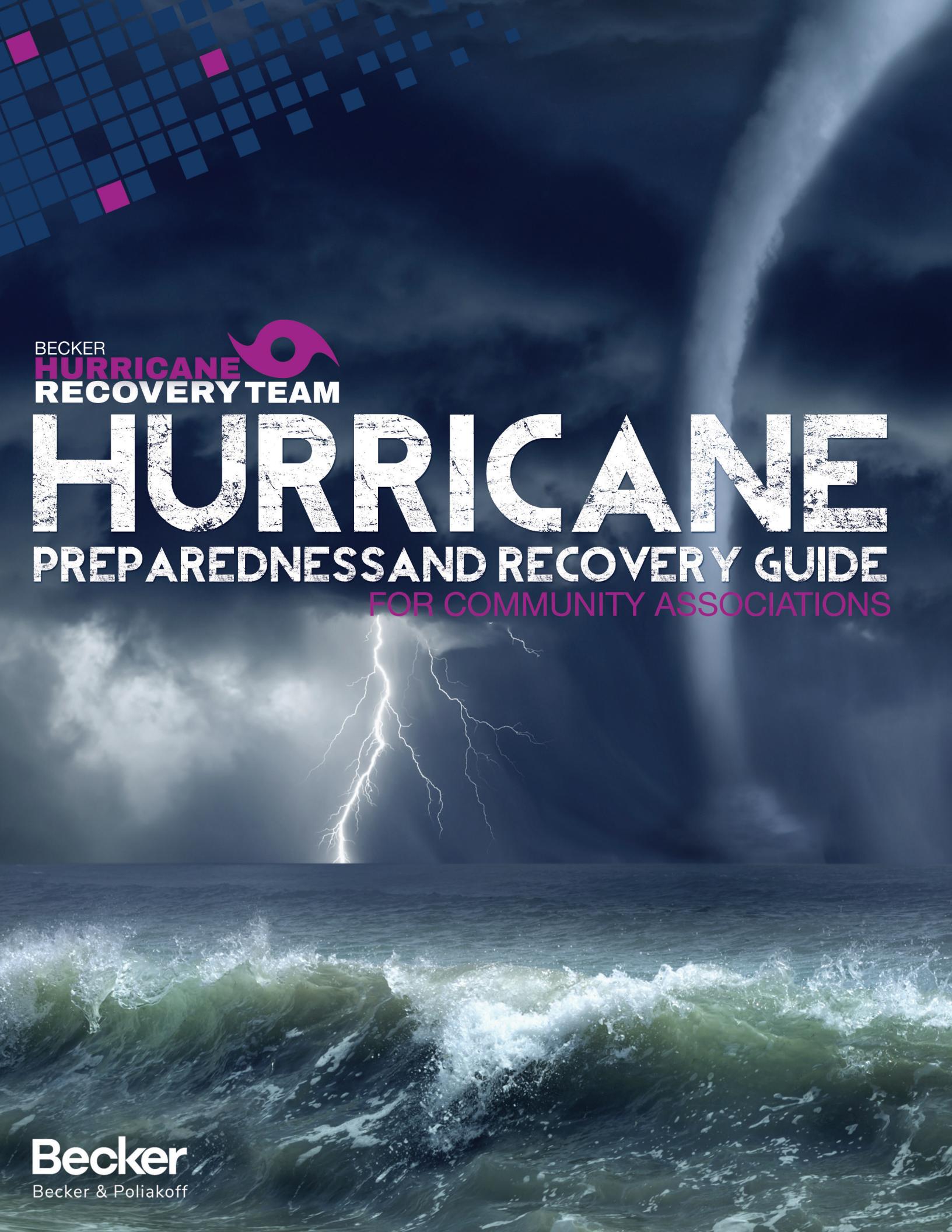




BECKER
HURRICANE
RECOVERY TEAM

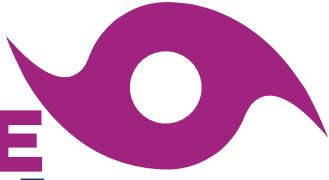


HURRICANE

PREPAREDNESS AND RECOVERY GUIDE

FOR COMMUNITY ASSOCIATIONS

BECKER **HURRICANE RECOVERY TEAM**



Disaster planning is a fundamental fact of life for all Floridians. Community association boards and managers are responsible for preparing their communities as hurricane season approaches. Our Hurricane Recovery Team is ready to partner with you to help you weather the storm by providing important tips and information to protect your community.



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HURRICANE

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hurricane-recovery.com



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Resources

Useful Contacts Before, During & After a Storm or Disaster

Federal Agencies

FEMA – www.FEMA.gov 1-800-621-FEMA (3362)

US Army Corps of Engineers – www.usace.army.mil 1-202-761-0567

U.S. Department of Housing and Urban Development (HUD) – www.hud.gov 1-800-245-2691

U.S. Department of Health & Human Services – www.phe.gov

Center for Disease Control and Prevention (CDC) – www.cdc.gov 1-800-CDC-INFO (1-800-232-4636)

Small Business Administration (SBA) - www.sba.gov 1-800-659-2955

Disaster Assistance Improvement Program – www.disasterassistance.gov

To find the Disaster Recovery Center nearest to your location, text DRC and a ZIP Code to 4FEMA (43362)

Ready – www.ready.gov 1-800-621-FEMA (3362)

Citizen Corps Partner Program - www.citencorps.gov

NOAA/National Weather Service — www.nhc.noaa.gov 1-305-229-4470

In case of an emergency, call 311 (Dade) and 211 (Broward)

Centers for Medicare & Medical Services (CMS) – www.cms.gov 1-800-MEDICARE (633-4227)

State Agencies

Florida Division of Emergency Management – www.floridadisaster.org 850-413-3369

Florida Department of Elder Affairs – <http://elderaffairs.state.fl.us> 800-96 ELDER (35337)

Not for Profit

American Red Cross – www.redcross.org 1-800-RED CROSS (733-2767)

The Salvation Army – www.salvationarmyusa.org 1-800-SA-TRUCK (728-7825)

The National Emergency Response Team (NERT) – www.nert-usa.org 1-207-948-3499

The National Organization for Victim Assistance – www.try-nova.org 1-800-TRY-NOVA (879-6682)

Volunteer Organizations

National Voluntary Organizations Active in Disaster - www.nvoad.org (Non Profit) 1-703-778-5088

Communication

The American Radio Relay League, Inc. (ARRL) – www.arrl.org 1-860-594-0200

The REACT International – www.reactintl.org 1-301-316-2900



“Our Hurricane Preparedness and Recovery Guide is designed to assist community association boards and managers to prepare themselves, their members and their property for the approach as well as the aftermath of a serious storm or other disaster.”

