

Slip Sliding Away

*By Timothy Cline, CIRMS, Timothy Cline Insurance Agency, Inc.
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Californian's never-ending appetite for more housing has nearly swallowed up the available flatland in California causing developers to "head for the hills." Literally. In the past decade, community associations are discovering that their maintenance responsibilities have broadened so much that, in addition to common area pools, spas and other amenities, many Boards are facing another huge maintenance issue: Slopes.

This past year Southern California experienced its second-wettest winter in history – some 28 inches of rain in a six month period - more than twice the annual average. In such a wet year, hilly properties provide owners with much more than great views: lurking beneath the rain-soaked surface may be a slope well on its way toward failure. Unless the Board of Directors is attentive to the issue and relies on the advice of a soil engineer, they might be ignoring a huge nightmare that could suddenly interrupt the tranquility of their hillside community.



Slope failure showing ruptured ground and tension cracks.

The liability exposure these slopes may create is particularly troubling when one examines the absence of insurance covering any resulting failure. Insurance policies maintained by the Board typically contain both first-party and third-party subsidence related exclusions. These exclusions eliminate coverage for both the cost to restore the slope, in addition to the Liability created for the Association when a failed slope causes bodily injury or property damage to others. The well-publicized slope failures in Laguna Beach and La Conchita this past winter should be a wake-up call to Board Members of communities with slope maintenance responsibilities. But are Boards paying attention? And how did this alarming trend happen?

Krisi Davis, CCAM of Ventura County reports, "Once slopes go from being part of a natural terrain to being part of a community's common area, the maintenance responsibilities become more intensive. Maintenance such as annual weed abatement, on-going irrigation, tree trimming, etc...must be funded by the community." However, most budgets for the average planned unit development are inadequate and not prepared to cover the costs for expert advice and on-going slope evaluation and maintenance.

Lynette Findlay, CCAM, AMS, PCAM of Los Angeles County agrees on the importance of finding expert advice on slope maintenance, "If an Association has slopes that have been altered in anyway from the original home construction, a geologist should be hired before the Association's common area is turned over to the Association from the developer."

To maintain these slopes after the original assessment by the geologist, it is imperative for associations to have annual inspections but, as Lynette adds, "Most Boards do not want to spend the money" on such inspections. In addition, "A maintenance manual should be prepared to instruct the Association on the type of slope and how it is to be maintained," she continues. "If associations had this it would become part of their budget process and most likely the problem would not be ignored."

However, many boards still do not heed these warnings. Avoidance of any potential slope maintenance issues because of additional costs to the association will only compound those expenses later on. It is therefore extremely important for Boards to not only have the slopes of their communities inspected regularly, but also for these boards to specifically outline the responsibilities of both the Association and the unit owner when it comes to slope maintenance. Krisi Davis, CCAM can relate: "I managed several communities that had slopes as part of their 'common area.' One was a large single family home community that was built in an area that had very steep slopes surrounding it. The stability of the slopes were a constant concern and one that

motivated the builder to take extraordinary steps to outline exactly what owners could and could not do with regard to the slope areas.”

It's this kind of education that is important. Krisi continues, “An owner seeking to landscape their lot could not run irrigation lines over the slope areas as they were native (plantings) and not designed to hold the water necessary to irrigate sod, for example. They were to be left as natural terrain and monitored regularly by a qualified landscape contractor.”

Experts agree that these types of slope issues require retaining a geotechnical firm for annual evaluation and maintenance of the slopes. Unfortunately, Krisi Davis, CCAM, says that's not the norm. “Most times a community that has slopes has no idea what to do to maintain them and too often a blind eye is turned until the slope begins to experience failure or other problems.”

Lynette Findlay, CCAM, AMS, PCAM, tells of one of two slope failures her projects experienced this past year, “In one particular case, a developer built a home on a lot that, previous to the home's construction, had taken all the hillside water run off. A portion of the home is surrounded by natural hillside but the drainage had gone right through the area where the home is now located. Despite this, no catch basin had been installed there. The Association hired a geologist who expressed surprise that the City allowed a home to be built here.”

“Unfortunately,” Lynette continues, “the owner had no recourse as it had been over ten years and the statute of limitations had run out. The geologist had given us some recommendations for this natural slope but feels the owner will have to build a retaining wall on this lot to redirect the water and protect the home from future problems.”

There is reason for optimism, however, as some developers have begun to include slope maintenance in the community maintenance manual. The directives for maintenance include a contract with a geotechnical firm that will provide on-going consultation so long as the community continues to engage their service.

Krisi Davis concludes, “The slope should be treated like every other common area component; it should be evaluated annually, monitored and properly maintained. This, like so many other aspects of our industry, comes down to knowledge. The community that engages a team of experts, a management firm, insurance specialist, reserve study analyst and attorney, has the information from which they can make sound decisions and plan proactively. Hopefully with more attention paid to this crucial common area component we can encourage communities to engage those team players and prepare for the future of all common area components, including slopes!”

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About the Author: Tim Cline, CIRMS, is President of Timothy Cline Insurance Agency, Inc. of Santa Monica. Tim is a past President of the Greater Los Angeles Chapter of Community Associations Institute, a former Chair of the CAI National Insurance and Risk Manager Professionals Networking Committee and currently on the Board of Directors of the Los Angeles Chapter of the Insurance Brokers and Agents Association of the West.

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