

Community Trends®



LEGISLATIVE UPDATE

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Safety and security is the theme of *Community Trends*® this month. Safety and security are often discussed together (as evidenced by this month's theme!) but do the words have different meanings?

The concepts of safety and security often manifest themselves in external facilities and services such as gated communities, security cameras and systems, emergency equipment, and doormen (and women). Security is the condition of being protected from, or not exposed to, external danger in one's physical environment. Think national security. Security suggests freedom from worries that result from knowing that certain external safeguards are in place to protect us and our property.

Safety is internal, an inner certainty that all is well (or confidence that our well-being will be restored) because there are protections either in place or available under the law. We have peace of mind that there we have legal rights and financial standards to respond to problems we may encounter. Our sense of safety is accomplished is large part by the laws governing our communities.

A number of bills has been introduced and are under consideration by the New Jersey Legislature (and, therefore, the Legislative Action Committee) intended to fortify the security of our communities, and to the ensure the safety and welfare of their residents. On their face, some of these bills appear worthy of the support of CAI. As with many writings, a closer reading yields problems, the need to balance interests and, sometimes, opposition.

- **Emergency Generators.** A number of bills were introduced in the aftermath of Storm Sandy addressing a variety of issues, including the installation and operation of emergency generators. S2227/A2156, was introduced on May 23, 2016 and requires "certain residential facilities" to have standby emergency power gen-

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erators. By definition, a "community residence for the developmentally disabled" is the subject of the bill and, at first glance, the bill may appear not be of concern to the membership of CAI; however, some communities may include group homes. The application of this bill to common interest communities would impose additional costs and obligations, such as expense of installing, maintaining, servicing and testing generators mandated under the bill. As a result, the LAC has expressed its objection to this bill.

Another generator bill was introduced on May 19, 2016 as A3750/S204. This bill authorizes installation of automatic standby generators in certain residences

without zoning or planning board approval. This bill is intended to streamline the process by which an owner or occupant of a single-or two-family residential property may install an automatic standby generator. While the bill may not be at the heart of CAI's concerns, the installation of such generators is beneficial to both residents and communities, the bill lacks clarity as to applicability. The LAC is currently monitoring this bill.

- **Lobby Security.** A3431 was introduced on March 7, 2016 and requires lobby security for "senior citizen high-rise buildings" in areas with high violent crime rates. Depending upon the level of violent crime in the municipality, the bill proposes varying requirements upon buildings with at least 50 units for 24-hour security monitoring, licensed security guards, and video surveillance cameras. The bill also requires licensed security guard(s) to patrol the entire complex where the retirement community has multiple buildings with fewer than 50 units in each.

The bill does not draw any distinction between housing offered for rental or ownership. Nor does it define "senior citizen" residency. The LAC is currently monitoring this bill as well.

- **Insurance Deductibles.** When I mentioned at the outset the need for the residents of our communities to feel safe, the maintenance by a community association of insurance coverage clearly imparts a sense of safety. The responsibility for paying insurance deductibles (and the magnitude of those deductibles) often creates uncertainty and financial instability which detracts from that very sense of safety.

A3683 was introduced on May 12, 2016 and prohibits condominium associations from assessing insurance deductibles to individual unit owners or groups of unit owners. The bill is proposed to amend the New Jersey Condominium Act in furtherance of clarifying financial obligations and, perhaps, an inequitable imposition of the obligation to pay insurance deductibles

The LAC is in the process of seeking amendments to A3683 in to address situations where the unit owner

may have some culpability in the casualty and clarifying references in the bill to units and common elements.

- **Publication of Information.** S357 was intended to stem the frustration arising from boards that allegedly operate without transparency and accountability to the association's membership. This bill was introduced on January 12, 2016 and requires certain common interest community associations, among other things, to publish certain information about its board members, provide information electronically to unit owners within 24 hours of request, and deliver defined financial materials and reports to owners upon their request.

The wide scope and long reach of the bill negates many of the positives which a bill drafted to achieve clarity and to give guidance might accomplish. For example, the bill originally required board members to provide their personal email address to requiring unit owners. The bill also included language that a unit owner would be provided access to the personal information of other unit owners. These two requirements were amended out. On balance, these provisions could have been far more detrimental to the interests of board members and to innocent unit owners, than beneficial to those who gain access to this information.

The bill also has a requirement that any contract for maintenance, management, or operation services entered into by the executive board or association shall provide for 24-hour emergency maintenance or management services, as applicable, which shall include a 24-hour emergency maintenance or management telephone hotline for use by unit owners. While no one could argue with the accountability that such a requirement would ensure, one needs to balance this contractual requirement against the additional cost which would be incurred under these contracts and ask if there exist different means by which to achieve this result.

I hope I have demonstrated the diligence with which the LAC looks to protect CAI's membership, as well as some of the road blocks to the swift adoption of legislation. Always free to contact me at cli@greenbaumlaw.com with your thoughts. ■