

ASSET MANAGEMENT OF REAL PROPERTY

This white paper focuses on best practices for the asset management of real property including buildings, grounds, furnishings, and equipment.

by John zumBrunnen, Founder, zumBrunnen, Inc.



Management of Fixed and Moveable Assets

Regardless of whether your responsibility is for a single building, multi-buildings, or a multi-site system, proper management of real property assets is crucial to mission, a process better known as asset management. The first steps of asset management are to identify and record; next, to evaluate, plan and fund; and finally, the programs to preserve and protect real property assets.

The management of fixed and moveable assets is an accounting process that seeks to track assets for the purposes of financial accounting, assessment, preventive maintenance, and theft deterrence.

Many organizations face a significant challenge to track the location, quantity, condition, maintenance, and depreciation status of their assets. A popular approach to tracking assets utilizes serial numbered “asset tags” with bar codes for easy and accurate reading. Periodically, the owner of the assets takes inventory with a mobile barcode reader and then produces a report.

Off-the-shelf software packages for asset tracking and management (work orders) are marketed to small and large businesses. Over the past decade, most software packages have evolved into preventive maintenance (PM) software packages, of which the asset tracking, work orders, and reporting components are a primary function. As PM software has evolved, so has its name; today it is referred to as Computerized Maintenance Management Systems (CMMS) software, discussed in more detail in the Physical Maintenance section of this article.

A physical wall-to-wall validation of all fixed and moveable fixtures, furnishings, and equipment (FF&E) is required for a complete and accurate asset listing. Many large businesses find contracting a consulting firm to provide this service is best. The process is time-consuming and may not be practical for in-house work.

Tracking assets, fixed and moveable, is an important concern of every company, regardless of size. Fixed asset are generally defined as any 'permanently installed' object that is part of the plant facility, and moveable assets are moveable objects used internally by the business and may include appliances, maintenance equipment, vehicles, furnishings, computers, tools, software, or office equipment. Without an accurate method of tracking assets, especially moveable assets, it would be very easy for a company to lose accounting records or even physical control of them.

Asset tracking software allows a company to track:

- ▶ The assets it owns
- ▶ What assets it leases
- ▶ Where each is located
- ▶ Who has it
- ▶ Cost and depreciation
- ▶ Vendor and critical identification data

The reporting option built into most asset tracking solutions provides pre-built reports, including assets by category and department, net book value of assets, assets past due, audit history, technical and vendor information, and transactions. Service records and scheduling the asset for maintenance are more a function of the CMMS software. Companies can reduce expenses through loss prevention, reduce new and unnecessary equipment purchases, and can more accurately calculate taxes based on depreciation schedules.

The most commonly tracked assets are:

- ▶ Buildings and systems
- ▶ Furnishings, art, and accessories
- ▶ Kitchen equipment
- ▶ Health and fitness equipment
- ▶ Office equipment
- ▶ Medical equipment
- ▶ IT equipment
- ▶ Entertainment equipment
- ▶ Vehicles
- ▶ Maintenance equipment and tools
- ▶ Software licenses

The asset tagging procedure usually involves:

- ▶ Handheld data collection devices to capture asset attributes at the point of entry. The operator enters item tag number, location, description, manufacturer, model and serial number, capacity, etc. depending on the sophistication of the software
- ▶ Industrial-strength tags are affixed in a predictable location on the asset
- ▶ Monthly updating to keep records current with asset additions and disposals
- ▶ Review asset tracking reports to ensure accuracy and proper record maintenance

For-profit organizations, especially with large asset inventories, get significant tax advantages by “componentizing” assets. Each taxing jurisdiction establishes taxable values and depreciation rates. Fixed assets providing utility services to equipment constructed as part of a building can be depreciated per the equipment depreciation schedule versus, say, a 40-year building depreciation rate. An example would be kitchen equipment requiring electrical wiring and devices, gas pipe systems, plumbing or waste systems; these auxiliary systems can be depreciated with the equipment.

Certain components of assets, such as software or training costs wrapped into the overall equipment cost, may not be taxable at all. Recording some building or equipment assets, component-by-components, instead of as a bulk-entry can have significant tax benefits. Upgrades can be assigned to relevant components, extending tax reductions over the lifecycle of the asset. These incremental benefits can mean millions in tax savings.

