



# TALES FROM THE TRENCHES

The following is a true story and intended to help community managers and board members to make good decisions. Names have been changed.

Great View Townhomes was an upscale community on a hillside along the ocean front. The unit owners no doubt purchased their homes there to enjoy the view and the sea breeze. The community association was constructed with two-story buildings having 6-8 units each. Each building had the same basic exterior consisting of stucco walls with a short, steep tile roof (mansard) at the front and a primary roof that was low slope (flat). It would appear that the developer used a “flat” roof configuration to allow the units further up the hill to have an ocean view over those lower and closer to the sea.

By 25 years of age, the association was experiencing serious roof leaks and high expenses for damage and repairs. The board recognized that they knew little about roofing and decided to retain a roofing consultant to help them make good decisions, administer the bid process and provide quality assurance services to protect the owner’s investment in new roofs. With the help of the consultant, the Board made responsible decisions including a twenty-year full-value warranted low-slope roof system. The roof project included removal and replacement of the old roof covering, exposing the wood structure to inspect and repair the considerable termite activity from the past 25 years.

Thru a managed bid process, the Board selected a pre-qualified roofing contractor. At the urging of the con-

sultant and the community manager, the Board required the roofing contractor to have his liability insurance company add the association to his policy as an “additional insured.” In addition, the contract documents required the contractor to keep the insurance in effect throughout the project and “weather-tight, every night.”

Although the project was intended to start and finish during the summer, the start was delayed until late summer primarily due to funding-financing complications. As the weather predictions were good for the fall-winter season, the project went forward. About mid-winter, a very strong storm appeared directly off the coast including very high winds. Several roofs were stripped off days before, and so the roofer covered them with plastic sheeting ballasted with sand bags and nailed where pos-

sible. However, the storm was too strong and blew off the plastic, allowing considerable rain water damage to units.

As expected the community was in near-panic and all efforts were taken to dry out the affected units and evaluate the damages. The consultant reminded the Board that the association was an additional insured (owner) on the contractor's liability policy.

Being a general contractor himself, the Board President decided that he could handle the repairs and damages himself, working with the roofing contractor directly. He performed many of the repairs and billed the roofer directly, as the roofer was hesitant to file a claim with his insurance carrier. When the roofer could no longer pay, the "general contractor - president" billed the association and paid himself. The Board, believing the situation was well in hand (or in their apathy) went along with the plan. Subsequently the association ended up paying a large repair bill from association funds (much of it to their president).

Eventually, a new board was seated and it came to their attention that HOA funds had been used to pay for the damages. They realized that the roofer should have paid all of it. They began to look for who they could hold responsible and sources of reimbursement. The first person they looked to was the Board President who had sold his unit and moved out of the state. The second was the roofing contractor, who denied all liability claiming he had "worked out a deal with the association thru its president." After a series of demand letters to all parties involved in the project, the Board realized the previ-

ous Board of Directors had made multiple mistakes. It is this writer's opinion that the association made some critical decisions that boards can learn from:

①

Not making a claim direct to the insurance carrier

②

Allowing an officer of the HOA to do work for it

③

Failure to follow the urging of the consultant and community manager to file a claim with the liability carrier

④

Allowing an officer of the HOA to operate without oversight

HOA board should consider carefully and follow the advice of the professionals they hire. They should contact the HOA's counsel when a crisis occurs, not years later. ⚙

*This article was written and submitted by Carl A. Brown, RCI, RRO. He is a registered Roof Observer and General Manager of AWS Consultants, Inc.*

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