

How to Make Condo Elevator Replacement Less Stressful and Expensive

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An HOA board member asked for tips on how to handle elevator replacement—what liabilities should the board watch out for, and are there ways the board can smartly plan for the downtime? Also, what do our experts suggest boards watch out for in new elevator contracts?

Here are some answers.

Protect Yourself from Day One

One important key to managing elevator repairs smartly is to ensure—before you commit to working with any elevator service provider—that your [contract](#) avoids unnecessary complications or challenges.

It's so important to choose the right elevator company, reports [Julie McGhee Howard](#), co-founder and managing partner of NowackHoward LLC in Atlanta, who at any given time represents hundreds of condos and HOAs throughout Georgia.

“I did have a really bad elevator contract blow up last year,” she recalls. “The company wasn't responsive and could never get the right parts. So on the front end—and of course this is with any contract—it's about vetting the provider, getting recommendations, ensuring they have adequate [insurance](#), and making sure you have an easy way out of the contract if they're not being responsive.

“Also, what are their duties under the contract, and what does the contract say about how quickly they'll respond to necessary repairs?” asks Howard. “When you make sure you have the right company in place, they'll know how to help navigate repair issues and minimize the impact on your residents.”

Noelle Hicks, CCAL, a Houston-based shareholder at Roberts Markel Weinberg Butler Hailey PC, who represents condos and HOAs throughout Texas and has been named to the National Black Lawyers Top 100, would review an elevator contract with a careful eye on the contract's payment terms and project management and indemnification provisions.

“I'd also want to know what proper cause for termination would be,” she adds. “I haven't seen any elevator contract provisions I'd necessarily take out. But I'll generally add more language

like mutual indemnification or mutual termination so the association has a way to get out of the contract if they need to.”

Prepare Owners for Service Interruptions

If you do need repairs, it's about making sure they're as efficient as possible to lessen the stress on owners. “Whenever you have an elevator out, there's some liability exposure there,” says Hicks. “But an association is run by volunteers, and board members are required to do what they can. In Texas, condo and HOA boards have different standards of care. Condo boards have a fiduciary duty. For HOAs, it's just a duty of ordinary care.

“When an elevator needs repairs, if you don't have an elevator contract that controls the repairs, I'd recommend the board do what it needs to do to make sure it gets competitive bidding and has picked a vendor to do the repairs in the quickest and best way possible,” she advises. “If that's two weeks, that's just two weeks.”

As much as possible, work to inform owners as early as you can and to make the process as streamlined as possible.

“Unless it's an unexpected outage, which is different, when you move into a high-rise, elevator repairs are sort of the cost of doing business,” says [Zuly Maribona](#), LCAM, the Bonita Springs, Fla.-based senior vice president and partner at **KW Property Management** who oversees the company's southwest Florida, Jacksonville, Orlando, Tampa, and North Carolina operations.

“You knew what you were doing when you moved in,” she adds. “You loved the penthouse, and there's only one way to get there.

“So there has to be a reasonableness as a resident that once it's time to fix the elevator, you know you have to make accommodations,” notes [Maribona](#). “Of course, if there's an opportunity for the association to give you enough notice, it should. The condo should say, ‘Elevator repairs are coming. They're seven weeks away, and you need to make accommodations.’ Then, ‘It's six weeks away; it's coming, and you need to make accommodations.’ Then, ‘It's five weeks away; it's coming, and you need to make accommodations.’ And so on.”

But as [Maribona](#) knows, there may not be time for [notice](#). “We've had condos where we've had catastrophic water loss that has taken down elevators and lobbies,” she says. “We had to put 30-50 unit owners at hotels for a week or two. Insurance typically picks that up for the association. That's an unexpected loss for the condo. If there's an emergent need to leave the building unexpectedly, the association has to take action.”

If it's not one of those emergencies and your building has slower periods, try to take advantage of those low ebbs. “We've had this because we have a lot of high-rise condos in Atlanta,” says Howard. “Your hope is that you'd have one elevator down at a time. And if there's a slow time in the building—for instance, if you have a lot of folks typically gone in June and July—plan for [maintenance or repairs](#) around that down time. But that's not necessarily possible.

“So one way to ease the burden is to make sure at least one elevator is operational, if that's possible,” she suggests. “Also, encourage owners who can easily take the steps to do that to allow for those folks who have more trouble to have more use of the one elevator.

“Otherwise, the association has a duty to maintain and repair the [common element](#) elevators,” says Howard. “So it's also about giving adequate notice so people can make plans if they don't want to be there during the time the elevator is out. Beyond that, I haven't seen—and I don't think an association is obligated to—relocate people while an elevator is out. And they can't carry people up the steps. I don't know what people want condos to do for them.”

Responding to the Inevitable Owner Demands

Howard raises an interesting issue because you'll surely get owners who demand you do *Something! Anything!* when an elevator is down. Is there anything you should—or must—do for them?

Imagine an elevator being down a year. That's what happened to one of the clients of Cary Devorsetz, a partner at Alderman, Devorsetz & Hora PLLC in Washington, D.C., who for 20 years has been representing condos, HOAs, and co-ops in the district. “I've faced no elevator for a year or months,” he recalls. “One was a COVID supply chain thing. There have also been permitting delays, and one condo had to rebuild a whole elevator bank from scratch for a 100-year-old building.

“There's this notion of impossibility in the law,” he explains. “As much as you shouldn't put people in a situation where they can't get to their own home, what's the alternative? There are Americans with Disabilities Act or Fair Housing Act consultants, and you can connect with them to see if they have ideas. And sometimes elevator contractors can offer temporary solutions.

“If there are two elevators, if you can, fix one at a time, even if it's inefficient,” says Devorsetz. “Or if you can, put in a ramp or a chair lift, or rent a portable one to accommodate people. Sometimes we work with the individual who claims they need help. We ask, ‘Here's our situation. What's your idea? How can we help you? In light of the fact that the elevator isn't safe, what do you think it is we can do for you?’

“If they ask you to pay for temporary lodging, I think that's a little much,” he states. “I don't know if this is something the owner's HO-6 insurance policy would cover. Should the condo be giving them a unit on the first floor? The association doesn't own units.

“Sometimes stuff happens,” says Devorsetz.

When owners ask the association to pay for them to stay somewhere else, Howard's immediate thought is: “Do they know the association is them?”

“When I get that kind of response, I say, ‘You are the association. This isn't an apartment owner. The association is made up of the owners in your building,’” explains Howard. “All the owners

could decide that they're going to pay for lodging and put that into the [budget](#). But I've certainly never seen that.”

Nor has Hicks. “I've not seen client associations put people up before,” she says. “One of the associations we represented here had a fire sprinkler system cause flooding and damage, and owners had to be out of their units for the repairs to be made.

“The association didn't put them up anywhere, but their homeowners' insurance coverage stepped in to cover those costs,” says Hicks. “I think it would bankrupt many associations if they had to fund that. I've not seen that happen, and I don't think that's a reasonable thing for an association to have to do.”

Whatever you do, don't ignore owners' requests for help. “If you're a one-elevator building and it'll take weeks for elevator repairs and an owner can't walk up six flights of stairs, it's a case-by-case situation,” says Devorsetz. “Sometimes there's no other solution than the owner not living there for a long period of time. Sometimes there are things you can do, and sometimes there are things you can't do.

“But never hide under the blanket of not engaging in a back-and-forth discussion,” he advises. “At the end of the day, if there's reasonable accommodation, you need to make it. If it's not reasonable, you don't have to make it.”