

Outline for March 12, 2013 Disaster Preparedness Seminar

Emphasis on the Administrative Side of Disaster Preparedness

Watch corresponding video on YouTube, see link >> <http://www.youtube.com/watch?v=KAwTn9PK8JQ>

Speakers

1. **James A. Fenniman**, ARM, Executive Vice President Bollinger- New York
100 Wall Street 25th Fl, New York, NY, 10005 212-530-7503 800-962-5524

james.fenniman@bollingerinsurance.com www.bollingerinsurance.com/ny

2. **Josh Goldman**, President, Bargold Storage Systems, 41-41 38th Street
Long Island City, NY 11101, 718-247-7000 X 111

Josh@bargold.com www.bargold.com

3. **Robert J. Cecere**, Esq., Partner, Daniels Norelli Scully & Cecere, P.C.
97-77 Queens Blvd, Suite 620, Rego Park, NY 11374 718-459-6000

rjcecere@dnsclaw.com www.dnsclaw.com

James Fenniman What are the different sides of Risk Management?

- Last 12 years NYC has had 2 catastrophic emergencies:
 - 9/11 & Hurricane Sandy
 - Manmade disasters vs. natural disasters
- 9/11 changed the way Real Estate and Property Management handled security.
- Hurricane Sandy changed the way we look at natural disaster and its risk to NYC and ushered in a new approach to flood preparedness.
- Army Corp of Emergency is re-mapping and re-zoning critical areas in NYC which are especially vulnerable to flooding.
 - South of 14th Street, west part of Chelsea, South of 34th Street, east village
- Hurricane Sandy had a major impact on the development side, Coops & Condos, the Art Community in Chelsea which suffered a loss of \$300 million in artwork.

How can you reduce the frequency and the severity of your risk?

- Implement a Disaster Plan for your buildings

- Identify what your risk would be
- Put together an emergency plan
 - Establish a team that will be working w/ managing agent to make sure you have identified all the risks and what you can do to prepare
 - Create an admission statement that you communicate with the shareholders or tenants
 - Set up an emergency system with important telephone numbers for local and state resources, including both cell phone numbers and landline numbers for local contacts.
 - Set up an evacuation plan with routes so that everyone in the building knows what the procedures are going to be, how they are going to be implemented, and contingencies for long evacuations
 - Evacuation plan should include a "buddy" system, especially for seniors to facilitate getting them out of the building safely.
 - Implement fire emergency evacuation drills
 - Set up response procedures
 - Information facilitator is important
 - someone who communicates directly with management firm (from the board or tenants association) so that the management company is not trying to communicate with tenants individually from the entire building
 - Maybe set up a floor coordinator from each floor in the larger buildings
 - Go thru a dry run to ensure everyone is communicating properly
 - implement plan
- Templates available out there to do this

Protecting your Building

- Using sandbags in storms & barriers to limit security risks
- Set up routine types of checklists for insurance recovery
 - include as much information as possible on preexisting conditions,
 - before the loss pictures and after the loss are helpful to support your claim
 - include all of your loss, including excess labor, premium labor which is recoverable if it can be supported thru documentation.
- Go online to NYC.gov and find out where your building is in the flood zone.

- Insurance industry is changing and what used to be covered may not necessarily be covered now.
- Many of the carriers are not going to be offering the private policy for the different zones until the mapping is done.

Robert Cecere, Esq. From a legal standpoint

- , what we have seen the last 2 disasters, 9/11 and Hurricane Sandy, is that most people don't look to prepare until there already is a problem.
 - Who is going to sue us?
 - Are we insured properly
 - Are we going to have to go to the insurance company and force them to pay us more?
- After 9/11, surprisingly, the amount of litigation in terms of residential and commercial real estate was minimal.
- We saw something we had never seen before:
 - Landlords got together with the tenants and the shareholders and the businesses and worked things out on their own rather than litigate
 - More people were released from their leases than we've ever seen because they didn't want to force people to live downtown if they didn't want to
- We don't usually see that in a natural disaster
- It's been a few months since Hurricane Sandy and we're now beginning to see the extent of the damage and people are starting to litigate
- While you can't plan for everything, you can reduce litigation after a disaster with an emphasis on preparedness
- From a legal aspect, to be prepared is to know what type of documents govern your building
- Do you know what you are looking for in governing documents, before a disaster, that will protect your shareholders?
 - In a Coop, you look at the bylaws and your proprietary lease
 - In a rental building you look at your lease
 - In a condominium it's a little less because owners have ownership of their units so you're really worried about the common areas, the physical plan and how its divided
- After 9/11, one of this issues that we needed to deal with centered around security
- Because of 9/11, you couldn't go into a commercial building in Manhattan without I.D.