Hurricane Preparedness & Recovery for Community Associations

The state of Florida is no stranger to hurricanes and other natural disasters. Living in paradise doesn't come without some risks associated with Mother Nature. The question is never just if our communities, homes and families will be impacted by a disaster event, but when they will, and how we will prepare for and recover from that event.

For the significant number of Floridians living in shared ownership communities such as condominiums, cooperatives, HOAs and mobile home parks, the critical issues involved with preparing and recovering from a storm event or disaster are complicated by the typical constraints of governing and being governed.

Hurricane Andrew, which struck south Miami-Dade on August 24, 1992 with damage estimated at \$25 billion, provided graphic evidence of the devastating impact of a major storm. Hurricane Opal in 1995 was a wetter storm with 20-foot storm surges that hit the Florida Panhandle as a Category 4 storm. From the year 2000 to present, there have been several significant hurricanes that have affected the state of Florida, leaving destruction in their paths including Charley, Frances, Ivan, Jeanne, Dennis, Katrina, Rita, Wilma and Irma.

Our Hurricane Preparedness and Recovery Guide is designed to assist community association boards and managers to prepare themselves, their members and their property for the approach as well as the aftermath of a serious storm or other disaster. We have included advice and recommendations from the attorneys at Becker & Poliakoff who have counseled associations before, during and after man-made and natural disasters of all types, including major hurricanes, flood events, power outages, and oil spills. We have also included disaster planning and recovery tips from industry experts who offer their unique expert perspective.



The Plan

IDENTIFYING THE POTENTIAL CONSEQUENCES OF A DISASTER

The first step toward developing and implementing a disaster plan is identifying the potential consequences of a disaster.

Evacuation

Emergency evacuation routes and special instructions regarding use of elevators and stairwells should be clearly posted. Don't forget to rehearse evacuation procedures on a periodic basis.

Destruction of Real Property

Damage or destruction of real property is often the primary claim and causes the greatest hardship. The main areas of concern include:

- Buildings and other structures
- Landscaping
- Roads and Pathways

Damage to Personal Property

The items most at risk during a disaster are furniture, fixtures, and personal property. The items of most concern include:

- Electronic equipment, data and other forms of technology
- Indoor and outdoor furniture, art, lighting, pool equipment, pool furniture and assorted fixtures
- Documents and important papers such as governing documents, Association surveys, plans, insurance policies.
- Rental and owner records and personnel files
- Accounting records
- Vehicles and equipment

Injury or Loss of Life

Carbon monoxide poisoning, heart attacks and drowning are the top three

causes of death as a result of a hurricane. People over 75 are particularly at risk. Identify "high risk" individuals with disabilities or medical needs requiring special attention when preparing your community's disaster plan.

Relocation

Your disaster plan should anticipate not only the possibility of a total casualty loss, but also the need to relocate, temporarily or permanently, depending on the level of impact. While many communities are able to clean up storm debris promptly, many others will remain in turmoil for quite some time after being impacted by a disaster. After Hurricane Opal and the BP Oil spill, some owners were unable to rent out their units which resulted in a loss of significant income to them and, in some cases, ultimately resulted in the loss of the property to foreclosure.



Emotional Impact

The board should consider the emotional impact a storm's approach has on the association employees, particularly an onsite manager. Association employees will not only be responsible for preparing the community for a storm's approach, but they are also concerned about preparing their own homes and families for the potential disaster.

Associations are well advised to task their attorneys with creating a reasonable approach to these pre- and post-storm employee policies.

Economic Impact

The economic impact of a disaster can be extensive. Unit owners displaced from work may be unable to meet their financial obligations to the

association. Uninsured, underinsured or non-covered losses under both the association's policy as well as the owner's policy may require the board to pass special assessments. The higher cost of goods and services resulting from shortages further compounds the problem in the short-term.

In sum, the impacts of a disaster will vary from event to event. It is advisable to prepare for all possibilities.

PLANNING FOR A DISASTER

Designation of a Disaster Coordinator or Disaster Committee

The ability of a community association to minimize its damages and speed up

its recovery depends in large part upon its preparation. Every disaster plan should include having a person or committee in place prior to the disaster with full authority to implement the Disaster Plan.

Designation of an Information Facilitator

In times of crisis, communication is key. A major hurdle to recovery is rumor and misinformation; both can hamper successful recovery efforts. An information facilitator can help to stop the rumor mill in its tracks. Today's computer and smart phone technology provide the ideal vehicles to communicate with residents. Every association should have its own website, which can be a great resource for disseminating information and staying in touch with the unit owners. A text messaging system for community members is also a valuable for disseminating information quickly.

Home and cell phone numbers must be collected before a disaster and stored in a safe, easily accessible location.

A properly prepared plan will include plans for temporary relocation of residents in situations where the community must be evacuated. This can include Red Cross or other emergency shelters, hotels, schools, or staying with family members in other cities.

Now that the Florida Legislature has granted emergency powers to boards, a board may require the evacuation of the property in the event that the local or state authority has declared a mandatory evacuation order. Owners who refuse to abide by that evacuation order do so at their own risk and without the possibility of pursuing the association for loss of life or injury to themselves or their property. Boards can also declare the property unfit for entry or occupancy based upon the advice of experts retained by the board or on the advice of emergency management officials.

Photographic Imaging

Your plan should include annual preparation of a date stamped video and photo documentation of the community such as all of the common areas, each unit owner's home, the association's office and property.
Digital technology and photographic

records can be conveniently and safely stored off premises and easily retrieved, if needed.

