

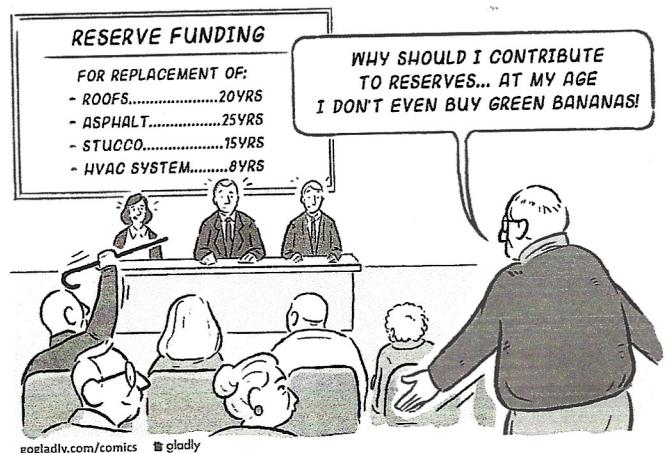
KAMAN & CUSIMANO, LLC

Legal Report

Reserves

KEY TERMS

- **Reserves** - Reserves are amount of money the association has for repairing and replacing of major capital items.
- **Reserve Study** - A detailed inspection and analysis of a community association's major capital items, each capital item's remaining useful life, and future anticipated replacement costs, along with a funding plan that, if followed, will help avoid future special assessments.
- **Fully Funding** - Funding the reserve account on an annual basis according to a plan that will result in no future special assessment, absent an unforeseeable situation.
- **Ohio Reserve Law** - Community association boards must adopt a budget that includes reserves in an amount adequate to repair and replace major capital items in the normal course of business without the necessity of special assessments, unless a majority of the association's voting power waive the reserve requirement in writing annually.
- **Reserve Waiver** - Not a vote, but, a waiver. The owners do not vote on whether the board will fund the reserves. A community association board with no assessment increase limitations can always decide to fully fund the reserves. The only time a board can underfund the reserves is if it first obtains the required reserve waivers. The owners are waiving their right to have fully funded reserves, and acknowledging that a special assessment is likely. A reserve study is required to make a knowledgeable and valid waiver.



Top 5 Reasons to Fully Fund Reserves

1. Special Assessments

- Negatively affects owners, board members, mortgagees, renters.
- Having a reserve study done, followed diligently, offers a preventive measure.
- Easier to pay smaller amount over time than one large lump sum special assessment.



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2. Delay in funding means more drastic future increases

- Each year the reserves are not fully funded means the increase to reserve deposits for every year to follow must be larger to be fully funding.

3. Pay for the asset as you use the asset

- An owner who uses a roof for 25 years of its 30-year life span will have provided reserve funds for 83% of the new roof based on their using 83% of the existing roof's useful life. The alternative would be the new owner who owns the unit in year 30 being responsible for paying for 100% of the new roof through a special assessment, when that new owner also will not likely live under the roof for all 30 years that they paid for through the special assessment.
- Reserve study is similar to a home inspection of the common elements.
 - Home inspection results reflect what you should be paying for your home. Similarly, reserve study results reflect what you should be paying for your association's property repairs.

4. Property values

- Typically realtors and buyers, first selling point.
- Important for obtaining mortgage financing.

5. Safety

- No board wants to be the board that levies a special assessment, which means delaying critical repair projects.
- Surfside.



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The law firm of Kaman & Cusimano, LLC devotes its legal practice to the area of community association law. Developer related issues, construction defects, rule enforcement, construction, maintenance related matters, document interpretation, amendment preparation, collections, and annual meeting attendance are but a few of the issues addressed daily by Kaman & Cusimano, LLC.

We believe that open communication with your association's Board will assist in the success of your association. With no charge for telephone calls from Board members, newsletters, and seminar presentations, Kaman & Cusimano, LLC keeps in regular contact with your Board to achieve a smooth and legal administration of your community.

The material presented herein is intended to provide general information and is not regarded as rendering specific advice to your particular community association. Please be aware that legal principles referred to herein are subject to change from time to time. **Please reference your governing documents for specific information.**



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