Proper identification and recording of real property assets is the foundation of all asset management programs. Without it, your asset management program will have limited success and may put your mission at risk.

Replacement Planning and Budgeting

Most providers struggle with how much repair and replacement reserve funds are necessary to ensure fulfillment of mission. Nationwide, most providers budget for replacement expenses on either a 5 or 10 year budget plan, and rely primarily on historical data, depreciation schedules, and internal evaluations. Often, covenants establish reserve funds using depreciation schedules. These budget processes are inherently inadequate and risky. The listing and assessment of all assets, and creating 20 to 30 year replacement reserve budgets, is the proper planning and budgeting process.

Forecasting repair and replacement schedules for any senior living community is a complex and detailed process. Replacement schedules seldom track with depreciation schedules, and for non-profit entities, there is no tax benefit to replace an item based on depreciation. Historical data is important in the budgeting process, but its application for forecasting future replacements can be erroneous, since so many factors can change.

For some, replacement timing is primarily a function of availability of funds, coinciding with either failure or obsolescence of an item. The more progressive and financially solvent a community is, the more factors there are to consider when making replacement decisions. Executing strategic planning methods will help manage the process versus reacting to it. One or more of the following drivers affect this process:

- ▶ Financial strength – short and long term
- ▶ Business model – progressive or defensive
- ▶ Efficiency and obsolescence – when is it most cost beneficial
- ▶ Changing demographics and competition – change in use
- ▶ Covenants and contracts – financial and resident
- ▶ Geographic location – climates and terrain
- ▶ Government – changes in codes
- ▶ Proper design, installation and ongoing maintenance – or lack of
- ▶ Damage or loss – storms, fire, other disasters, vandalism, theft

There are 4 primary reasons to plan out 20 to 30 years versus budget planning with periods of time as short as 5 or 10 years:

1. Short-term projections will result in not reserving funds for those items with a longer life. Many of the most expensive replacement items have the longest life cycles: chillers, generators, roofs, etc.
2. If not all items are listed in a budget, then the likelihood of an item being overlooked for a period of years in a short-term budget is highly probable. This shortens the period in time to build up reserves for the item.

3. Reserves from year-to-year can fluctuate significantly. The 80/20 rule applies to most buildings where 80% of replacement expenses will occur around two periods during its life; e.g., for a 20-year design, these would be years 10 and 20. The more number of buildings involved, the more drastically the reserve amounts can fluctuate. A community may be stable at a relatively constant rate for several years, but then a time will occur when the replacement reserves can increase by multiple factors.
4. To minimize funding levels and fluctuations, begin replacement funding the year an item is placed into service.

To budget only 5 and even 10 years into the future is likened to driving a car at 70 miles per hour, and only looking 100 feet past the hood. You will be safe for the first 100 feet, but eventually you encounter an event for which you do not have sufficient time to react, and you crash.

To develop realistic repair and replacement data, the following considerations must be made:

- ▶ Listing and amortization of all assets, regardless of life expectancy
- ▶ Assessment of condition and life expectancy of each asset by experts
- ▶ Pricing based on local and historical data, adjusted to future economic and environmental conditions
- ▶ Proper forecasting of life cycles unique to each asset. Forecasts must reflect the various factors that impact replacement, such as business model and environment

To execute an effective replacement budget program requires a defined process and a qualified team. The process and team should be structured to ensure data will reflect the actual business model, and both the unique physical and financial needs of the community. This requires more than just in-house expertise. This is most successful in a collaborative environment with consensus where the team is a combination of an independent consultant(s) and the various department heads, managed by the executive office. Once complete, the provider should have a plan and budget they have ownership of, is affordable, and can readily maintain.

To ensure objectivity, the consultant managing the assessment and delivering the reports should have no conflicting business relationship with the community. Design professionals that have or may be engaged to provide strategic expansion planning, or project design and construction administration services, should not be the primary consultant. The potential to provide future services, or possible identifying of design or construction deficiencies the professional is already a party to, may influence findings and recommendations. However, design professionals can and should play a role as a resource for planned strategic initiatives and modeling scenarios.

A successful asset management program requires assets be accurately tracked, assessed, budgeted, and funded. Accomplishing these fundamentals sets the stage for the final stages of the asset management process, establishing asset preservation and protection programs.