What should be photographed?

Specifically include:

1. Inside and outside of buildings and premises
2. equipment, computers and books
3. accounting records
4. insurance policies, bank accounts, personnel records, records of units/unit owners, as-built plans and specifications

You should prepare an inventory including the date, place of purchase, and purchase price of each item of personal property.

Community Emergency Response Team (CERT)

Many shared ownership communities have already taken the positive step of undergoing CERT training under the auspices of FEMA. A Community Emergency Response Team (CERT) can fill the large gap that often results when a disaster overwhelms local emergency services. CERT teams trained in basic disaster response skills, such as fire safety, light search and rescue, team organization, and disaster medical operations. CERT members are encouraged to support emergency response agencies by taking a more

active role in emergency preparedness projects in their communities.

ACTIVATING THE DISASTER PLAN

Your board's quick response in accordance with your disaster plan will minimize damage and promote a speedy recovery.

Following a disaster, the disaster coordinator and information facilitator move into action. The information facilitator opens lines of communications with the owners. The disaster coordinator contacts emergency services and notifies the contractors and employees, advising of their duties and needs. In some cases, it may be necessary to suspend or cancel on-going contracts such as lawn and pool maintenance. Hopefully, provision was made in the contract for such right of suspension without monetary penalty in disaster situations when the contracted services are no longer needed. There certainly is no reason to pay to hedge the bushes when they have all blown away!

Knowing the whereabouts of all residents greatly enhances emergency response time following a disaster. In a situation such as a hurricane, in which there is advance warning, a committee should ascertain which residents are remaining in the community and which

are evacuating. A temporary destination address and phone number should be obtained from those who are evacuating. Once disaster strikes, the board's first action should be to direct emergency medical assistance to any residents in need. Naturally, if the community is under a mandatory evacuation order, that order should be obeyed by all.

Be sure to attend to the injured and secure the community from acts of vandalism and looting. Be sure to remove all storm debris.

"Drying In"/"Shoring Up" the building structures in order to mitigate against further damage.

"Drying Out" is the removal, where necessary, of wet carpet, wall board, cabinets, etc. when necessary to prevent the growth of mold.

The insurance carrier for the community must be notified immediately at the conclusion of the storm.

If the insurance carrier is not able to promptly inspect and document the damage from the storm, it may elect to deny the claim.





Quick Reference List

INFORMATION ON EACH RESIDENT

- ✓ Name
- ✓ Unit number
- ✓ Other residences
- ✓ Next of kin name(s)/contact info
- ✓ Identifying features
- ✓ Social security number
- ✓ Medications
- ✓ Cell phone number
- ✓ E-mail address

INFORMATION ON EACH EMPLOYEE

- ✓ Address
- ✓ Home and cell phone numbers
- ✓ E-mail address
- ✓ Social security number
- ✓ Next of kin name(s)/contact info
- ✓ Medications

BANK INFORMATION

- ✓ Account numbers, authorized signatures, certificates of deposits, and/or other investment documents

INSURANCE POLICIES

- ✓ Nature and extent of coverage, carrier, and policy number
- ✓ Name(s) of agents with pertinent information

VENDOR LIST

- ✓ Pool maintenance, security, landscape maintenance, roofer, etc.
- ✓ Professionals - CPA, Insurance Agent, Attorney and Manager

INVENTORY OF FURNITURE AND

EQUIPMENT

- ✓ Detailed descriptions
- ✓ Photographs
- ✓ Receipts
- ✓ Serial numbers

EMERGENCY SUPPLIES

- ✓ Emergency medical supplies, food, water, waterproof matches, a defibrillator, flashlights, battery-operated radio, an emergency generator and an ample supply of fuel to power the generator for an extended period of time.
- ✓ Tools, such as shovels, crowbars and a power saw, might be considered.

BUILDING PLANS

A set of as-built plans and specifications.

- ✓ Location of shut-off valves and structural components
- ✓ Names, addresses, telephone numbers and e-mail addresses of the architects, engineers, contractors and sub-contractors who designed and built the structures.

BUDDY SYSTEM

- ✓ Let a neighbor or the property manager know if you will be away from your unit for an extended period of time
- ✓ Make sure residents who might need special assistance are identified

DATA INVENTORY

- ✓ Maintain a record of information maintained in the community's information systems.
- ✓ Regularly back up all data to a safe and accessible location.



WHAT WILL THE DAMAGE COST?

A well-designed disaster plan will include safeguards against future risk which are designed to minimize economic and property loss, as well as the loss of human life.

Adequate Insurance

Adequate property insurance must be based on the replacement cost of the property as determined by an independent insurance appraisal. Statutory mandates, along with provisions of the governing documents, determine the extent of the association's insurance coverage responsibilities as well as those of the individual unit owners.

In addition to basic coverage, some major sources of economic loss, such as landscaping, fencing, screening, exterior building paint, building foundations, walkways, pools, tennis courts, and satellite dishes, are not normally covered by insurance. Some areas of potential loss can be covered for additional premiums including coverage

for displacement from the property as previously discussed.

One of the most important types of coverage exclusions every board needs to discuss with its insurance agent is "ordinance or law" exclusion.

Ordinance or law exclusion states that the insurer will not pay for losses or damages caused directly or indirectly by the enforcement of any ordinance or law (1) regulating the construction, use or repair of the property; or (2) requiring the tearing down of any property, including the cost of removing debris. This exclusion is designed to address building codes that may require more expensive reconstruction material, installation, design or methods than those which were originally used in the

existing building. It may also apply to environmental laws that require elaborate and expensive decontamination processes, or upgraded construction practices in hurricane and flood zones.

For example, following Hurricane Andrew, a Miami-Dade County ordinance required that a number of buildings considered to be damaged by 50% or more could be restored only if they were elevated to a specific height above sea level. Under such circumstances, the cost of elevation plus repair of the damage generally would exceed the limit of building insurance, unless there was coverage provided under the rider to the base policy.

