

WHEN DISASTER STRIKES!

Emergency Planning for Common Interest Development Boards

By Thomas Connelly

Consider this scenario: You are a board member for your HOA, which represents 146 owners and over 300 residents in a common interest development consisting of 20 buildings with 8-10 dwelling units in each building. In the early morning hours, you are awakened by loud knocking at your door. You open the door and see another resident who is obviously frantic. He tells you that one of the buildings is on fire and that the fire department has evacuated the entire building. About 20 residents have been evacuated. You quickly dress and go to the scene to find that four units at one end of the building are actively burning and significantly damaged. What are you going to do? As a member of the HOA board is there any expectation or responsibility for you to take some type of action? Do you know the plan?

Disasters, natural or resulting from human action, occur with alarming regularity. All one needs to do is watch the evening news to confirm this. Disasters may occur without warning and at any time of the day, or night. A disaster could have a significant impact on a Common Interest Development (CID) in a variety of ways. As described in the scenario above many residents might be displaced, buildings and facilities may need to be inspected and repaired or razed. There could be immediate and long-term fiscal considerations that impact operating budgets and reserve funds. Needless to say, these unpredictable events present immediate and long-term considerations for an HOA board and property manager. How does the membership of your HOA expect their Board of Directors and manager to respond during, and after, a disaster has occurred? What is your role, as a board member, when a disaster strikes in your community? What role does the property manager assume? Will the manager be available? What resources are available to help with the response and recovery from the disaster? How do standing rules and processes hinder or impact the response and recovery from a disaster? If you don't know the answer to these questions, then you and your Board have not properly planned for disaster response. And, these are just a few of the many questions that will be asked after a disaster occurs! You will be expected to have the answers.

Board membership in most CID's typically consists of owners and residents who volunteer for board leadership roles. Most board members in CID's have very little or no experience managing disaster responses or large-scale emergencies. Flooding, earthquakes, fires, explosions, weather and storm related events, acts of terror and other disasters are very complex situations that require a coordinated and planned response to achieve optimal mitigation and recovery. Many HOA's hire contract management companies to perform day-to-day business functions for the association. Do these managers have training and experience in handling disasters or emergencies? Is disaster management one of the functions that they have been hired to perform? If so, will they be available to help you if there was a regional disaster event?

The most effective way to respond, at any level, to a disaster or emergency is to pre-plan the response, roles and responsibilities. Just as it is important to have your own “earthquake kit” to survive for a period of time after a disaster strikes, it is also important to have a formalized plan for response to disasters at a community leadership level. Governmental and public safety agencies all have comprehensive plans for responding to and mitigating large-scale disasters or emergency events. Businesses have formal plans for responding to disasters, particularly when their employees, business continuity and profitability could be compromised. I have found, however, that most HOA’s do not have any formal plans or specialized training to aid in responding to a disaster that impacts their property, property owners and/or residents. In fact, there are no mandates for HOA’s to develop disaster response plans.

So then, why should an HOA consider developing a disaster response plan? There are disaster related board responsibilities that most HOA rules and procedures regulate, particularly relative to the expenditure of HOA money. Additionally, common sense indicates that HOA’s should have some type of formal response plan in place so that they are able to assist their members when a disaster impacting their CID occurs. It is a prudent idea to be prepared, if even at a minimal response level.

For the purposes of this article a disaster is defined as any event, naturally occurring or caused by human action or omission, which impacts the use of any property under the purview of the HOA and Board of Directors. The most common disasters impacting CID’s include earthquakes, fires, floods, storm damage, chemical spills requiring evacuation, explosions, mass casualty incidents, building failure or collapse and any other unforeseen event which impacts the use of any dwelling unit. In addition, emergencies and certain police actions should also be considered when developing a disaster response plan as they could restrict residents’ use of CID properties or facilities for a period of time. Examples of this would be a police manhunt for violent and dangerous suspects running at-large in a particular area, or a chemical spill on or near the CID property.

There are two primary functions of emergency and disaster planning. The first is having an effective response to the disaster incident as it is going on and in the immediate aftermath. The purpose is to provide assistance to affected members as quickly as possible. This might include emergency short-term sheltering, providing food and other needed supplies, and attending to other immediate needs as the event is occurring and in the hours immediately following the event. How long this initial support would continue is a policy decision on the part of the HOA Board of Directors and could vary, depending on the type of incident.

To illustrate this concept, let’s consider the building fire scenario above. There are 20 residents (presumably HOA members) who have been suddenly and unexpectedly removed from their homes. They probably didn’t have time to gather adequate clothing, food and other personal items when the fire department ordered them to evacuate. Will you allow them to stand outside in the cold of the night without adequate clothing, or access to food, water or sanitary facilities? Of course not! Does your HOA currently have the ability to provide assistance if this were to occur in your complex tonight? If the HOA has not considered or planned for disasters, then the answer is most likely, No!

