



Services, Inc.

BRISTOL MANAGEMENT NEWSLETTER

Fall 2006

PROPERTY VALUES & THE ECONOMY

JUPITER
1930 Commerce
Lane
Suite #1
Jupiter, FL 33458
(561) 575-3551
(561) 575-5423
FAX

STUART
735 Colorado
Avenue
Suite #3
Stuart, FL 34994
(772) 288-7255
(772) 288-7203
FAX

PORT ST. LUCIE
(772) 323-2004

NATIONAL
1-800-340-4546

OWNERS
Steve Inglis, PCAM
Nadine Inglis

Property values have increased at an unbelievable rate over the past couple of years, but now with the Real Estate market going extremely soft, maintaining property values will be much more difficult and competitive. For most of us, our home is our single biggest investment, and with interest rates rising, insurance rates are sky rocketing and almost all other services are increasing, Association's assessments are going to need to be increased.

There will be pressure to keep Association assessments down, but after three major hurricanes hitting this area, most Associations have depleted their reserves. Landscaping maintenance, fertilization, and pest control rates are going up because of petroleum. Property insurance has increased tenfold. Property Managers are in such demand that salaries have increased, and utilities, including electricity, phone and cable, have all increased.

The Board's number one goal is to **Protect, Preserve** and **Enhance** the property values.

Protect means maintaining the look of the community through normal maintenance, and enforcing the covenants so that individual violations do not distract from the overall feel and harmony of the community. However, you must be careful not to be overly strict with the rules and become a "condo commando", which can definitely hurt the harmony of the community and the property values.

Preserve – Good budgeting means having a realistic reserve fund. Limiting budget increases to protect residents who are on fixed or inadequate incomes may sound good, but after three hurricanes, some Associations had to pass large assessments which could have been avoided if they would have had a good reserve fund. Associations do not

want to appear heartless, but there may come a time when an owner may need to move to a more affordable location. Many people are moving to other areas where they don't have hurricanes, and the cost of living is not getting so high. Also, more than ever, the Board needs to monitor delinquencies because with the creative mortgages that are available, some people become overstretched. With no equity, many owners may decide to walk away from their property. A mortgage foreclosure will wipe out any Association assessments which then turn into bad debt for the Association.

Enhance – After experiencing three slowdowns in Real Estate, I know now is the best time to invest in the Association and protect your biggest investment...your home. Therefore, attempting to have no increases in assessments just isn't practical. In fact, by just keeping the assessment the same, you are actually reducing the investment in your largest investment, which is your home. During a time when it is a buyer's market, it is even more important to maintain the common property so that it looks good when you drive into the community. Anyone in Real Estate will tell you that the first impression is critical, and that is why the developer spends so much time and money on the entryways. Associations and Boards need to treat the Association like a business. By asking the following questions, it will help the Boards make good business decisions:

1. What are your community's needs, policies, goals and objectives?
2. Which services do you require, and which do you desire? (Many of the items driving up assessments are beyond the Board's control.)
 - a. Insurance
 - b. Utilities
 - c. Increases in labor cost

3. What have your operating costs been over the years, and are there any patterns of extraordinary cost? (Property values have more than doubled, yet most Association budgets have not increased.)

4. What cost changes do you know about for services and material?

- a. Construction costs / reserves
- b. Petroleum / asphalt / roads

5. What has a property inspection revealed?

- a. Elevators
- b. Irrigation systems
- c. Landscaping
- d. Signage & lighting
- e. Roofing

All of these items and many others were greatly increased. Many properties are now required to have an insurance appraisal done, and this is the perfect opportunity to do a realistic Reserve Study. All too often reserves are kept low to keep the assessments down.

ASSOCIATION TIPS:

- Be a Good Homeowner;
Review your Documents.
- Be a Good Neighbor;
If there is a problem, talk about it.
Direct conversation is more effective than sending a letter.
- Be a Good Board Member;
Serve because you care, not because you have a hidden agenda.
- Be a Good Leader;
Do what is right, not what is popular.
- Have a Productive Meeting;
Act professional – don't let the meeting turn into a Social Event.

THE EYE OF THE INSURANCE STORM

Florida homeowners, already suffering from huge increases in their insurance premiums, are getting hit with a surcharge to help pay for devastating hurricane losses. The eight hurricanes, which struck Florida in less than 15 months, caused problems that no one could have ever anticipated. In the midst of a pull-back by private insurance carriers generated from two years of disastrous hurricanes, state-run Citizens Property Insurance Corporation is becoming the only option for homeowners insurance for many Floridians. With two consecutive destructive hurricane seasons, Associations are realizing that their largest budget line item is insurance, not the cost of operating and maintaining their community.