Many communities were left waterlogged by the hurricanes of 2004 and 2005 only to discover that their basic policies did not cover water damage from flooding. Under a typical master flood policy, the entire building is covered under one policy, including both the common elements and the individual



INSURANCE

units. Until recently, flood insurance was relatively inexpensive as it was underwritten by the federal flood insurance program. However, with the passage of the Biggert-Waters Act of 2012, flood insurance premiums were set to skyrocket in coastal areas. Fortunately, Congress responded to the outcry, particularly from Florida, and passed the Homeowner Flood Insurance Affordability Act delaying these premium increases and remapping efforts for another four years.

In the Florida Panhandle after events such as Hurricane Opal and the BP Oil spill, the greatest monetary loss was not because of damaged property, but from lost rental income. Business interruption insurance is essential for owners or managers who rely upon vacation rentals for their livelihood.

Managers need to ensure that their business interruption coverage is not just for the premises where they maintain their offices, but also for the communities where they manage rental units.

Many homeowners failed to maintain coverage for their personal effects and improvements within their homes.

It is recommended that homeowners residing in shared ownership communities maintain homeowner coverage with at least the endorsements listed below.

1. **Loss Assessment Coverage**
Protects against special assessments levied by boards to cover losses from covered peril, when the primary coverage is inadequate.
2. **Water Seepage Coverage**
Covers water damage from wind-driven rain or water entering from a source other than an opening in the building (e.g., through stucco or around window frames).
3. **Additions, Alterations, Improvements and Betterments Coverage**
Covers upgrades, as well as real

property added by the unit owner. This endorsement is often available with all risk coverage, without a water seepage exclusion.

4. **Insurance + Reserves**

Even assuming that one maintains adequate coverage, there is a risk that not every insurer will survive extraordinary claims. Hurricane Wilma's widespread impact brought many insurance companies to their knees with some going out of business and the Florida Insurance Guaranty Association (FIGA) dealing with the messy aftermath. Careful consideration must be given to the financial strength and rating of the insurer as well as their consumer practices over the years. Keep in mind that the lowest quote is not always the most secure coverage.

Communities who maintain reserves for contingencies, deductibles and other uninsured losses fare the best post-disaster.

Pre-Negotiated Service Contracts

Boards who enter into pre-negotiated contracts specifically designed to deal with the aftermath of a disaster often have the peace of mind that they have a set price and a designated contractor at their disposal. These kinds of service contracts include:

- Emergency service contracts which provide “drying out” or “shoring up” the premises.
- Debris removal
- Security services
- Extraordinary management services.

“Insurance Trustee” Provisions

Generally found within the insurance section of the documents, these provisions require that the proceeds of insurance settlements be paid to a third party for disbursement at the instruction of the association’s engineer. When such a provision exists, insurers will not pay proceeds to the association until a trustee is designated. This can critically delay the receipt of funds necessary for disaster response as well as add an unnecessary cost to the association to pay for the Insurance Trustee. It is preferable for the board to act as a “trustee” with disbursements being authorized only when approved in advance by an independent engineer or construction manager employed by the association.

Emergency Powers

State laws and document restrictions designed to ensure owner access to information and input in the decision-making process previously impeded disaster recovery for condominium associations. Fortunately, the Condominium Act was amended several years ago to provide condominium boards with the ability to operate differently when a state of emergency is declared which includes the right to use reserve funds without having to obtain a prior membership vote. The statutes for homeowner associations and cooperatives were changed to follow suit in 2014.

Even with the acquisition of emergency powers, your association’s governing documents should be reviewed and amended to remove any unnecessary barriers to recovery.



Powers of Board or Disaster Coordinator to Act in an Emergency

Condominium associations have been granted broad emergency powers in accordance with Section 718.1265, Florida Statutes, including but not limited to the authority to:

- (a) Conduct board meetings and membership meetings with notice given as is practicable.
- (b) Cancel and reschedule any association meeting.
- (c) Name as assistant officers persons who are not directors, which assistant officers shall have the same authority as the executive officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any officer of the association.
- (d) Relocate the association’s principal office or designate alternative principal offices.
- (e) Enter into agreements with local counties and municipalities to assist with debris removal.
- (f) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, shutting off elevators, electricity, water, sewer, security systems, or air conditioners.
- (g) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the board, determine any portion of the condominium property unavailable for entry or occupancy by unit owners, family members, tenants, guests, agents, or invitees to protect the health, safety, or welfare of such persons.
- (h) Require the evacuation of the condominium property in the event of a mandatory evacuation order in the locale in which the condominium is located. Should any unit owner or other occupant of a condominium fail or refuse to evacuate the condominium property where the board has required evacuation, the association shall be immune from liability or injury to persons or property arising from such failure or refusal.
- (i) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the board, determine whether the condominium property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the declaration.
- (j) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of mold or mildew by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures even if the unit owner is obligated by the declaration or law to insure or replace those fixtures and to remove personal property from a unit.

Whenever possible without risking further damage, provide the insurer with an opportunity to review the conditions before they are altered.

(k) Contract, on behalf of any unit owner or owners, for items or services for which the owners are otherwise individually responsible for, but which are necessary to prevent further damage to the condominium property.

(l) Regardless of any provision to the contrary and even if such authority does not specifically appear in the declaration of condominium, articles, or bylaws of the association, levy special assessments without a vote of the owners.

(m) Without unit owners' approval, borrow money and pledge association assets as collateral to fund emergency repairs and carry out the duties of the association when operating funds are insufficient. This paragraph does not limit the general authority of the association to borrow money, subject to such restrictions as are contained in the declaration of condominium, articles, or bylaws of the association.

Reconstruction vs. Termination

The unit owners at one South Miami-Dade County condominium destroyed by Hurricane Andrew were shocked to learn of a provision in their declaration of condominium which provided for automatic termination when damage exceeded fifty (50%) percent or more of the condominium, unless a majority of the total voting interests voted within sixty days to rebuild. Since the unit owners had scattered all across the country, the association had to seek court relief to prevent the activation of the provision. It is preferable for the documents to require a vote of the owners to terminate the condominium, not to rebuild it. That said, The Condominium Act was amended subsequent to the hurricanes of 2004 and 2005 to provide a method for terminating condominiums in the event of economic waste, disrepair of the property and when continued operation of the condominium is made impossible by law or regulation.