- So how does that pertain to people involved in residential buildings?
- In most residential building, if you live there you don't need an I.D. to enter, or you may have a doorman
- But that is changing. More and more residential buildings now require an I.D., especially bigger ones where you can't keep track of all the people who are coming thru
- **Example:** A rental building in Queens, that we're dealing with now, implemented a new key system which required an I.D. for tenants to get their keys.
 - DHCR and the City said it was ok with the understanding that the I.D. being requested was a Driver's License, which isn't protected and is used as a form of I.D. everywhere.
 - Then one tenant, who felt that request was unreasonable, went to Queens court on a lock out saying "I'm not giving my I.D. so I didn't get a key, and now I can't get in my building."
 - A judge in Queens County backed that tenant's rent, so now the case has to go to appeal, where it will most likely be ruled in favor of the landlords right to protect the security of the building
- So how do you prepare if a board or a landlord comes to you and asks if they can implement an I.D. system in their building?
- For natural disasters we think in terms of central services like hot water, heat, and electricity and what happens when those go down?
- In cases where there is no evacuation and tenants are living in the building with sporadic service while everyone is scrambling to get all the services running again, we're seeing more tenants complaining and expecting to be compensated for loss of services.
- The courts are frequently pro tenant in this regard, so it's a good idea to have a plan for a situation following a disaster
 - If the building is a coop, sit down with the coop board and let them know what the risks are of shareholders going to court after a disaster interrupts services and if a judge then grants them an abatement.
 - This is especially important if there are already problems with leaks in the building that a natural disaster will worsen
 - The board can sit down with their insurance company, their managing agent, maybe even their accountant and come up with a plan
- Other issues we've seen with Hurricane Sandy was damage to the building

- In those cases, your first response is to go to the insurance company and see what's covered
 - But after a natural disaster like Sandy, they are usually inundated with claims and don't always respond right away.
- Another issue we learned from Hurricane Sandy in terms of services and extensive property damage were the falling trees
 - While there are tree services that can help after a storm, in a natural disaster like Hurricane Sandy, there were so many trees knocked down that even months later there are still trees that haven't been cleaned up.
 - What happens when a giant tree falls on the neighboring property and causes extensive damage. Who is responsible? (the property owner NOT the landlord)
 - In most cases of falling trees, we found that neighboring properties don't maintain or trim their trees
- Look at your property and see where the liabilities are, before they happen.
- Class action suit against LIPA because homeowners felt that the trees falling on electric lines knocking out their electricity could have been avoided if they had been sufficiently maintained by LIPA
- Also take a look at what we've done in the past: What worked and what didn't
 - Example: NYU Medical Center kept their backup generator system in the basement, never thinking it would be flooded under 10 feet of water
- Take a look at *your* basements; do you have the generator down there?
- Get information to your occupants regardless if their shareholders or tenants
 - Keep them informed of what is going on.
 - What are you doing in the building to get the services back
 - What are you doing to fix the damage?

Josh Goldman What happens in a storage room during a flood?

- We run storage units for coops, condos, and rentals in the basement of their buildings
- Where there is water, there is flooding in the basement.
- We have floor inserts in each of our storage facilities which generally protects the facility from three to four inches of water. That is what we usually deal with in terms of flooding in the basement

- In Hurricane Sandy, the floor inserts were raised 6 feet by surging oceans and then got wedged at the top of the storage unit, damaging over 300 of our storage facilities.
- So, how do you handle a situation where you need to get access to the occupant's storage to refurbish, throw out the hazardous materials, and render that entire unit safe, when in many cases the occupant isn't even in the building?
- First, we implemented our communication plan
- We started by drafting letters the day after Hurricane Sandy
- We drafted letters informing residents that there was a problem with the storage unit and we needed access
- We drafted another letter informing residents that, miraculously, the storage unit was undamaged
- And still another letter informing residents that we had reports there was minimal damage and to please get back to us
- The best way of finding out what had happened to the storage unit was getting in touch with residents in the building and sending our crews out
- When we identified a building where there had to be a cleanup, for the next few weeks, we sent crews to the buildings
- The remediation entailed clearing out the occupants belongings, having them go through what could be salvaged, replacing all the floors, sanitizing or replacing the steel walls, cutting out the sheet rock in some instances to get to the bare cement to combat potential mold issues.
- By sending out letters to the residents, we were able to deal with the 300 units in the flood prone areas that were damaged in an effective and timely way.
- We also kept in contact with customers by phoning them and keeping them informed throughout the process
- The letters also served for documentation purposes, as well as the logs we kept on each of the units
 - As we went through the refurbishing process for each individual storage unit, we would indicate the date we went there and when we completed the refurbishment so we would have a record.
 - Using a barcode system we knew which unit was refurbished
- In some of the buildings there was two feet of water in the lobby but because the staff sandbagged certain parts of the buildings the storage units on the lobby level were dry.

- Another issue we had to deal with was when occupants of damaged storage units asked for credits
- This was a situation where we had to make a business decision, building by building, depending on the situation.
 - One school of thought was, if we reacted within days of the flooding, addressed the damage and got their storage area back up and operational in a timely fashion, sometimes quicker than the rest of the building, then we felt we did our job and no credit should be given.
 - In some instances if you'd ask the customer if they were getting credit on their parking, on their maintenance, or other things in that building, the answer is always no.
 - In some cases as an offering of good will, and to avoid a potential standoff in a legal dispute, we did offer some credits in some cases.
- As far as the expenditures incurred on refurbishing the damaged storage units, while we didn't have insurance for business interruption, we did have insurance for the storage units in the location.
- The insurance policy covered us for \$50,000, and even though our expenditures went beyond what the insurance company gave us, the reimbursement transaction went fairly smoothly and made the loss from Hurricane Sandy somewhat less.
- The lessons we learned:
 - Following our plan of communication worked well for us
 - In the future, we will be better prepared in terms of generators
 - We brought generators to buildings that didn't have power so we could work and maintain the storage areas and get them up so the building didn't have to worry about that.

.....

Message from NYARM's Executive Director Margie Russell:

This outline is a work in progress; please refer back as we up date with additional speaker's outline.

For information about NYARM please visit www.nyarm.com or on LinkedIn or Facebook