be used for according to Declaration?
- General Reserves vs. Reserves earmarked for a specific purpose.



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How will the Association Pay for the Project?

- Special Assessment

- Is this a project that special assessments can be used for?
 - What do the Declaration and By-Laws say?
- Is this an emergency or mandated by law? (765 ILCS 605/18(a)(8) of Condo Act and 765 ILCS 160/1-45(e) of CICA)
 - Emergency: immediate danger to structural integrity of common elements/areas or to life, health, safety or property (Condos only) of owners.



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How will the Association Pay for the Project?

- Special Assessment (cont.)
 - Do owners have to approve special assessment? (765 ILCS 605/18(a)(8) of Condo Act and 765 ILCS 160/1-45(f) of CICA)
 - Addition or Alteration of common elements/common area?
 - If yes, then: 2/3 of owners for Condos; majority of owners for CICA.
 - For non-condos and non-CICA communities, what do Declaration/By-Laws say?



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How will the Association Pay for the Project?

- Special Assessment (cont.)
- For Condos and CICA associations, does 115% provision apply (765 ILCS 605/18(a)(8) and 765 ILCS 160/1-45(c)).
 - Prior year total assessments v. current year annual + special.
 - Written petition by owners with 20% of votes.
 - 21 days for condos; 14 days for CICA.
 - Meeting of owners
 - Must be call within 30 days of date petition delivered.
 - Majority of total votes of owners in Association must vote to reject; or else it is ratified.



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How will the Association Pay for the Project?

- Special Assessment (cont.)
- Adopting Special Assessment
 - Resolution that outlines:
 - Purpose of special assessment
 - Total amount of special assessment and breakdown per unit
 - Length and Payment terms
 - What happens if not all of the funds raised from special assessment are needed for project?
 - Approve Special Assessment at a formal meeting.



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How will the Association Pay for the Project?

- Loan
 - Who must Approve?
 - Condos: Majority of entire Board (765 ILCS 605/18.4(m)).
 - Non-condos: What do Declaration and By-Laws say?
 - What's the collateral and who must approve it?
 - Typically, assignment of rights to future assessments.
 - Condos: Majority of entire Board (765 ILCS 605/18.4(m)).
 - Non-condos: What do Declaration and By-Laws say?
 - Approve loan at a formal meeting.



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How will the Association Pay for the Project?

- Loan (cont.)
 - Work with a bank/lender that deals with association loans.
 - Loan Commitment Letter
 - Loan documents for closing the loan (note, assignment of assessments, etc.)



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Setting up the Project Vendors

- Engineer?
 - What's the project?
 - Need drawings, specifications, plans, etc.?
 - Have contract reviewed by attorney and, if necessary, an addendum prepared.
- Bid process
 - How is the board going to select the vendor amongst the bidders?
 - Engineer assistance?
 - Management assistance?
 - Qualified Board member?



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Setting up the Project Vendors

- Contractor selected.
 - Funding in place?
- Entering into Contract.
 - Using AIA contract? Contractor's contract?
 - Have contract reviewed by attorney and, if necessary, an addendum prepared.



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Setting up the Project Vendors

- Key terms in Contractor's Contract
 - Insurance
 - Liability
 - Worker's Compensation
 - Automobile
 - Association, Board and Management named as Additional Insured.
 - Indemnity
 - Payment amount
 - Clear what amount Association owes?
 - All increases must be prior approved by Association?



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Setting up the Project Vendors

- Key terms in Contractor's Contract (cont.)
 - Payment terms
 - One payment?
 - Invoiced periodically?
 - Part down/part at completion?
 - Any retainage held?
 - Clear payment due dates?
 - Start date and completion date
 - Are these clear?
 - Subcontractor(s) covered?



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Setting up the Project Vendors

- Key terms in Contractor's Contract (cont.)
 - Right to terminate
 - For cause vs. without cause.
 - Any penalty or termination fee?
 - How much notice?
 - Dispute Resolution
 - Litigation?
 - Mandatory arbitration?
 - Fee shifting provision?



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Setting up the Project Vendors

- Key terms in Contractor's Contract (cont.)
 - Warranty
 - Any warranty offered?
 - Length.
 - What is covered?
 - Assignment
 - Allowed?
 - Require Association prior approval?
 - Lien Waivers?
 - Payment contingent upon waiver of lien rights?



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Setting up the Project Vendors

- Key terms in Contractor's Contract (cont.)
 - Who is Authorized to Communicate with Contractor?
 - Management?
 - Board Member(s)?
 - Permits.
 - Who pays for these?
 - Is Contractor applying for these?
 - Scope of Work
 - Is it clear?
 - Everything covered?



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Common Issues that may arise during Project

- Contractor stops performing part way through.
 - Weather Issues
 - Labor Issues
- Incorrect work is observed.
 - What are steps to correct?
 - Who decides if work is incorrect?
 - How often is work being observed and by whom?



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Common Issues that may arise during Project

- Observation/walkthrough of final work for completion.
 - Who is doing this for Association?
 - Punch List?
 - Relationship to payment of contractor.
- Product/Materials delays.
 - Does contract cover this?
 - Who pays if costs increase?



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Common Issues that may arise during Project

- Damage caused by Contractor
 - Insurance
 - Contractor's
 - Association's
 - Owner's



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Questions?



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