

# Summary from “The Law Journal” article March 2012

## Making and Funding Long-Term Maintenance and Repairs

Davis-Stirling Act Civil Code 1365(a) (2) (A)

By Kelton Lee Gibson, Esq.

1. Our firm has designed long term payment plans to conform to each association’s budget with no interest.
2. **Neglecting on going maintenance and necessary major repairs can lead to severe structural damage, mold, leaks, fungus, and dryrot can reduce property values, insurance claims, and insurance cancellation. Failing to deal with these situations is not the answer.**
3. It may be a breach of the board’s fiduciary duty and manager’s standard of care failing to take adequate steps to maintain the property.
4. The Reserve study may or may not accurately reflect the actual conditions of the buildings. Managers and board members should include other service providers who regularly service property (General Contractors and Structural Pest Control Operators).
5. Annual disclosures to the members are required as to the current annual replacement cost of each major component **(Civil Code 1365(a)(2)(A).**
6. Be **Proactive**; invest in a construction professional with experience in structural pest control and general contracting. Have them review the structural conditions and make recommendations. **Prioritize what repairs need to be made to reduce liability.**
7. The board’s failure to make needed repairs can leave owners stranded with un-saleable homes that cannot be refinanced and can lead the association into receivership.

All associations could potentially be sued by owners for failing to make needed repairs. The **association’s D&O insurance may or may not provide a defense**, depending upon policy and the lawsuit’s allegations. **(Managers have also been sued in these situations).**