The second main function of emergency and disaster planning is to restore the affected areas or regions to pre-disaster conditions (a state of normalcy) as quickly and smoothly as possible. In the fire scenario, there are obviously long-term considerations. At least one building that the HOA is responsible for has been damaged significantly. Sure, an insurance policy is probably in force, but how involved will the insurance company be in the immediate aftermath of the fire? Are any of the units in that building currently inhabitable? Can residents access their properties to gather personal items and valuables? Is there a need for the building to be inspected by experts before allowing owners back into their properties? Is there any potential liability to the HOA for failure to inspect before allowing owners back into their units? Who will you want to engage to conduct property inspections for safety and habitability? How are these people going to be paid? Could there be a need for expenditures of association funds in excess of the manager's discretionary limits?

As you can see, there are a myriad of questions to consider when responding to a relatively small fire that impacts a few residents. Without proper prior planning these simple events can become very overwhelming and burdensome for the Board, and the affected HOA members. Research, planning and effective response are all absolutely necessary in order for effective disaster response and recovery to occur. A current Disaster and Emergency Response Plan is a necessity for any CID Board of Directors. This is particularly true when HOA members have an expectation that the Board will respond proactively in the aftermath of a disaster or emergency event. The Plan does not have to be restrictively complex or broad, but it must contain enough information so that current Board members can quickly digest and understand their roles and responsibilities in disasters that impact the CID. This leads us to the next question, How is a disaster plan developed?

The first step in development of a disaster and emergency response plan is understanding the expectations the HOA membership has for support and assistance in case a disaster impacts them. In addition, understanding the fiduciary, financial and approval processes outlined in the HOA governing documents is critical. In the aftermath of a major disaster there will normally be a need to authorize emergency expenditure of funds, both immediately and in the long-term. The process outlined in governing documents should not be subverted just because some type of disaster has occurred. As a result, Board members must understand that there will be expectations placed on them in these circumstances which would require them to be available and actively participating in the aftermath of any disaster affecting their CID.

Once the expectations and process questions are answered, then the Board must develop a formal plan, which outlines the Who, What, Where, When, Why and How. The first question to answer is "why". Why is the plan being developed? This is usually a fairly simple statement, which typically includes high-level general language relative to the formation of the plan and what the primary objectives and outcomes will be. The "who" question outlines responsibilities for specific functions and for whom the plan is being developed to assist. The "what" question is self-explanatory...development of a comprehensive disaster/emergency response plan that best fills the needs of the entire community. Like the "what" question, the "when" question is fairly simple...when will the plan be activated? This outlines the circumstances that would trigger the activation of the

plan. “Where” and “How” will be different for each individual plan. Where will directors be expected to respond and convene? Where will emergency supplies be stored? Where will temporary sheltering be established for those displaced as a result of the event? How will Board members communicate? How will the Board make critical decisions if they cannot all be in the same physical location?

In reality the answers to these questions will inevitably vary for each individual community. They will likely vary for different types of disasters too. It is important to remember that the questions for the development process should never be limited to those listed above. They do, however, serve as a good starting point in the question & answer process.

Development of a comprehensive formal disaster response plan should be coordinated with someone who has experience developing disaster plans and managing emergency or disaster events. There may be community resources available to help in this regard. Some communities have personnel within their emergency services departments who are available to provide guidance & training. There are also community based emergency preparedness courses that individuals may attend. These courses, however, tend to focus on individual or family preparedness, not disaster response and recovery. There are private companies and consultants available to assist in developing and formalizing disaster and emergency response plans. Typically, the fees charged are well worth the expenditure and outcomes, especially when there is a need to utilize the plan for an event and the response is well coordinated as a result.

Once the plan has been drafted and “finalized” the Board should review and formally adopt the plan. Once the plan is adopted, the Board should plan formal training in the implementation of the plan at the board level. Fee based companies and consultants are typically very good at developing and administering realistic and effective disaster training and exercises. Next, the Board needs to communicate the disaster plan and what HOA members should expect from the board in response to any disaster within the community.

It is a good practice to periodically review a disaster plan to ensure that it is current and reflects the immediate needs of those it was written to assist, in our case directors, managers and homeowners/residents in the CID. A great time to do this is shortly after annual board elections. This gives newly elected board members the opportunity to review the plan and understand their individual roles when the plan is activated. This is also an opportune time to conduct periodic training and group exercises.

In summary, Common Interest Developments are as susceptible to experiencing disasters as much as any other individual or community. The Board of Directors will probably be tasked with performing some functions relative to the response and recovery from that disaster. Absent a formalized plan, the response will be disjointed and haphazard, at best. Development of a comprehensive disaster response plan, tailored for the CID’s specific needs will simplify the process for all involved, minimize the impact of the disaster event, and best serve the entire community.

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