Survey the Property and Identify Areas Needing Priority Attention Depending upon the nature and extent of the damage, it may be necessary to evacuate the premises or shore-up the structure. In some cases, it may be necessary to hire security personnel to protect against vandalism, theft and other criminal activities. In the case of widespread

disaster, unit owners will not be able to depend upon local law enforcement agencies whose attention might be diverted to higher priority matters. Arrangements for security, debris cleanup and emergency repairs should be made as part of a disaster plan, not after the fact, when it will be difficult, if not impossible, to find help.

Beware the Quick Fix

Within hours of any disaster, the affected community will be besieged by companies and individuals looking for work and/or offering disaster recovery services. Some of these folks may have come to the disaster area from other states and many may be unlicensed and uninsured. Interspersed among the new arrivals will be the con men and profiteers who prey upon the misfortune of others. While still reeling from the shock of the disaster, it is often very tempting to sign the first contract presented to you. Resist that urge as experience has shown that these quick solutions are formulas for disasters of greater magnitude than those already suffered.

The old adage that "haste makes waste" truly applies in these situations. The best advice is to stick to your disaster plan which, hopefully, will include a plan that anticipates the five (5) phases of reconstruction:

1. Project planning/scheduling
2. Construction bidding
3. Contract negotiations
4. Construction/rehabilitation
5. Project completion/close out

There are intervening steps you should take which may require contracts of short duration and for specific purposes. For instance, your immediate need in the aftermath of a windstorm is usually to cover your structures with a tarpaulin to protect further water intrusion and exposure to the elements. Interim contracts should be reviewed by your association attorney to ensure that proper precautions are taken. All reconstruction contracts need to be carefully reviewed and negotiated by your legal counsel to ensure that the association's interests are protected.

AVOIDING THE PITFALLS OF

DISASTER RECOVERY

Common pitfalls that plague associations following a hurricane strike include:

- Disputes frequently emerge between various insurance carriers (flood, windstorm, property) and the Association over the nature and extent of damage, cost of repair or replacement, and/or whether appropriate mitigation efforts were put in place. It is important for the association to timely file its proof of loss. Be aware that if the insurer can prove that the association failed to cooperate, then no payment is due under the policy, regardless of the size of the claim. In addition, if the association commits fraud in the application for insurance or in the presentation of the claim, such act(s) can result in the loss of all coverage, not just the portion upon which the fraudulent claim is based.
- Making necessary repairs, if required by the insurance contract, even if doing so requires the board to levy a special assessment or borrow money to pay for such repairs, prior to receipt of the insurance proceeds.
- Claims made by unit owners against their boards over the mismanagement of insurance claims and insurance proceeds. The association owes a fiduciary duty to the owners and their mortgagees to exercise reasonable care in the pursuit of their insurance claims and management of any insurance proceeds received. It is not acceptable for a board to choose to not pursue a legitimate claim and, instead, opt to specially assess the owners for necessary repairs and replacements. A southwest Florida community learned this lesson the hard way when it was sued by its members for not properly pursuing a large insurance claim after Hurricane Wilma.
- Claims of contractors, sub-contractors, materialmen and suppliers, who were not paid by the general contractor, resulting in the Association's having to pay double because of its failure to comply with Florida's Construction Lien Law.

- Suits against contractors and subcontractors over poor quality repairs.

RESTORATION OF THE PROPERTY

Putting Your Professional Team in Place

Once conditions stabilize, the association's disaster recovery team will be in a position to meet with trained professionals to assess the damage and begin recovery including:

- Architect/Engineer - Responsible for assessing the damage, preparing plans and specifications in accordance with new building codes, assisting in selection of construction manager and defining other reconstruction requirements.
- Construction Manager - Oversees selection of general contractor, competitive bidding and administration; directs and coordinates pay requisitions, change orders and all other activities of the parties; and resolves disputes.
- General Contractor - Employs and supervises laborers, supplies materials and builds project in accordance with architect's/ engineer's plans and specifications, under the direction of the construction manager.
- Attorney - Reviews construction contracts to ensure adequate protection for job performance and warranties, and compliance with applicable lien laws.

Funding Repairs

An association should have several sources of money available to fund repairs after a disaster.

- A review of your governing documents; particularly, the "repair after casualty" section of the insurance provision to determine the mechanics of the process.

- Estimates of Costs - Immediately after deciding to rebuild or repair damage to property for which the association is responsible, the association must obtain reliable and detailed estimates of the cost to rebuild or repair.
- Construction Fund - The construction fund shall be disbursed to pay costs in the manner required by the board of directors of the association upon approval by an architect qualified to practice in Florida and employed by the association to supervise the work.

When the foregoing provisions exist in your documents, contracting for reconstruction prior to obtaining a scope of work will be contrary to both the association's best interest, and the obligations set forth in the documents. In order to respond to an emergency, the association may need to obtain a short-term loan.

Without a restriction in the documents, not-for-profit community associations can borrow funds. However, they generally cannot pledge the condominium property as security. Most banks with which the association does business will approve a commercial line of credit secured by the association's accounts and/or assessment and lien rights. The association also may obtain a Small Business Administration (SBA) loan that is available to victims of disaster, generally, at lower interest rates. Of course, reserve funds are also a possible source of funds which can be utilized immediately if a state of emergency has been declared or later if approved by a majority of the total voting interests. Many communities have decided to take a revolving line of credit well in advance of storm season so they have necessary funds at their disposal if needed year-round.

to mitigate against further damage and arrange for clean up of debris. Most insurers will offer advances for this purpose. As long as the association doesn't sign any releases or settlements, there is nothing wrong with accepting such advances.

Insurance policies need to be examined to ensure that "proof of loss" forms are filed within the time limit required under the policies. As a general rule, flood policies require that proof of loss be filed within sixty days after the flood.