Under the Senate bill, seasonal residents insured by Citizens must pay a 25 percent surcharge on their premiums. Homesteaded properties would be spared from paying the surcharges. The bill extends the definition of homestead to include rental properties, businesses, condominium buildings, apartment buildings, and mobile homes occupied by Florida residents. While the bill passed by the Senate Banking and Insurance Committee, spares Florida residents insured by Citizens from higher prices, it also seeks to shrink the troubled insurer and reduce its deficits.

With a number of insurance companies having pulled out of the state or cutting back, condominiums may find themselves with fewer options and higher premiums. Agents can do only so much for Associations before they have to refer them to Citizens. Surplus insurers are coming in and insuring higher risk properties at higher rates or have plans to drop coverage.

On March 8th, 2006 Poe Financial announced that its subsidiary, Southern Family Insurance Company, would stop issuing new policies or renewing them for existing customers.

Poe's Atlantic Preferred Insurance Company began dropping the policies July 13 as they came up for renewal to curb their losses from hurricanes in 2004 and 2005. Poe's move likely means higher insurance rates for everyone as more Florida homeowners and Associations have trouble obtaining coverage, and are forced to purchase Citizens. Citizens has asked

regulators to allow them an increase of up to 20 percent on commercial residential Associations, which would greatly effect Condominium Associations. Citizens has become the largest insurer in Florida as measured by annual premium volume. Citizens has approximately \$1.3 billion in premiums, covering \$210 billion in property, according to The Associated Press.

Alan Chesler, an agent with Advanced Underwriter's Insurance, explains, "Insurance companies have no reserves to cover an unexpected multi-billion dollar event, much less two or three. Stock holders expect a reasonable return, and if they do not get one, then they invest in other places. States and the Federal Government could cover the loss, but they need to be repaid. 'By whom', you ask. How about the people who were affected by the catastrophic exposure? The price would be the cost of the loss. Florida needs to be repaid, and they (Citizens and the Hurricane Catastrophe Fund) will collect. The real question is...if we want to continue to live in Florida, have business transact business in Florida, and see our communities add socially endearing enhancements to our cities and state, then we must be prepared to pay for the hurricane exposure."

Chesler anticipates that deductibles will continue to increase to a point at which the expected loss is the burden of the property owner. Single-family homes and buildings of joisted masonry may see deductibles equal to the cost of a roof plus. Chesler predicts that high-rise buildings will see the same thing; only the individual dollar will be expressed in the millions. Condition reports and mitigation will be taken into account. Installation of shutters and/or impact glass will soon stop as a proposed option, and the use of these items will be required in order for coverage to be available. Chesler also foresees that maintained and/or faultless roofs will be required. They will have to either be replaced or repaired to engineering standards for wind loads.

According to the South Florida Sun-Sentinel, the insurance industry experts say the low cash reserve in the catastrophe fund means if there's another huge financial blow to insurers in 2006, state officials may face...for the first time...having to issue bonds that would be paid off by emergency assessments on all types of insurance policies in Florida. Governor Jeb Bush, once opposed to defraying costs using state tax dollars to ease consumers' skyrocketing insurance costs, now supports it. The governor's

comments came after he voted for the first-ever bailout of the state Hurricane Catastrophe Fund, a cash reserve insurers cap to help pay storm claims. The governor had one condition: Legislators also must make substantial reforms to the state's property insurance market.

According to the Insurance Journal, the SBA Trustees (Governor Bush, Chief Financial Officer Tom Gallagher, and Attorney General Charlie Crist), on their own, approved a 25 percent rapid cash buildup surcharge as part of the 2006 premium. It will generate an additional \$200 million for a total Cat Fund premium of \$1 billion. The goal is to rebuild Cat Fund cash reserves to a significant level more quickly; reducing the amount of money the fund might have to borrow through bonding.

The Senate Banking and Insurance Committee have been considering plans to reduce the deductible paid by carriers before Cat Fund payments begin. Without legislative change, the primary retention for 2006 would be \$5.3 billion, with insurers paying their proportionate share of that amount as a deductible for the two largest storms. The so-called drop-down retention, after the two biggest hurricanes, if there are three or more, would be \$1.7 billion, with each insurer paying its proportionate share of that.

After 2004, Citizens faced a \$516 million shortfall, which led to a surcharge of \$68 per \$1,000 in annual premiums for the average Florida homeowner, to cover the deficit. After the 2005 storms, Citizens faced a \$1.7 billion deficit, which is expected to lead to a surcharge of \$110 per \$1,000 in annual premiums.

"The State of Florida does not want to be in the insurance business. They are also trying to control the cost of insurance in an open market," states Chesler.

And lastly, Chesler feels that if we don't allow some freedom for coverage and accept our need for coverage at a price, and pay the price, commerce will stop. Banks will foreclose, loans will stop. Damage will go unrepaired and soon defaults will occur.

Lawmakers must address the insurance challenges that Florida homeowners and associations face. They must be prepared to provide comprehensive reforms of Citizens and the insurance market. The increase in hurricanes has created a complex and multifaceted insurance dilemma for all.

