



ENVIRONMENTAL ISSUES FOR COMMUNITY ASSOCIATIONS

Public awareness about environmental issues continues to grow. Community association members know that the quality of their surrounding environment is important to their health and their property value. Along with the problems of environmental damage are those of liability:

- Who will pay to clean up groundwater contaminated by toxic runoffs?
- Who will pay for wetlands ruined by pesticides?
- Who is responsible for chemicals leached into the soil from the community's asphalt pavements or the shingles on roofs?

Associations need to identify pollution risks before they occur and learn how to control them. This will reduce these risks and make the community association safer. Some risks might be eliminated altogether, and others will be managed more effectively.

What environmental issues should community associations be concerned about?

Community associations have several environmental concerns: mold, underground storage tanks, chemical spills, and gas and vapor issues.

What should we know about mold?

The most effective way to deal with mold is to develop effective moisture and mold management plans and follow them. If you have mold growth in your community association, you must clean up the mold and fix the water problem. If you clean up the mold but don't fix the water problem, then, most likely, the mold problem will come back. Controlling excess moisture is the key to preventing and stopping indoor mold growth.



Mold growing on the surface of a unit ventilator. Moisture control is the key to mold control. If items are kept dry, mold does not grow.

(Photo courtesy of Environmental Protection Agency.)

From the insurance perspective, damage from mold is specifically excluded in most standard property insurance policies. Property insurance policies provide coverage for damages that are sudden and accidental. They are not designed to cover the cost of cleaning and maintaining a home.

However, if mold is caused as a direct result of a covered peril, such as a burst pipe, the policy could cover the cost of eliminating the mold. But mold caused by water from excessive humidity or condensation is a maintenance issue for the property owner, like

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rot and termite infestation, and generally is not covered by the policy. Most people routinely clean up mold before it grows large enough to become a hazard.

To avoid confusion, many insurers are now inserting clarifying language or an absolute exclusion in their policies. Some companies may decide to cover all mold claims and price the policy accordingly. Most major insurers have announced some form of coverage exclusion or limitation.

Environmental policies, which can include coverage for mold, are available, but unless the community association has a mold protocol in place, the policy will include language saying if a construction defect or maintenance issue causes the mold, the community association will not be covered. One issue with these policies is that maintenance is not clearly defined.

Do we need special protection if we have an underground storage tank?

Community associations that own underground storage tanks (USTs) should have each tank evaluated for its age and for the last time it was inspected. Tank inspectors are available to conduct this inspection.

In addition to inspection, tanks need to have some sort of secondary containment, such as a trench large enough to accommodate the liquid in the tank, or a retaining wall to contain leaks.

Securing USTs should be a priority for community associations. The cost of cleaning up a leaky UST is enormous: to clean up the soil from a spilled 55 gallon drum of oil is \$250,000–\$350,000; to clean up groundwater from a similar spill is more than \$1 million.

If a community association does own USTs, we recommend that a UST pollution liability policy be purchased.

Ignoring the many regulations and procedures required by law will only spell trouble later on. It is best to be familiar with the many, and changing, environmental laws and safety procedures so that your association is in compliance and able to handle contingencies as they arise.

What should we know about chemical storage?

All of the chemicals used by a community association should be given special attention. Consider where they are stored, who is using them, and whether they follow the proper procedures for handling chemicals. Since chemicals can react with one another, someone on-site should have training on how chemicals should be stored.

Most of the cleaning agents a community association uses should be biodegradable—they should be citrus-based solvents instead of petroleum-based solvents. Citrus-based products are not hazardous to workers or residents.

What gas and vapor issues are important to community associations?

HVAC—Community associations should use a licensed and insured independent contractor to recover gas in the system when servicing HVAC units. Gas may no longer be released into the air.

Plumbing—A licensed and insured plumber should make sure all vents work properly, so that methane gas, which is colorless, odorless, and highly explosive, is not leaking.

Vapor Intrusion—Vapor intrusion is the migration of volatile chemicals from the subsurface into overlying buildings. In extreme cases, the vapors may accumulate in occupied buildings to levels that may pose near-term safety hazards, acute health effects, or aesthetic problems. If your community association is built on or near a former industrial site, an old landfill, or a refining or petrochemical factory, vapor intrusion may be a concern. Site investigators can be hired if your community association suspects vapor intrusion.

Radon—Radon is a radioactive, invisible, odorless gas that comes from the decay of naturally occurring uranium in the earth's soil. It can accumulate in buildings in dangerous



levels. Radon is the second leading cause of lung cancer in the United States with about 20,000 lung cancer deaths each year related to radon exposure. Simple, inexpensive do-it-yourself radon test kits are available at local hardware stores.