The adjuster employed by your insurance company is not incentivized to get you the most money possible. His or her job is to ensure that the claim remains as small as possible. For this reason, many associations decide to hire their own Public Adjuster to shepherd their claim through the often convoluted process. In some instances, the assistance of an independent public adjuster may be beneficial when dealing with the nuances of an ambiguous insurance policy.

Most adjusters will work for a fee based upon a percentage of the insurance proceeds. As with other contracts, your association attorney can assist you in navigating the terms and conditions of any contract you are considering with a public adjuster and any others involved in emergency services or repairs. It is important to remember that public adjusters provide a specific set of services to adjust and value a claim. They cannot perform any activities restricted to the practice of law, such as filing a lawsuit to collect monies owed to you if your insurance company denies your claim or decides to greatly undervalue it, evaluating whether a release should be signed in order to recover insurance proceeds, or complying with complex post-loss duties to recover under the policy.

SETTLING THE INSURANCE CLAIMS

Immediately following a disaster, the association must secure the property

CONCLUSION

It is dangerous to ever become complacent about hurricanes when you live or own property in Florida. Knowing that disasters can occur and being prepared to deal with them will certainly minimize damages and promote a speedy recovery.

Disaster planning and recovery are two areas where communities should not attempt to go it alone. There are experts in all areas related to disaster planning and recovery who have the knowledge and experience needed to help you make the right decisions for your community. Unfortunately, there are countless stories of associations that misunderstood the perils of a disaster and its aftermath and paid the consequences for years to come.

The following pages of this guidebook contain helpful tips from other community association industry professionals to assist in developing your association's customized disaster plan.





5 Key Hurricane Preparation Tips

1. Before a hurricane hits and the evacuation starts, the Manager and the Board should have several important pieces of information available from a remote location: a current roster of residents, including renters; all insurance policy information; all bank account numbers; all Staff information (names, addresses, phone numbers and salaries). If all communication is shut down and it's a pay week, you may have to go to a bank or cut an emergency check.
2. Make arrangements with your banking institution for a line of credit. This line can fund salaries, hurricane deductibles and any other immediate expenses needed to mitigate any further damage.
3. The association through the Manager or the Board of Directors should know which residents are staying in the building or on the property if a mandatory evacuation is ordered. This information may have to be given to first responders on the scene in the case of massive damage. This list should include emergency contact numbers for the resident's next of kin. All residents staying on the property need to sign that they are aware of the evacuation and relieve the association and the Board of Directors from any liability.
4. In larger associations, the Board should consider using a communication tool, such as "Volo" that contacts all residents either by voicemail, email or text. This tool can alert all residents at the same time of what is happening in their homes or building. The same message is transmitted to all residents to avoid any miscommunication.
5. Keep all disaster related information in one place including any receipts, updates from the insurance company, pictures and videos, information and bids from vendors. This way everything that may be related to a future insurance claim is in one place.

About Associa Group:

Associa serves nearly four million homeowners are served by Associa every day. We provide a full range of custom-tailored programs and services to meet individual community and homeowner needs. There are many reasons why Associa is the leader in community and homeowner association management. Here are the top five: **Value:** Associa leverages its resources and experience to save your association significant time and money. **Technology:** Our leading-edge technology protects your private data and provides secure online access 24/7. **Education:** Our professional development programs yield exceptional employees — who provide you exceptional service. **Customer Service:** Providing friendly, local and prompt service to you and your association is our hallmark. **Experience:** We've been providing professional management since 1979. Count on Associa for long-term stability and meaningful experience.



Important Safety Tips for Generator

Prevent Carbon Monoxide Poisoning

- Never use a generator indoors, including in homes, garages, basements, crawl spaces, and other enclosed or partially enclosed area, even with ventilation. Opening doors and windows or using fans will not prevent CO build-up in the home.
- Follow the instructions that come with your generator. Locate the unit outdoors and away from doors, windows, and vents that could allow CO to come indoors.
- Protect yourselves and your neighbors by positioning your generator in front of your garage with the muffler facing street side. Positioning the generator in back of the house is not recommended because of the increased potential of CO leakage into your house and those of others.
- Install battery-operated CO alarms or plug-in CO alarms with battery back-up in your home, according to the manufacturer's installation instructions. The CO alarms should be certified to the requirements of the latest standards for CO alarms {UL2034, IAS6-96, or CSA 6.19.01}.



Eliminate Electrical Hazards

- Keep the generator dry and do not use in rain or wet conditions. To protect from moisture, operate it on a dry surface under an open, canopy-like structure. Dry your hands before touching the generator.
- Plug appliances directly into the generator. Or use a heavy-duty, outdoor-rated extension cord that is rated (in watts or amps) at least equal to the sum of the connected appliance loads. Check that the entire cord is free of cuts or tear and that the plug has all three prongs, especially a grounding pin.
- NEVER try to power the house wiring by plugging the generator into a wall outlet, a practice known as "backfeeding." This extremely dangerous practice presents an electrocution risk to utility workers and neighbors served by the same utility transformer. It will, also, bypass some of the built-in household circuit protection devices.
- If you must connect the generator to the house wiring to power appliances, have a qualified electrician install the appropriate equipment in accordance with local electrical codes. Or check with your utility company to see if it can install an appropriate power transfer switch.
- For power outages, permanently installed stationary generators are better suited for providing backup power to the home. An overloaded portable generator can result in overheating or stressing the generator components, possibly leading to a generator failure.

Prevent Fires

- Never store fuel for your generator inside your home or garage. Storage of gasoline should always be outside. The fumes from the gas tanks are flammable and could ignite. Do not store gasoline near a gas grill.
- Before refueling the generator, turn it off and let it cool down. Gasoline spilled on hot engine parts could ignite.