Physical Maintenance and Preventative Maintenance Programs

Once assets are accounted, evaluated, and funding planned, then comes the task of physical maintenance. To understand the concept of physical maintenance best is first to realize that to achieve excellence within your maintenance program is to implement scheduled and preventative maintenance procedures versus dealing with curative, deferred, and emergency maintenance issues.

For the purpose of this article, the entire physical maintenance process of planning, implementing, maintaining, updating, training and reporting scheduled and preventive maintenance (PM), which may include the use of Computerized Maintenance Management Systems (CMMS) software, is defined as a “preventive maintenance program” (PM program). A PM program includes:

- ▶ Regularly scheduled inspections – inspections of buildings, grounds and equipment by experts
- ▶ Scheduled maintenance of buildings, grounds and equipment – painting, filter changes, oil changes
- ▶ Compliance related work – fire code, life safety
- ▶ Seasonal work – lawn care, seasonal start up of equipment, snow removal
- ▶ Event setups – setting up for a monthly board meeting, setting up for resident events
- ▶ Work orders and repairs – completing in-house repairs or managing repair contractors
- ▶ Managing service contractors – monitoring quality of contract services and service providers

PM is essentially any work completed by maintenance on a scheduled basis. A good PM program is actually very simple at its core, consisting of a list of tasks required at certain times throughout the year. Although simple in concept, it does take effort and planning to design, implement, and maintain. Outside of regulatory/compliance-related tasks (like elevator inspections, generator tests, smoke detector tests, etc.), what you put into your PM program is up to you; keep in mind that, like many things, what you put into it is what you will get out. As discussed in the previous Management of Fixed & Moveable Assets section, an accurate and complete listing of assets is a fundamental component of a good PM program.

Establishing a good PM program results in large dividends. Documented studies show emergency and/or unplanned maintenance costs at least 10X more than PM, in addition to productivity savings and cost savings. An effective PM program extends asset life and reduces operating costs. For example, in the average HUD or CCRC community, a good PM program can reduce energy costs by tens of thousands of dollars a year for HVAC units alone.

There are many options when it comes to managing a PM program. They range from basic paper/card systems, to Excel-based tracking, all the way to fully computerized maintenance software, typically integrated with your asset tracking and work order management. Whichever system chosen, it is important to include the following:

- ▶ A list of tasks required
- ▶ Procedures for how tasks should be completed
- ▶ A recurrence pattern
- ▶ Assets addressed by the tasks

Once a system is chosen, next the areas, assets, and tasks must be identified and entered. This is the real meat of the work; this will include the following areas and assets:

- ▶ Buildings – the facility structure and envelope including the exterior finish systems, roof systems, doors, windows
- ▶ Grounds and maintenance equipment – landscaping and hardscape including sidewalks, drive lanes and driveways, parking lots, exterior lighting, benches, signage, lawn maintenance equipment
- ▶ Fixed equipment and controls – air handlers, compressors, cooling towers, boilers, chillers, duct work, piping systems, pumps, elevators, electric doors, trash compactors,
- ▶ Moveable equipment (commercial and residential) – kitchen, laundry, sport, AV, music, telephone, communication, office, other amenity related equipment
- ▶ Transportation – all vehicles including carts, cars, trucks, vans and buses
- ▶ Fixtures, furnishings and specials – common area furnishings including art and accessories, carpet, window treatments, ceiling tile, fireplaces
- ▶ Life Safety Equipment – sprinkler control systems, fire extinguishers, fire pumps, smoke detectors, fire alarm panels, emergency generators, emergency transfer switches, and nurse call systems

When building up the task list, include all scheduled tasks whether in-house or contract. Once the task list is built, it is time to define the jobs and schedules within each task. A task can vary significantly in complexity. Many tasks involve a simple preventive maintenance 10-minute inspection or service and review based on a short checklist versus some tasks such as the overhaul of a piece of equipment.

There are a number of resources available to help build out your PM program task list, including:

- ▶ Existing lists – anything you currently have setup
- ▶ Regulatory requirements – NFPA guidelines
- ▶ Vendors and manufacturers – contact them directly for suggested maintenance plans, or download programs from their websites
- ▶ Service contractors – have them share the details of tasks they are completing for you, and ask for suggestions on PM your staff can perform

Ongoing training is another fundamental of a successful PM program. Regularly send maintenance staff to educational sessions sponsored by associations, vendors, and manufacturers. AASHA has established a relationship with Building Owners and Managers Institute International, www.bomi.org, for training and various levels of certification for maintenance staff. More and more, training is becoming accessible via the internet at little or no cost other than time.

