

# CAI Northern Ohio Chapter

## Quarterly Newsletter

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### MESSAGE FROM THE PRESIDENT

#### The SENSE of Accounts

Taking collection action on valid and itemized debts is vital to prevent Fair Debt claims. The Fair Debt Collection Practices Act (FDCPA), regulates “debt collectors” who regularly attempt to collect debts owed to third parties by consumers. Association fees are “debts” under the FDCPA, and a member of an association who owes a debt to the association is a “consumer” protected by the FDCPA.

When associations transition from one professional management company to another, it is necessary to transfer a complete, accurate and itemized account history for any owner that has a delinquent balance. While our CAI chapter has a procedure for management company transitions and requires a transaction history for any delinquent or pre-paid owner, recent court decisions and changes to Federal Consumer laws make this procedure more important and necessary than ever.

One of the first court decisions to scrutinize accounts held a debt collector must provide a debtor enough information to sufficiently dispute the payment obligation. An account must have a detailed and itemized accounting for all aspects of a debtor’s account. This includes listing the dates and reasons for all assessments. A detailed account statement will insulate an association from litigation and challenges to verification. Further, an itemized account gives the association an appearance of good faith that the debt is verifiable. In one landmark case, although the association provided an accounting including dates and reasons for other charges on the debtor’s account, the association provided no explanation for one \$50.00 fee despite the debtor’s multiple requests for verification. The failure to provide the basis of the \$50.00 fee is a failure of verification because the Association must give notice of how and when the debt was originally occurred. These recent court decisions and changes to the Federal Consumer laws have created a new standard for accounts that requires hyper-detailed accounting of a debtor’s account.

Below is an account check list to help prevent FDCPA violations.

- A. The account must start with a zero balance.
- B. The account does not start with a lump sum balance.
- C. Each assessment is dated and explained.
- D. If an enforcement assessment is on the account, a hearing was offered.
- E. If an owner files Bankruptcy, the pre and post-petition accounts must be accurate and payments applied to the correct account.

As a result, when transitioning from one management company to another, help ensure an association will be able to take collection action on all debts by turning over complete, accurate and itemized accounts.

M. Katherine Bushey, Esq., President  
Northern Ohio Chapter  
Community Associations Institute

## Expert Collaboration for the Betterment of Your Community

Reprinted from [reserveadvisors.com](https://reserveadvisors.com), April 2023

When you commission a reserve study, you're commissioning an overall health check of your community, much like an annual physical exam with your primary care provider. However, when there is an issue with a specific organ or body part, a specialist in that particular area will join your list of physicians to uncover the root of the issue and formulate a remedy.

Your community is complex and it is imperative to have a comprehensive understanding of your entire community both physically and financially, which a reserve study provides. But, it's also important to bring in component-specific consultants when need be. For example, if you have a significant number of roof leaks that are challenging to fix, you would bring in a roofing expert to conduct both visual and potentially invasive examinations to determine how severe the issue is and what will need to be done to remediate the issue (ie to determine a best course of action for the repair or replacement of the roofing system).

But much like primary care providers and area-specific physicians working together as a team, reserve study specialists can take into consideration any information gleaned from the roofing consultant's findings into the reserve study's recommendations. On the flip side, if a reserve study specialist uncovers component-specific issues during their non-invasive inspection, they will inform you of the type of consultant that will need to be brought in to do further, and at times invasive, testing if and when it is warranted.

A dynamic duo when paired, the findings of specific component experts and reserve study professionals provide a combination of expertise from a network of professionals whose sole mission is the physical and financial betterment of your community.

In fact, one of the reasons that Reserve Advisors remains prominent and successful in the reserve study industry is our independence and extensive knowledge of and experience in the realm. We pride ourselves on providing unbiased recommendations to community associations to ultimately give boards control over the path they choose moving forward.

In essence, the consideration and inclusion of a component-specific contractor's findings into a reserve study report's recommendations can prove exceptionally valuable to many community associations, though our firm's independent findings take precedence. When applicable, this combination of expertise can help associations achieve a higher level of preparedness for capital projects. Because the primary purpose of a reserve study is capital planning, specifically reserve fund savings and expenditure schedules, the inclusion of other experts' applicable findings can help us formulate the most accurate and comprehensive capital planning recommendations for your community.

