

Community Associations & COVID-19 FAQ



RESIDENTS AND COVID-19 FREQUENTLY ASKED QUESTIONS

Can residents quarantine within a community association?

Residents have a right to stay in their home if they are quarantined. Management needs to plan for how these residents will get their mail, package deliveries, and dispose of garbage. It is important to remind staff to never enter a resident's unit.

What are the best methods to communicate with residents and what should be included?

The primary job of association boards and staff is to disclose crucial information—what is happening and why—to our residents. It is important to put thought into the best central location for your community to receive information and that it is consistent between all platforms. Many communities are using a central bulletin board, email, and social media platforms to provide residents with updates. Boards and staff are encouraged to date and timestamp all messages. Associations should put notices throughout common areas reminding residents to wash their hands, not touch their face, and include any updated information from the Centers for Disease Control and Prevention that may be useful for residents. It is important to consistently direct residents to the local authorities—local, state, and federal updates that are being provided on COVID-19.

How should boards respond if they learn that a resident tested positive for the coronavirus? Do they have an obligation to inform residents? Is there liability for the board if it does not?

This raises conflicting interests--a person's privacy about their medical condition and the membership's safety.

Authorized Disclosure. If the person with the coronavirus authorizes full disclosure, the board can disclose the person's name to the membership. This allows residents who had contact with the person to immediately self quarantine and get tested for the virus. Before doing so, I encourage two precautionary steps for boards. First, the authorization should be in a written communication from the person or the person's attorney. It should never be based on hearsay and rumors. Second, the disclosure should be limited to members and residents. Particular vendors who may have had contact with the person could also be alerted. The board should not broadcast the information outside of the community.

No Authorization. If the infected person tells the board in confidence that he contracted the coronavirus and does not want anyone to know, the board may still have a duty to notify the membership. However, it would do so without disclosing the person's name. The board would simply report, "A resident has reported testing positive for the coronavirus." A disclosure, however limited, alerts residents to take extra precautions to protect themselves. In addition to giving notice, the board should contact the Centers for Disease Control. The CDC has the power to make additional disclosures, trace contacts, quarantine individuals, and take other actions it deems medically necessary.

Self-Quarantine. What if the person does not have the coronavirus—he is simply self-quarantining as a precaution? If that is all he is doing, I don't believe the board has an obligation to notify the membership. Potential Liability. There is always the potential for liability if a board becomes aware of a threat to their community and does nothing. If, as a result of the failure to disclose, members fall ill and some die from the illness, lawsuits will likely follow. Accordingly, silence may not be the best course of action.

Recommendation: As volunteers, boards are allowed to seek expert advice. When confronted with issues involving the coronavirus, directors should not make decisions based solely on recommendations in a newsletter--whether mine or someone else's. They should contact legal counsel and the CDC for guidance.

What if an infected resident needs an “in-unit” service?

This is a difficult question to answer. We suggest that any non-essential service be postponed until “the coast is clear” per CDC guidelines. If the service is truly essential (a plumbing backup), there are protocols that can be undertaken by qualified contractors, but securing them may be difficult given the national emergency. This must be reviewed on a “case by case” basis.

What if association staff reports symptoms?

Many associations are employers or have a role in working with management company staff on site. Site staff should be encouraged to report to management or the Association if they start experiencing symptoms of the virus, so CDC-recommended measures can be implemented to minimize the risk of infecting others. The Association should determine if the staff member has recently interacted with any particular resident, so those residents may be alerted as well.

Do HIPPA laws apply to community associations?

HIPPA laws do not apply to community associations. However, associations should try not reveal names of quarantined if possible but can still let residents know if there is a case in their building.

Does a community association have an obligation to tell residents there is a positive COVID-19 case in their community?

There are conflicting interests in these cases. Privacy issues are raised for the individual who tested positive and the board's consideration of resident's safety. A board has two primary options:

1. An authorized disclosure to the community; if the person with the virus has given permission for this information to be disclosed and allows for any residents who have been in contact with this individual to take the necessary precautions. If a board takes this option, they should receive authorization in writing by the individual or their attorney and the disclosure should be limited to members of the community and this information should not be broadcasted past the community
2. Without authorization from the individual, and the board was informed in confidence, the board may still have an obligation to notify membership. The board should report that a resident has tested positive for COVID-19 and alert residents to take precautions. The board should also notify the CDC.

The board or manager should also notify residents of any precautions or mitigation efforts they are also making for the community.

Industry Experts on COVID-19 Residents and the Coronavirus FAQs:

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RESOURCES

Now is a good time to remind community association residents, board leaders, and managers of their [Rights & Responsibilities for Better Communities](#) and the [Community Association Civility Pledge](#).

View the latest COVID-19 resources and guidance from CAI by visiting www.caionline.org/coronavirus

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