

Five Tips for Community Associations in the Era of COVID-19

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One month in, the COVID-19 pandemic continues to disrupt how we live our daily lives. The combined health, economic and social impacts of this global crisis have plunged us all into a frightening and unfamiliar new reality. As both businesses and individuals struggle to navigate and adhere to the ongoing stream of local, state and federal regulations and guidance, community associations find themselves grappling with a host of difficult, and in many cases, unprecedented circumstances.

In an attempt to find some common ground, we have learned in speaking with association clients throughout the state that there are several issues that most, if not all community associations are facing during this period of hardship and uncertainty. Every community association is unique, of course, and there are no “one size fits all” solutions that will meet all needs.

One piece of advice that remains consistent, though, is that associations must stay well informed and work closely with their legal counsel to develop the best plan of action for their specific set of circumstances.

Here, then, are five tips that we can recommend without reservation to all community associations.

Tip #1: Develop an Emergency Plan

Associations should consult the directives provided by state and local health authorities, as well as consult with legal counsel to develop a protocol that works best for them in the event a resident or visitor reports testing positive for COVID-19, or in the event that a resident reports exposure to another individual who has tested positive for COVID-19. Further, associations should speak with their counsel and insurance professionals to understand what insurance coverage they have, and the circumstances under which they might need to file a claim.

This involves informing the community that someone has tested positive or been exposed, while ensuring that the individual’s privacy is maintained and that their identity is not disclosed. While such individuals should be self-quarantining and isolating themselves, the associations should further consider whether it is prudent to impose restrictions on such residents utilizing common areas. In addition, associations should ensure that COVID-19 diagnosed or exposed residents can continue to receive necessities such as food deliveries, and can attend medical appointments, in a manner that protects both the resident and the community at large.

This emergency protocol should also establish the proper methodology, as guided by state and local health authorities, for disinfecting and sanitizing any common areas with which the individual came into contact prior to reporting a COVID-19 diagnosis or exposure, as well as how to properly disinfect and sanitize common areas in the event the individual must leave home to attend a medical appointment after the diagnosis or exposure.

Finally, associations should be in contact with local health authorities to keep them informed and receive guidance on how to proceed in the event that a single positive COVID-19 test or exposure escalates to impact multiple individuals.

Tip #2: Keep Your Residents Informed

Many residents will look to their association for information at this time. It is critical to ascertain that any information provided is timely and factual, and has come from a reliable source such as the Governor's office or other official state resource, the Centers for Disease Control (CDC), the World Health Organization (WHO), or a municipal website (or email communication) or local board of health.

Associations must confer with legal counsel to determine the optimal method of providing such information to residents, which may include email blasts, posts on the association's website, and/or placing posters in common areas.

Tip #3: Continue to Conduct Required Meetings

New Jersey law requires that community associations conduct regular open public meetings, transition meetings, and elections. Further, every association's governing documents contain requirements pertaining to the holding of elections and meetings. Given the ongoing restrictions put in place by Governor Murphy's Executive Order 107 and subsequent cautions from numerous state and federal sources, it is clearly not possible to schedule an in-person meeting open to the entire membership at this time.

Still, associations can consider several alternative options for satisfying the requirements to hold meetings while still adhering to the social distancing and stay-at-home restrictions set forth by authorities. These include providing access to meetings via video and telephone conferencing technologies, adjourning meetings, limiting agendas, and coordinating proxy and absentee voting.

Once again, associations should work with their legal counsel to determine how they can best conduct business and keep unit owners informed as to association business, while also adhering to social distancing and stay-at-home restrictions.

Tip #4: Make Sure Common Facilities and Community Activities Comply with Social Distancing Guidance

In accordance with Executive Order 107 and social distancing protocol, gym facilities must be closed until further notice.

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To prevent the likelihood of “community spread” of the COVID-19 virus, associations should make every effort to enforce social distancing in common areas. This includes taking steps to limit, or better yet eliminate, members socializing or congregating in indoor common areas, even if they are practicing social distancing.

For these same reasons, associations should consider whether to close playgrounds, basketball courts, and other outdoor common facilities until further notice. Finally, all community group social activities should be cancelled or postponed until further notice.

Tip #5: Be Prepared to Face Delinquencies in Maintenance Payments

Associations should acknowledge that many unit owners will be unable to pay their monthly maintenance payments given current economic circumstances and should be consulting with their financial professionals to prepare for this very real possibility.

The next few months will be very difficult financially for many people. While associations do not want to place any additional stress on their members, they cannot operate if the members are not paying their monthly maintenance fees. Therefore, while associations may want to show some compassion at this time, they must also take steps to ensure that they can operate without placing the association in financial jeopardy.

Beyond the five tips referenced in this Alert, it is likely that many associations will be confronted with employment-related issues as the COVID-19 crisis continues to unfold, and may find our firm’s COVID-19 Resources library to be a valuable source of information in that regard.

Please contact the author of this Alert, **Robert J. Flanagan III** rflanagan@greenbaumlaw.com | 732.476.3204 with questions or to discuss your community association’s specific circumstances. Mr. Flanagan is co-Chair of the firm’s **Community Association Practice Group**.