## Inflation and Reserves: The Implications on Capital Planning

Reprinted from reserveadvisors.com, April 2023

As we all know by now, inflation has moved into our lives and **isn't estimated to move out for about a year or more**. While some industries are already seeing some relief, this is not and will not be the case for many other industries for the foreseeable future, including those that community associations rely on for capital projects.

Because the primary purpose of reserve studies is to provide associations with a comprehensive short and long-term capital plan, we work diligently to account for these economic changes in our studies and reports. Generally taking 3% inflation into account in our reports, we are now incorporating higher rates in the near term when/as applicable. There are three primary ways in which inflation is affecting capital planning efforts within associations, including the cost of goods, the cost of materials, and the cost of labor.

Specifically pertaining to goods and materials, we have found that materials related to waterproofing are most commonly increasing in price. This can include flat roofing, shingle roofing, traffic coatings in garages, and more. Additionally, due to increases in oil costs, petroleum-based products like asphalt are also rising in cost. Along with rising material costs comes rising labor costs. We have compiled some data detailing annualized inflation rates of various materials and labor costs as seen below:



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So, what are the implications of the current economic environment on capital planning for associations? First and foremost, the current climate has lent itself to capital planning issues within community associations. Because of this financial turbulence, an association's existing reserve fund or reserve funding plan may be prematurely outdated and in need of updates. This is especially true in cases where there are projects due soon or projects already in progress that are capital-intensive.

Understandably, this information may seem intimidating. However, with years of experience and having conducted many reserve studies during previous periods of inflation and financial uncertainty, Reserve Advisors is able to take current inflationary circumstances into account when creating our studies and capital plans.

First and foremost, we take into account the fact that the market will eventually correct itself, as it historically has. When it comes to short-term adjustments, particularly current-year expenditures, it's important to bring in an expert on each project to guide you through the scope of the projects, the need for the project, and related costs. These can be incorporated into the reserve study, even after the report has been received. Because we are always available to make changes to the capital plan we've laid out based on current conditions, the report is not truly "finalized" and can be adjusted to take inflation into account for up to six months after the date of report publication.

Currently, when we conduct reserve studies, we are typically increasing near-term project costs extending through 2023. To account for supply chain issues, inflation, and pandemic-related pricing, we rely on real-world costs which our engineers collect as part of their information gathering at a community, along with published sources including construction cost estimating guides. Because these numbers may vary by market, we also rely on a proprietary database of recent projects in each market. When we weigh these sources of information, we find that client vendor contracts are priority, followed by the database of recent projects by market and published sources of information.

One important thing to examine during times of economic uncertainty is the prioritization of all upcoming projects. If an association is unable to complete all capital projects as planned, priority should be placed on projects that, if deferred, would cause additional damage to the component, later leading to higher project costs to remediate excess damage. For example, if deferring a roof replacement would increase water infiltration, replacement costs down the road would increase due to continued deterioration of the roof and any other component affected by this water infiltration. Next, associations can weigh the importance of discretionary projects, and decide to defer non-critical projects until inflation subsides or evens out. Again, your reserve study consultant will always be available to your board to help inform and solidify the updated trajectory of capital project timelines

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Of course, periods of inflation require associations to re-evaluate their current funding plans, specifically near-term. With the guidance of a reserve study consultant, two questions associations will work through are:

1. If we are facing significant increases in contributions, can the increases be phased in over a number of years?
2. Could a loan scenario be used to minimize reserve contributions near-term?

These questions allow associations to consider not only their current and future financial situation, but to consider the financial situation of their residents. While it's important for boards to consider how inflation is affecting their community as a whole, it's also important to consider the financial status of those who make the community what it is.

If an association is running low on funds and project timelines are being disrupted, it's inevitable that residents may be individually suffering financially as well. If you can expand the number of phases of increased reserve contributions, residents will not experience as dramatic a financial burden. Additionally, minimizing contributions near-term through a loan can help associations complete crucial projects on time, while also giving residents time to recoup from any financial strain they are experiencing before having to comply with higher dues.

If your association has a recent reserve study in hand, there are some best practices we recommend to weather this storm. If your latest reserve study is only a year or two old, a reserve study update without a site visit is a cost-effective option to consider if your association needs insight into the following:

1. Have capital-intensive projects been recently completed?
2. Can previously planned on projects be safely deferred until the market evens out?