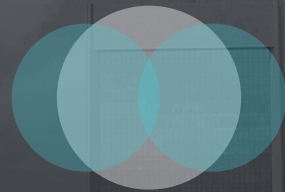


# Community Association Emergency Powers and Hurricane Preparedness



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# Road Map

- Community association emergency powers
- What to do before a hurricane hits your community association
- What to do after a hurricane hits your community association

# Emergency Powers

- An association's board, in response to damage from a declared state of emergency where the association is located, may, but is not required to, exercise emergency powers.
- “To the extent allowed by law, unless specifically prohibited by the declaration or other recorded governing documents, and consistent with Section 617.0830, the Board of Directors, in response to damage caused by an event for which a state of emergency is declared pursuant to Section 252.36, in the area encompassed by the association, may exercise the following powers . . .” Fla. Stat. 720.316(1); Fla. Stat. 718.1265(1).





# Emergency Powers

- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - Conduct board or membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, U.S. mail, the internet, public service announcements, and conspicuous posting on the condominium property or any other means the board deems reasonable under the circumstances;
  - Notice of board decisions may also be communicated this same way;



# Emergency Powers

- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - Cancel and reschedule any association meeting;
  - Name assistant officers who are not directors and who 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 .



# Emergency Powers

- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - Relocate the association's principal office or designate alternative principal offices;
  - Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal;
  - 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 down or off elevators; electricity; water, sewer, or security systems; or air conditioners.



# Emergency Powers

- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - Based upon the advice of emergency management officials or upon the advice of licensed professionals retained by the board, determine any portion of the association property unavailable for entry or occupancy by owners, family members, tenants, guests, to protect the health, safety, or welfare of such persons;
  - Require the evacuation of the association property in the event of a mandatory evacuation order. Should any owner or other occupant fail or refuse to evacuate 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.





# Emergency Powers

- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the association property, even if the owner is obligated by the declaration or law to insure or replace those fixtures and to remove personal property;





# Emergency Powers

- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - For condominium associations: Contract, on behalf of any unit owners, for items or services for which the owners are otherwise individually responsible, but which are necessary to prevent further damage to the condominium property. In such event, the unit owners on whose behalf the board has contracted are responsible for reimbursing the association for actual costs of the items or services, and the association may use its lien authority to enforce collection of the charges;
  - Without limitation, such items or services may include the drying of units, the boarding of broken windows or doors, and the replacement of damaged air conditioners or air handlers to provide climate control;



# Emergency Powers

- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - Regardless of any provision to the contrary and even if such authority does not specifically appear in the declaration, articles of incorporation, or bylaws of the association, levy special assessments without a vote of the members;
  - Without 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;



# Emergency Powers

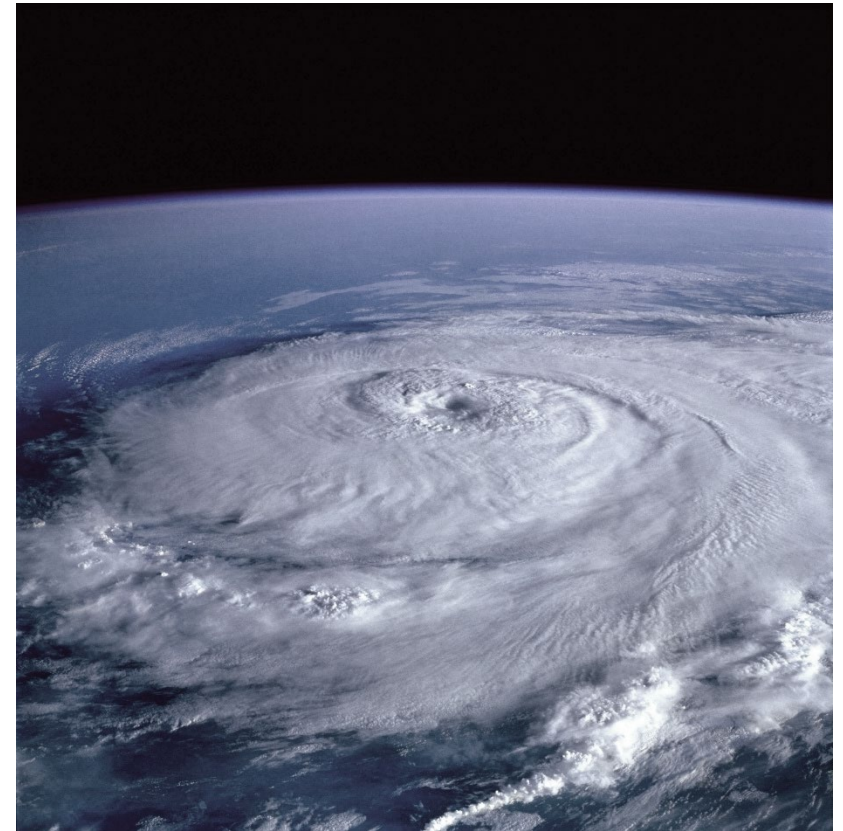
- Emergency powers specified in § 718.1265(1) and § 720.316(1), Florida Statutes:
  - The special powers authorized under this statute shall be limited to that time reasonably necessary to protect the health, safety, and welfare of the association and the owners, tenants, and guests and shall be reasonably necessary to mitigate further damage and make emergency repairs.





# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- Know your association's insurance coverage:
  - Deductibles
  - Exclusions
  - Proof of loss requirements
- Set a meeting to review with the association's insurance agent;
- Encourage owners to obtain their own individual homeowners' policies (HO-6 policy).
  - Usually can only mandate and enforce this if contained within the Declaration



# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- For damage caused by an insurable event, owners are responsible for repairing and replacing the following:
  - Personal property;
  - Floor, wall and ceiling coverings;
  - Electrical fixtures;
  - Appliances;
  - Water heaters;
  - Water filters;
  - Built-in cabinets and countertops;
  - Window treatments, including curtains, drapes and blinds.
- Owners could end up without any of these interior furnishings if the building is damaged from a casualty event and the owners have no HO-6 policies.



# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- Complete lingering common element repair needs:
  - Roof leaks;
  - Window leaks;
  - Pipe leaks;
  - Existing damage to the building structures;
  - Tree trimming, pruning and removal of dying trees and plants;
  - Remove debris from property that could cause damage during high winds;





# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- **Community Association Systems:**
  - Back up all association computer hard drives;
  - Make efforts to obtain current contact information from the members, directors, officers, employees and managers;
  - Inspect all fire safety equipment: extinguishers, alarms, smoke detectors, etc.;
  - Inspect emergency lighting: replace bulbs and batteries;
- **Official Records:**
  - Place physical copies in area safe from hurricane winds and flood damage – water tight storage containers;
  - Preserve records in electronic format and save in multiple areas – association office, manager’s office, in the cloud.



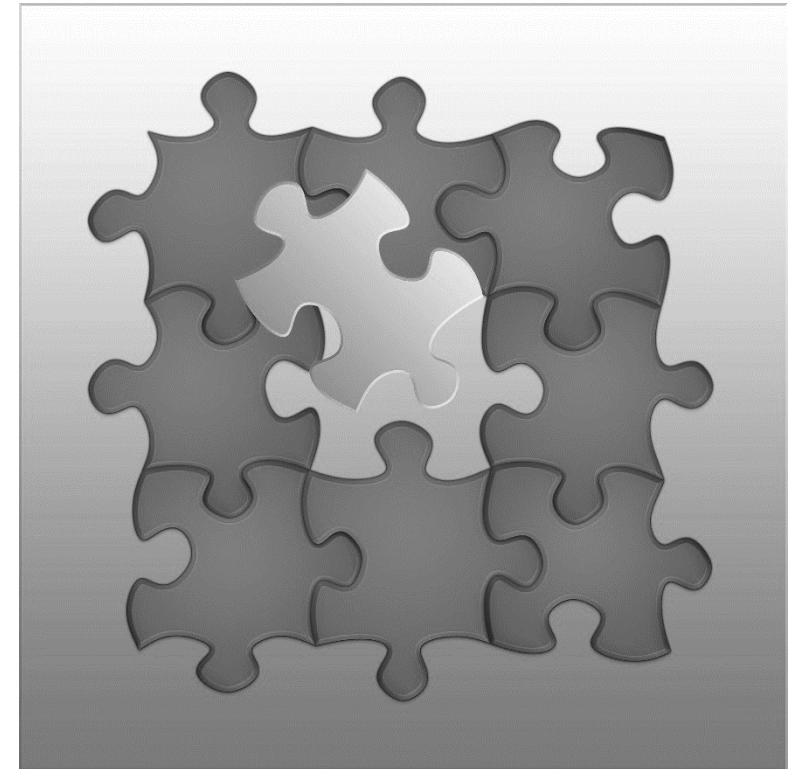
# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- Evacuation plan: ensure association has an updated evacuation plan detailing evacuation zones and routes for the members.
  - Post on association's website;
  - Hand out at association meetings.
- Emergency funds: meet with the association's financial institution to have available an emergency line of credit in the event it's needed after a hurricane.
- Members with disabilities: Be mindful of such members. Compile and provide a list of services in the area to such members in advance of a storm.



# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- Snow bird units: Murphy's Law.
- Consider amending / updating the association's rules and regulations to address these units
  - Ex.: "A unit owner or occupant who plans to be absent during all or any portion of the hurricane season must prepare his or her unit prior to departure by designating a responsible firm or individual to care for his or her unit should a hurricane threaten the unit or should the unit suffer hurricane damage and must furnish the association with the name and contact information for such firm or individual."





# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- Snow birds: Additional rules and regulations
  - Association should have copies of keys to all units for emergency access;
  - Remove unsecured objects on balconies, porches, patios and lanais prior to owners vacating their units for the summer.



# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- Update videos and photographs of association property:
  - Including both real property and personal property;
  - All pictures and videos should include a date/time stamp to avoid the insurance company disputing the accuracy of such records;
  - The association and manager should each maintain copies of the videos and pictures electronically;
- Create a survey / site plan that depicts the locations of all circuit breakers, water shut-off valves, gas lines, generators, pool pumps, lift stations, HVAC systems, etc.



# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- Vendor lists:
  - Maintain a vendor list for services most important during the aftermath of a hurricane;
  - Secure vendors as soon as possible for items such as debris removal, tree cutting, window replacement, and mold/fungus remediation.
- Maintain printed materials: Power outages will happen:
  - Prepare as though power will be out for several days or more;
  - Physical copies of contact lists, vendor lists, insurance policies, emergency services information, evacuation plans, and other important documents.





# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

## ■ Hurricane Shutters:

- Make every effort to encourage owners to install hurricane shutters on their units;
- Condo boards “shall adopt hurricane shutter specifications for each building, which shall include color, style, and other factors deemed relevant by the board. All specifications must comply with the building code.” Fla. Stat. 718.113(5).
- The declaration may grant the board the authority to install, maintain, repair and replace hurricane shutters, impact glass or other types of hurricane protection. If not, the board may do so upon the approval of a majority of voting interests. *Id.*
- A board may not refuse to approve the installation or replacement of hurricane shutters or other hurricane protection by an owner conforming to the specifications adopted by the board.



# Hurricane Preparedness: What to do Before a Hurricane Hits Your Association

- If Hurricane is going to hit, be sure to:
  - unlock all gates / doors so residents can enter and exit;
  - Remove entrance / exit gate arms for vehicles;
  - Disable elevators on middle floor to avoid flooding from ground floor or leaks from the roof



# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- Return to association property with caution:
  - Check with local authorities before returning;
  - Beware of undiscovered damage throughout the property, which can pose dangerous hazards upon return. Ensure entryways are clear of debris;
  - Many disaster-related injuries occur after the storm has passed.
- Beware of unscrupulous contractors:
  - Many travel from far away to take advantage of victims during an emergency situation;
  - Usually best to avoid an arrangement with a contractor you don't know that involves an assignment of benefits from your insurance;
  - Do your best with the resources you have to vet unfamiliar contractors or vendors:
    - Unlicensed, uninsured and unqualified contractors.
    - Research industry and state licensing websites.



# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- Board member designee for professionals:
  - Assign a designated board member for all communications to needed professionals – contractors, insurance carriers, financial institutions, government officials, attorneys, etc.;
  - Confusion results when communications are made by multiple board members with slightly different information during this hectic period;
  - Can result in delayed responses and bad advice.

# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- Board member designee for residents:
  - Assign a designated board member for all communications to residents;
  - If possible, make this person different than the designee for communications to professionals;
  - Why? The number of resident inquiries is usually overwhelming during this time.
  - All designees will need to regularly communicate with one another to ensure correct information is communicated to each group



# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- Make contact with all necessary resources:
  - Connect with vendors / contractors to schedule debris removal, repairs and restoration work;
  - Keep in mind these resources are limited based on the demand so make these calls a priority;
  - Connect with local government authorities to obtain updates on surrounding areas and assistance;
  - Connect with residents:
    - Continually update the association website as more information is learned;
    - Post signs and important messages at community entrance.

# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- Inspect and photograph association property:
  - Make sure videos and photographs are date/time stamped for insurance purposes.
- Create list of repairs and restoration projects:
  - During inspection for video and photographs, make written list of all necessary repairs that need immediate attention, capturing the exact location of each damaged item;
  - Check utility lines such as gas, water and electric;
  - Turn off the gas main valve if there are leaks. Turn off circuit breakers if there are downed or exposed lines;
  - If sewer lines are damaged, do not allow the use of toilets until repaired;
  - Inspect for mold development.



# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- Call emergency board meetings as needed:
  - Even if there is just one board member onsite, it's best to schedule a meeting so that all residents can attend and share information, express concerns and ask questions;
  - Ask residents to inspect their units for damage and to report it immediately;
  - Apprise members of action the board has taken and will be taken in the immediate future;
  - Board must inform the residents of any areas on association property where access is prohibited due to damage.



# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- File insurance claims:
  - With everything else going on, do not forget this!
  - The longer you wait to make a claim the longer you will wait for the adjuster and any insurance proceeds;
  - Claims may need to be filed with multiple carriers depending upon the damage sustained by the association;
    - Wind damage and flood damage often involve two different policies.





# Hurricane Preparedness: What to do After a Hurricane Hits Your Association

- Contact bank for line of credit, if needed:
  - If your association is prepared, you will have an emergency line of credit to tap into;
- Begin maintaining all records from repair efforts:
  - Keep copies of all paperwork, including estimates, bids, contracts, email exchanges, invoices, receipts, etc.;
  - Remember the Condominium Act makes these items part of the association's official records;
  - Estimates, invoices and receipts will likely be needed for insurance claims.
- Do not forget your association's statutory emergency powers.





# THANK YOU

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