REVIVAL OF PREVIOUSLY OVERLOOKED RULES

In a perfect world, all community association boards would set fair rules and enforce them consistently and effectively. But what should an incoming board do when it realizes, upon entering office, that its predecessors haven't enforced important community rules? Can the new board immediately start enforcing these previously overlooked rules? Or must it let members who've been violating these rules for years with impunity continue to do so? Though it can be difficult and can even lead to lawsuits with members, incoming community association boards should revive previously overlooked rules. [Don't Abruptly Start Enforcing previously Overlooked Rules.](#)

Reviving overlooked rules isn't as simple as suddenly resuming enforcement of them. It's a delicate matter that must be handled carefully. If you try to revive a rule too abruptly, members might refuse to comply. And if a dispute leads to a lawsuit, a court might agree with the member.

It's even more complicated if a member, relying on the previous board's tacit approval to break a rule, has spent money in the process of doing so. For example, if a member enclosed a balcony despite a rule against doing so, thinking his action was okay because several of his neighbors had done the same thing, a court may be hesitant to let the association enforce that rule. But if you send members a notice warning them that the board will be resuming enforcement of previously overlooked rules, you'll stand on firmer ground with your members and with courts.

Before trying to revive an overlooked rule, ask your attorney whether your state and local law lets you do so. Some laws prohibit the enforcement of previously overlooked rules in certain situations.

[Include Four Key Items in Notice:](#)

The best way to revive overlooked rules is to send all members a notice informing them of the board's intentions.

1) Remind members of the value of rules. First, remind members that rules are important to maintaining a harmonious community and sustaining property values.

2) Tell members that previously overlooked rules will once again be enforced. Explain to members that the incoming board has realized that, in the past, many important community rules had gone un-enforced. Then tell members that the incoming board believes that enforcing these rules is important, and so will be resuming full enforcement of them.

3) Say that the board won't necessarily enforce rules retroactively. Tell members that, though the board will resume vigorous enforcement of all previously overlooked rules, it won't necessarily seek to enforce rules retroactively. It is hard to force members to comply with rules retroactively because courts are less likely to back associations in such situations. In general, you shouldn't enforce rules retroactively, don't promise this with regard to all rules. The association, along with its manager, will compile a list of existing violations and review them on a case-by-case basis to decide whether to enforce them. Finally, stress in your notice that new violations won't be tolerated. For example, if you want to revive a previously overlooked "no pets rule", you could say that members can keep existing pets, but not replace such pets when they pass away. To be better able to enforce rules going forward, it's a good idea to make a list of all existing violations that had been sanctioned by the previous board.

4) Explain that the board will give members a grace period in certain circumstances. On a case-by-case basis, give members a grace period to comply with certain revived rules. Forcing members to immediately comply with all rules might be unfair. In general, it's okay to send this notice to your members by regular mail, but should check whether your state law or governing documents requires you to send it using a different method, such as certified mail.

IMPORTANT CONDO INSURANCE Steve Inglis, PCAM

Some condominium documents provide for the insurance deductible to be levied as a common expense against all owners. However, most older condominium documents provide that the deductible is allocated to the entire community as a common expense for the cost of repairing damage to the common elements and is allocated to the owners of the damaged units to the extent of the cost of repairing those damaged units.

The Division of Land Sales has taken the position that the deductible is a common expense, regardless of what your Declaration says. The Division reasons that the deductible is a risk which should be shared by the entire community.

Even if you find the Division's position appealing or logical, the Division's position is not currently supported by any language in the Statute. The specific language found in Chapter 718.111(11) addresses what items must be covered by the Association's hazard insurance policy but does not discuss maintenance, repair or replacement issues, nor does it address responsibility for uninsured losses such as deductibles.

If your Declaration already provides for the deductible to be allocated to all owners as a common expense, the Division's position does not create a problem for you. However, if your documents provide for the deductible to be allocated to all of the owners to the extent the damage affects the common elements and to the owners of the individual damaged units to the extent of damage to the units, the Division's position creates a problem. You will be forced to choose between ignoring the Division's position or ignoring the provisions of your governing documents.

For many of you, the conflict cannot be reconciled by amending your documents because you cannot get the votes necessary to amend your documents.

BRISTOL MANAGEMENT SERVICES, INC.

BRISTOL SEMINARS

More Information (Dates - Times - Speaker) will
be sent regarding the following SEMINAR LOCATIONS:

TRADITIONS - PORT ST. LUCIE

RIVERWALK OF THE PALM BEACHES - WEST PALM BEACH

ABACOA - JUPITER

Bristol Management's Newsletter is published periodically as a tool to communicate with Board Members and friends regarding association issues and Bristol news of interest. Publisher assumes no liability for any information contained in this newsletter.

Place
Postage
Here

Maintaining Communities in "Bristol" Condition

BRISTOL
MANAGEMENT
SERVICES, INC.
1930 Commerce Lane
Suite #1
Jupiter, FL 33458