



COMMUNITY BUILDER

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Special Assessments - What, Why, and How

In most covenanted community developments, the association is responsible for the upkeep of property, which includes maintaining, repairing, or replacing equipment and other aspects of the common elements. To cover the cost of operations, the association collects assessments or "dues" from the homeowners. Most of these dues go towards upkeep costs, and ideally, a portion is also set aside and placed in a reserve account to fund future repairs and replacements.



Unfortunately, things don't always go as planned, and while no board ever wants to impose a special assessment, sometimes there is no other choice.

A special assessment is a fee assessed to homeowners to cover repairs to buildings and common area spaces or for special projects that the association needs. Typically, these are costs above what the association has in reserves or uses other than those for which reserve funds were intended. Once a special assessment is levied, it becomes an obligation of the homeowner, just like a regular assessment. This type of assessment is generally subject to the same collection procedures as the regular assessment, including late fees and interest as indicated in the association's governing documents. Special assessments should only be levied when the association faces an **unplanned** capital expenditure, such as a major repair or replacement that cannot be covered in any other way. In addition, in some states, special assessments can be imposed when the association does not have enough money to cover ongoing maintenance and monthly operational expenses.

A capital improvement assessment is often confused with a special assessment. It is important to differentiate the two as capital improvement assessments are designed for significant structural alterations, common area improvements, or the construction of new structures within the development that are **planned** and intended to increase the property's

value ultimately. The focus of this article is on special assessments; therefore, the details of this type of assessment are not covered here.

Unbudgeted expenses, inadequate reserve funds, natural disasters, and insufficient insurance coverage are the most common reasons the association may need a special assessment. There are a few simple ways to pre-empt the need to levy a special assessment:

1. Obtain a reserve study and follow the preventive maintenance guidelines in the study. Doing so will help adequately fund the reserve account. The Sentry Community Manager can provide guidance in selecting a reserve study specialist in your area.
2. Ensure that the annual budget addresses all of the association's expected needs creates a contingency line for unforeseen operating costs, and allocates enough money to fund your reserves.
3. Review the association's insurance policy with an insurance specialist. If the coverage is insufficient or the deductibles are high, a special assessment will likely be needed if a natural disaster strikes.

Even when these actions have been taken, and the association is well-run with a fully or adequately funded reserve, some situations cannot be planned for, and the need for a special assessment may become necessary. A few quick examples include the discovery of mold in common area facilities, pool leak repairs due to ground shifts, regrading of surrounding common area land to avoid leaks into basements of high-rise buildings, the unexpected replacement of roofs that have not met their expected useful life, or damage due to natural disasters such as an earthquake or hurricanes. When these types of events arise, it is critical to understand when special assessments are appropriate and how to collect them. Taking action in the following ways is highly recommended:

First, make sure to check the association's governing documents and consult with legal counsel to fully understand each step of the process for considering a special assessment. There may be limitations on how much can be levied, how often, and the reasons for imposing a special assessment. There may also be guidelines that define when a vote of the members is needed to approve a special assessment and when it is considered an emergency that doesn't require a vote. In addition to the governing documents, states may have adopted laws that impose restrictions.

Second, be completely transparent with the homeowners and communicate openly right from the beginning. If it is feasible and time is not a significant constraint, holding a meeting to explain the reason for the special assessment to allow homeowners to ask questions and voice concerns is optimum. This immediate and open communication will help to improve homeowner understanding. When and if a special assessment is being levied in an emergency and time does not allow a meeting, it is essential to communicate immediately the why's, when's and how's.

Finally, offer flexible payment options. A special assessment, even a small one, can create a hardship for some homeowners. Offering payment options may ease this burden and often increases the chance of full and timely payment. Ultimately, the goal is to protect the shared assets and not create a situation for homeowners that may result in delinquency and financial distress. If delinquency does occur, work with the Sentry Community Manager to understand what options work most efficiently and effectively.

The option of levying a special assessment can be an effective tool to cover the cost of needed work. If it is used thoughtfully, it can also help preserve the value of your community's

property. Sentry Community Association Managers can help the board through the process of levying and collecting a special assessment, working alongside the board on fact-finding to make sure the association abides by all applicable laws, complies with the governing documents, and ensuring the board does everything that needs to be done to make the process as straightforward and compliant as possible.

The information contained in this article is provided for informational purposes only and should not be construed as legal advice. No recipient of this content should act or refrain from acting without seeking the appropriate legal or other professional advice.

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