New Structures—New community associations should be allowed a certain “burn in” time before residents are allowed to move in. New products contain volatile organic constituents, such as resins, solvents, and binders, which “off-gas” volatile organic compounds for a period of time. Whenever possible, obtain information on emissions from potential new products to be installed in the building and select lower emitting products when available.

What is pollution insurance?

Pollution insurance is designed to cover losses and liabilities arising from pollution-related damages. It covers the potential for bodily injury, property damage, cleanup costs, and natural resource damages that are on, under, or in a particular property. Pollution insurance is usually written on a claims-made basis, which insures for claims made during the policy period, regardless of when the alleged negligent act occurred.

Pollution insurance can cover third-party, off-site exposure, if pollution from a community association migrates somewhere, and it covers on-site exposure. Community associations can obtain coverage for new-found conditions, such as when a problem is found when an association digs a hole for a pool.

Before pollution insurance will be written, a community association will need to go through an environmental risk assessment, which evaluates the potential for past, present, and future environmental liabilities. The result of this assessment will determine what coverage will be offered at what price.

What should we know about compliance?

Several important steps should be followed in order to comply with the many federal, state, and local environmental laws:

With environmental issues, it is particularly important to obtain appropriate legal assistance and information and to make sure your insurance is up-to-date and complete.

1) Know environmental conditions at your community association.

Inspect records and walk through the facility on a regular basis. Make an inventory of current hazardous materials. Document steps taken.

2) Learn the law. Consult state, federal, and local laws, statutes, and ordinances to determine if you are in compliance. Be sure Occupational Safety & Health Administration requirements are being met for worker safety and health. Obtain the services of an environmental attorney

if you feel you may have problems in this area, particularly if you have reason to believe your community association may be the subject of an investigation.

3) Bring your community association into compliance.

It may be necessary to hire technical and legal advice to be sure your association complies with the many complicated environmental restrictions and rules.

4) Develop a plan to keep your association in compliance.

Classes, lectures, and educational seminars are helpful to employees, residents, and board members, all of whom should be encouraged to report any safety violations immediately.

Where should we go for further information?

Ignoring the many regulations and procedures required by law will only spell trouble later on. It is best to be familiar with the many, and changing, environmental laws and safety procedures so that your association is in compliance and able to handle contingencies as they arise.

With environmental issues, it is particularly important to obtain appropriate legal assistance and information and to make sure your insurance is up-to-date and complete. If you have any questions or need further information, please contact Steve Dickerson (703-205-8788 or Steve.Dickerson@usi.biz) or Theresa Melson (703-205-8753 or Theresa.Melson@usi.biz).



ASK THE EXPERT

Winter. For many of us, the season means holiday shopping, hot chocolate, and time spent with friends and family. The winter season also means many ways to save money by conserving energy. Here are the top 10 tips from energy.gov.

Air seal and insulate your home: Prevent heat from escaping or cold from entering your home—lowering your heating bills—by insulating and air sealing your home.

Use a programmable thermostat: Reduce your waste heat by using a programmable thermostat that can reduce the heat at a specific time when you're away from the home and increase the heat before you get back for dinner.

Install ENERGY STAR doors and windows: Doors and windows are places where cold and warm air can easily come through, so by installing energy efficient doors and windows, you can save energy and money with their better quality insulation.

Use LED holiday lights: Light emitting diodes, or LEDs, are at least 75% more efficient and last up to 25 times longer than traditional incandescent lights. By using LED holiday lights, you can be at ease knowing you won't be spending a bundle to keep those lights on.

Turn off the lights: If you're out on vacation this winter, make sure the lights are turned off.

Use lighting controls: Save additional money on your electricity bill by using motion sensors and timer controls.

Lower the water heater: One significant way to reduce energy consumption if you're away on vacation is to simply lower the water heater. If you'll be gone three or more consecutive days, set the water heater to the lowest or "vacation" setting if there is one.

Unplug electronics: When you are away, unplug kitchen appliances, DVDs, TVs, and computers to save energy and money. These electronics, when plugged in, use up energy even when they are turned off.

Use a power strip: If the idea of running around the home to unplug everything is a bit too much, use power strips to plug in multiple appliances, and then turn it all off with the flip of the power strip switch.

Adjust the blinds and curtains: Last but not least, another useful way to conserve energy while on vacation is to lower the blinds and curtains. Close your curtains and shades at night to protect against cold drafts; open them during the day to let in warming sunlight.