Once your PM program is up and running, review its effectiveness on a regular basis. CMMS software programs provide the reports needed to track your success. Regularly check to see if new tasks need to be added or procedures modified, and consider how the PM program affects replacement reserve planning. Issues identified during regular building, grounds, and equipment checks can be used to accurately predict future capital needs due to asset replacement; discussed in the previous section, Replacement Planning and Budgeting.

Preventative Maintenance Program Software

A PM program can only be as effective as is the management of its data. The amount of data managed, including accuracy, record keeping, and reporting, determines if the data management system can be paper based (manual) or electronic (software). The key question: is a Computerized Maintenance Management Systems (CMMS) software program required for your PM program to be successful? For sites with approximately 50 or less units, it is possible to operate effectively on a basic paper system; for some smaller communities, software may not be the right investment. Sites between approximately 51 and 120 units can see a real return on investment in some form of computerization; increases in productivity, efficiency and satisfaction. For those communities above 120 units, it is very difficult, especially in the long term, to manage effectively without some level of CMMS software.

With all of the computer programs available (from managing the fire system, building temperatures, and even the phone system), it is important to identify which options are crucial; these can have a huge impact on your PM program, providing a tool to manage and organize the maintenance departments. It is fundamental to expect productivity gains and reduced turnaround time on work orders, and experience longer asset lives while increasing staff and resident satisfaction.

If CMMS software is something to consider, keep in mind software on its own is never an answer in and of itself. A successful deployment requires training, implementation, and teamwork. Time should be allotted for the setup of the program, and staff and residents should be educated in what is being done, why, and how it affects them individually. This will help ensure a successful deployment for years to come.

Various CMMS software programs come with varying levels of features and functions. The key to a successful deployment is to decide what tasks and benefits are fundamental, and focus on those functions first. A typical software package can include:

- ▶ Work Request Functions – ability for front line staff and residents to submit requests for work
- ▶ Work Order Management – allowing maintenance to accept, prioritize, assign and manage requests
- ▶ Preventative Maintenance – providing pop-up reminders for required tasks as well as procedures and time estimates
- ▶ Quality Assurance Dashboards and Reporting – provide snapshot details on key metrics like overdue work orders, inventory reorder, contracts terms, etc.
- ▶ Asset Management – tracking historical repairs and asset details such as identification, warranties, estimated life spans, cost, vendors, etc.
- ▶ Contractor and Staff Management – who's doing what work for how long
- ▶ Reporting – using the data collected to report to maintenance and management
- ▶ Inventory & Purchase Order Tracking – where supplies go and inventory management
- ▶ Resident Billings – for special/additional maintenance work
- ▶ Maintenance Staff Handhelds – for completing work, adding work in the field, etc.

Many of the CMMS software packages on the market have been designed for the industrial or manufacturing sectors; these products are generally complex and do not address the resident-focused nature of the senior living field. The good news is there are packages designed for senior living organizations with features, functions, training, implementation, and templates specific to the field.

Look for a CMMS software and vendor that:

- ▶ Is easy to use
- ▶ Can be customized to your site – can your buildings be called what you already call them?
- ▶ Uses language and acronyms unique to the field and familiar to your staff
- ▶ Features built-in reports designed to your real business needs – the vendor should know your business model and reporting needs
- ▶ Comes with an implementation plan including setup and training
- ▶ Provides ongoing support and training programs – personnel changes may require additional training and support
- ▶ Has a proven history of successful deployments in your field

Keep in mind, you should feel comfortable working with your CMMS software vendor as a partner in the deployment and ongoing management of the software. The complete success of your PM program may depend on this relationship.