Reprinted courtesy of Barbara Zee and H.E.R.E. (Hurricane Emergency Resident Effort)



Creating a Hurricane Preparedness Plan

The most important thing you can do in preparation for a hurricane is to have a plan. In order to create a comprehensive plan the following is recommended:

1. Know your exposure: It's important to understand the risk associated with your community. Flood elevation, vulnerability to storm surge, and potential for power loss should all be considered.
2. Identify important contacts: Your plan should include contact information for local law enforcement, fire rescue, hospitals, schools, shelters and utilities.
3. Understand your evacuation route: A well thought out plan will detail the evacuation routes available to your residents.
4. Have supplies: Put together a basic supply kit (<http://www.ready.gov/basic-disaster-supplies-kit>). The most common items can become hard to come by before and after a disaster.
5. Prepare: While each Association has different needs, it is important to have a preparation plan detailed that is specific to your community. As a storm approaches, actions such as lowering lake levels, cutting back trees, clearing debris, securing common elements and shuttering the windows of common facilities may need to be taken. Know exactly what each task is and when it needs to be completed.

Remember, even the most well thought out plan is useless unless acted upon in the event of emergency. It is critical to rehearse and have widely communicated well in advance of an emergency. Doing these two simple things will dramatically increase the success of your plan.



About Castle Group:

Castle Group is Florida's choice for Community Management, specializing in serving the finest Condominium and Homeowner Associations throughout the state. Our philosophy is an unwavering focus on the Resident experience; at Castle we call it Royal Service®. Castle is owned by CPAs that oversee a powerful combination of incredible people, streamlined systems, and advanced technology. Since no two properties are identical, we have created a menu of services that allows our customers to create a solution that fits their needs. We do not manage an exceptional number of communities, just a number of exceptional ones.

Developing the “Right” Plan for Your Community

Since no two communities are alike, it's important to take the time to develop a plan specific to your own. As a rule of thumb, your property management company should have a hurricane preparedness plan template in place, and this is the best place to start. Involve your Board, and in the best case scenario, form a Unit Owner Disaster Preparedness Committee to help develop your community's plan.

Include all potential disasters in your plan including hurricanes, fire, floods, earthquake, etc.

Communication is key: Start communicating early and often. Hold an open meeting every year and include all residents – both renters and owners. Let them know what to expect should a hurricane or any other disaster strike. Present the plan, the timeline for both before and after the event, and the specific operational changes all residents can expect along the way.

Begin planning with the end in mind. Your number one objective is to ensure the safest possible community; think about safety before, during and after the event. Your second objective

should be to preserve and protect the property and its physical plant.

Include your legal counsel. Make sure the Board and management understand the legal parameters of their emergency Board powers in a disaster scenario.

Every Board member should review these powers annually – ideally as a part of their Board orientation immediately following the annual election. Your manager should take the lead in coordinating this process for you.

Financing is of the utmost importance when developing your disaster preparedness plan. Do you have reserves? How much is your insurance deductible? Do you have quick access to cash that may be needed for post-disaster stabilization? Do you have a line of credit from your bank in place? Will you need to quickly pass a special assessment? Your manager should coordinate this with your insurance broker and professional financial support team. Many options are at

your disposal. Ask your management team to provide all options for the Board's review and final business decisions.

Finally, know your residents! Is there anyone who may need special accommodation? Do you have an updated roster of emergency contacts? Do your residents know where to go in the event of an evacuation? Create a resident preparedness guide that includes tips regarding medication, pets, evacuation routes, management's communication plan (where they access real-time information about your community) and educate all residents about what association insurance will cover and what residents (again, both owners and renters) will be responsible for.



About First Service Residential:

For more than 20 years, our dedicated team of local professionals has worked hard to become Florida's premier residential property management company – the trusted partner of associations representing communities of every type and size. Today, we are recognized as the leading HOA and property management company in the Sunshine State, serving more than 1,500 community associations and 310,000 homes.



ARE YOU REALLY INSURED AGAINST THE STORM?

During Hurricane Katrina, residents in Louisiana, Mississippi, and Alabama thought they bought hurricane insurance as a part of their homeowners policy. What they later discovered is that homeowners policies exclude damage from floods. Homeowners policies do cover wind and water damage that is a direct result of rain entering through a wind damaged area of the condo unit or house. Flood damage is a result of wave action or currents of water, overflow of inland or tidal waters, mudflow and unusual and rapid accumulation or runoff of surface waters from any source and require a separate stand alone policy. In short, you most likely need both policies even if you live on an upper floor of a condominium high rise building. Check with your insurance agent to secure the right coverage.

- Take photos or video of your home to document your belongings for insurance adjusters.
- A free computer software program, www.insurancevault.net, will walk you through what are the key images to take.
- Make sure images are easily accessible immediately after the hurricane — not solely stored on your computer.
- Save copies of receipts, purchase dates, serial numbers.

- Start a disaster savings account so that money is available in a worst-case scenario.
- Write down the name, address and claims telephone number of your insurance company, which may differ from your agent's contact information. Keep this information in a safe place and have access to it if you have to evacuate.
- Keep materials such as plywood on hand in case you need to make temporary repairs after a storm.
- Secure a contract with your landscape/ lawn maintenance vendor stating that they will be available immediately after the storm to clean up the tree and shrub debris affecting the common areas of the association.

the money they paid you to make repairs.

- The Insurer (your insurance company) will assign an adjuster to contact you at the number you give on your claim report. Make sure this phone number is correct and that you have access to this phone at all times.
- Insurers usually send adjusters to the more severely damaged properties first. If you suffered only minor damage, please be patient.
- It is critical that policyholders receive proper assistance from qualified experts and advisors in adjusting a disaster claim. By definition, your insurance company's adjuster is not likely to be acting with solely your interests in mind. Your association attorney can advise you whether other assistance is needed to recover for your loss, such as working with a Public Adjuster. Public adjusters utilize broad agreements which should be evaluated on your behalf prior to signing.
- If your home or business is uninhabitable or you move somewhere else temporarily, be sure to let the adjuster know where you can be reached.

Acknowledgment of sources
Palm Beach Post, Chiff.com, and FAIA

About Plastridge Insurance:

The Plastridge Insurance Agency has developed a reputation of dedicated service to many satisfied, long-term South Florida customers since 1919. We had the phone number "1" until the late 1940's, and we are still the first number you should call for all of your insurance needs. We have grown to five locations with over 110 employees to better serve you and your family and business. Most of our growth has occurred in Broward, Palm Beach and Martin Counties, but we are also licensed in most of the other 49 States and can provide insurance coverage anywhere in the World. We are an Independent Agent with access to many different markets offering a wide-range of products, services, and pricing. We are not bound to any one company and therefore can provide you the best coverage and pricing to meet your needs.





