

Condo Insights #25 Managing a Major Project Part 3

A Condo Board will need legal counsel during a major project. The attorney's role is to ensure the Board is acting in compliance with the Association's Master Deed and By-laws and governing law. The attorney's role includes but is not limited to preparing and reviewing agreements and contracts with both the engineer and contractors. The biggest avoidable mistake is the Board entering into a contract before the Association's attorney has reviewed the contract. The attorney will prepare and review contracts to ensure language is included to protect the Association. Such contract language can require the contractor to identify if any sub-contractors are being used, to delineate responsibility for securing permits and inspections, and clarify insurance requirements and payment terms. The attorney can conduct background checks on the contractor to make the Board aware of any past or present litigation, liens, and bankruptcy filings.

The attorney will review all written warranties and guarantees included as part of the project. While a warranty document is tangible, the performance aspect of the warranty is intangible. Close reading and review of the warranty is important to make sure the Board understands what the warranty covers and what performance it can expect if something goes wrong.

There are three main types of warranty: 1) a manufacturer's warranty that covers the products provided; 2) a workmanship or labor warranty from the contractor that covers the installation; and 3) an extended manufacturer's warranty that covers both contractor workmanship along with expanded coverage for the products or materials.

Major projects typically require both a material and labor warranty. Material warranties provided by the manufacturer cover products or materials and state that the manufacturer will repair or replace their product or material during the warranty period if it fails, often free of charge. Some warranties cover the cost of replacing defective products or materials for the first few years and then offer prorated coverage for an additional period. Manufacturer's warranties often require the contractor and customer to abide by certain conditions and requirements ranging from submission of engineering plans and drawings, pre-approval of installation methods, and inspection of the completed project by a manufacturer's representative. Extended warranties often require periodic inspections by the original installer to maintain the materials and confirm that products are performing as designed.

A workmanship or labor warranty generally means that if there is a problem with the work or service provided and if repairs are necessary the contractor will make the necessary repairs at no cost. Workmanship or labor warranties typically don't last more than a few years, and usually not as long as manufacturer's warranty on products and materials. Become familiar with the details of the workmanship warranty coverage and keep in mind that the cost of the any portion of work or repairs not covered under the warranty can be expensive. A more comprehensive review of warranties will be the topic for a future column.

If the Association has property management, the property manager typically serves as Project Coordinator for major projects. The property manager guides and assists the Board to put the team of professionals together and serves as the liaison between the Board and the professionals, contractors, and unit owners. The property manager will coordinate communications, develop the project budget, monitor project expenses, and calculate assessments as outlined in the Master Deed and By-Laws. Property managers should know where to secure financing and understand the flow and timing of major projects to minimize inconvenience to owners and prevent unforeseen conditions.

The property manager works with the Board to develop project objectives before the project begins and keep focus on the objectives throughout the project. Project objectives may include performance compared to schedules and budgets, improvement of interior residential conditions, execution, and completion of the project during the off-season, achieving a desired lifespan for the new assets and warranty requirements.

After the project is completed, a written project summary serves to document the project, the challenges faced during the project, measures project objectives and serves as a historical reference. When a Board

is faced with a major extra-ordinary project, experienced property managers provide invaluable guidance and direction to the Board and unit owners.

Major projects typically involve closeout documents prior to final payment to the contractor. Closeout documents include all warranties on labor and materials; lien releases from the contractor and all sub-contractors; manuals, handbooks and written operating procedures.

Eventually every community and condominium association will face a major renovation, rehabilitation, or replacement project. The guidelines and recommendations included in this series of columns will assist condominium Boards and unit owners as they navigate this process.

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