Disaster Preparedness Checklist for Associations

Sentry Management has collected best practices identified by Community Managers for hurricane preparedness. These managers were privileged to have thoughtful and dedicated boards that planned ahead for the hurricanes and other disasters that could happen on their property.

- ✓ Establish and maintain good relations with emergency services
- ✓ Pre-contract with vendors each year with details on how soon they will arrive after the "all clear"
- ✓ Pre-determine a staging area for debris
- ✓ Pre-contract for dumpsters for debris
- ✓ Purchase battery powered walkie-talkies for communicating to employees and vendors when clean up begins (cell phones may not work)
- ✓ Pre-determine a remote office site; reestablish office routine as soon as possible
- ✓ Use the association's telephone voice mail outgoing message to give information to residents who will undoubtedly be calling you
- ✓ Use the Association's website or mobile app to keep evacuated residents informed (designate a volunteer to do this) OR have a volunteer from each block or building make phone calls to alert owners
- ✓ If you have a manned gate, make sure the attendants and the residents know at what point the attendants will be sent home and that the gates will be locked in the open position to provide emergency ingress and egress
- ✓ Inform residents ahead of time what the Board and management staff will and will not be doing for them before, during and after the storm event
- ✓ Encourage residents to make their own preparations and evacuation plans to have their own NOAA radios; www.weather.gov/nwr
- ✓ Board members should have a list of each other's phone numbers, next of kin contacts, and vital information (type of vehicles, tag numbers, etc.) to enable contact and for security purposes.
- ✓ Be aware of and publish the locations of emergency shelters and local evacuation routes
- ✓ Pets should never be left behind; be aware of shelters for pets or that allow pets with owners
- ✓ Make plans to shut down and secure clubhouses and other amenities; furniture storage; electric shutoffs; water shutoffs are a must
- ✓ Make sure copies of important papers and files are kept safe and can be moved at a moment's notice
- ✓ Publish a priority repair and reinstatement list, to inform residents of what will be restored first in the community.
- ✓ Stock a closed utility trailer with emergency supplies, recovery equipment and tools, such as first aid kits, chainsaws, ladders, rope, tarps, tape, hammers, flashlights and lanterns, extension cords, squeegees, mops, gloves, boots, rain slickers, etc.

About Sentry:

The Sentry Management® history of creating outstanding communities for homeowners began in 1975. As a full-service community management company, Sentry delivers its individual service through a highly skilled professional group of community managers. Each community manager leads an association-focused community team and is supported by a backup manager as well as a supervising District Manager. A dedicated internal team in Sentry's central office is also organized into community teams, so accounting associates, bookkeepers, administrators, collections and closings personnel establish an ongoing relationship with specific communities and managers. The value of a community support team is responsiveness. If a community manager can not be reached for a short period of time, the other members of the team are equally capable of handling each question or issue. Timely communication is assured. Sentry understands that personal attention and a committed focus create a long-term relationship that builds better communities.



The Becker Website

www.beckerlawyers.com

Becker's website includes videos, publications, webinars, informative articles and checklists that can assist you and your association. Connect with us on social media: Facebook: facebook.com/beckerpoliakoff Twitter: [@BeckerPoliakoff](https://twitter.com/BeckerPoliakoff) LinkedIn: linkedin.com/company/becker-&-poliakoff-p.a.



The Florida Condo & HOA Law Blog

www.floridacondohoalawblog.com

The Florida Condo & HOA Law Blog provides readers with up to date analysis of news that affects associations in Florida. Our blog authors are Community Association Attorneys with many years of cumulative experience who will keep you apprised of important issues affecting your Community's operations. Log on and subscribe to receive updates as they happen. Connect with us on social media: Facebook: facebook.com/FloridaCondoHoaLaw Twitter: [@FLCondoHOALaw](https://twitter.com/FLCondoHOALaw)



The Community Association Law Blog

www.communityassociationlawblog.com

This comprehensive blog covers an array of topics related to condominiums, cooperatives, HOAs, timeshares and mobile home communities from the unique perspective of attorney Donna DiMaggio Berger, a shareholder in Becker's Community Association Law Group. Sign up today for lively dialogue about shared ownership living nationwide. Follow us on Twitter: [@CondoandHOALaw](https://twitter.com/CondoandHOALaw)



Community Update Newsletter (CUP)

www.floridacondohoalawblog.com/community-update

This popular quarterly newsletter features articles on developments in Community Association law, notes on significant case decisions, helpful tips on the business aspect of association operations, and details on changes in legislation and administrative decisions. Association board members in particular will find this an invaluable resource to help guide them.



Educational Seminars and Webinars

www.callbp.com/events

We offer board certification courses, Legal Update seminars, and a variety of other courses on topics critical to your successful performance as an association board member or manager. Check out the event listing for a calendar of classes near you on important issues impacting your day-to-day operations.



The Construction Law Authority

www.floridaconstructionlawauthority.com

Board members and managers need to stay current on issues impacting repairs and maintenance projects. Expert advice is available from our 17 Florida Bar Board Certified construction attorneys on this informative blog.



CALL

www.callbp.com

The Community Association Leadership Lobby ("CALL") was created to provide clients with the tools and training they need to stay informed on key issues and influence new legislation in Florida's Capitol. Connect with us on social media: Facebook: facebook.com/callbp Twitter: [@YelineGoin_CALL](https://twitter.com/YelineGoin_CALL). Contact us by phone at [844.4FL.CALL](tel:844.4FL.CALL) or by email call@beckerlawyers.com

Client CARE Center

Client CARE Center

Serving our valued clients is our #1 top priority. If you would like to know more about the Concierge service our Firm clients receive through our Client CARE Center, please contact us at **954-364-6090** or toll-free at **1-844-CAREBP1 (1-844-227-3271)** or by email at care@beckerlawyers.com. We look forward to speaking with you.