In-House Maintenance Versus Service Contractors

There are various types of maintenance services that can be outsourced, such as landscaping, HVAC mechanical systems, elevators, laundry equipment, and life safety equipment, to name a few. Regardless of the size of a community, almost every community will benefit by outsourcing some maintenance services. The initial thought process for most is the more that can be managed in-house, the better, based on having direct managerial control and on the assumptions that it will cost less. However, these assumptions are not always correct. Often times, outsourcing is more cost efficient, has lower managerial risk, and produces better results. This especially applies to special systems and equipment, eg, elevators. Considerations are quite the opposite when evaluating contracts such as landscape maintenance. For communities with large grounds to maintain, managing the additional staff and equipment can prove expensive and problematic, where outsourcing may prove best.

Larger communities typically have the most opportunities to justify outsourcing. Regardless of the size of your community, there are pros and cons to both scenarios, and the decisions as to which services to keep in-house are best made when considering all aspects.

In-house maintenance:

- ▶ In-house maintenance staff oftentimes seems like firemen, moving from one “emergency” to another. In this situation, routine maintenance may be interrupted or omitted altogether, by more pressing matters.

- ▶ In-house staff must be a “jack-of-all-trades”, and may be less than the best at certain types of equipment and systems; especially most challenging for smaller communities.
- ▶ In the event of an emergency, in-house service usually responds quicker than a contractor can.
- ▶ Many residents become acquainted with in-house maintenance personnel and derive a certain level of comfort from the relationship. This is especially important when maintenance is performed in a resident’s own unit.
- ▶ Employing, training, and managing the various maintenance staffs have added challenges and unique risk considerations.

Service Contractors:

- ▶ Formal reports are provided by the contractor providing assurance that maintenance is actually done and records maintained; they are less subjected to interruptions resulting in deferred maintenance.
- ▶ Should have extensive training, varied experience and, therefore, should be highly competent.
- ▶ Should remain current with federal, state, and local regulatory requirements (i.e., OSHA), mandated reporting requirements, and changes to codes, trends, and improvements making the necessary changes and recommending improvements.
- ▶ Can usually spot problems not seen by less-experienced in-house staff.
- ▶ May provide their own equipment, materials, and storage.
- ▶ Certain jobs requiring unique skill sets may only be needed on a very limited time basis.

Following is a list of maintenance services frequently provided by service contractors:

- | | |
|------------------------------------|---------------------------------------|
| ▶ Landscape and grounds | ▶ Elevators |
| ▶ Pest control | ▶ Fire extinguishers |
| ▶ Snow removal | ▶ Kitchen hood & grease trap cleaning |
| ▶ Trash removal | ▶ IT, sound and communications |
| ▶ Central plant and HVAC systems | ▶ Biohazard waste |
| ▶ Fire sprinkler and alarm systems | ▶ Ponds and pools |
| ▶ Emergency generators | |

Key Components of a Service Contract

As previously stated, you are most likely to require some maintenance and service contractors. Develop corporate standards for your contracts to ensure contracts are complete and protective provisions in place. It is best to have a checklist of standard contract terms and conditions that have been reviewed by council and your insurance companies. Established and national contractors typically have a standard contract; do not hesitate to negotiate terms and conditions.

The following contract features should be included in most all service contracts:

- ▶ Names and contact information of contractor and owner with space for signatures
- ▶ Parties and contact information to be notified pertaining to emergencies

- ▶ Address of property where services are to be provided
- ▶ Date of contract and term of service: beginning and end dates (usually one year)
- ▶ Renewal notification requirements and approvals versus automatic renewal
- ▶ Escalation provisions: consider tying price increases to previous year CPI
- ▶ Define fulfillment of the contract for both parties
- ▶ Scope of service: description of service to be performed to property or each piece of equipment including frequency of service
- ▶ Description of equipment being serviced: quantity of items, names of manufacturers, model and serial numbers, and location of items
- ▶ Schedule: normal days and hours and after hours/overtime schedule
- ▶ Hourly rates for work performed outside the contract scope
- ▶ List of any parts or materials to be included in the scope of the contract, such as fertilizer, oil, gas, repair parts, filters changes, tune-ups, etc.
- ▶ List of tools and equipment to be provided and maintained by either party
- ▶ Costs for each inspection or maintenance service, e.g., price of monthly service for a defined item, say for a chiller, versus annual for a more extensive scope of work
- ▶ Seasonal requirements, inclement weather and holidays; note any cost or schedule changes that may be affected by such
- ▶ Reports: include report samples and reporting schedule; reports should identify time of service, service technician, service and parts provided, test reports, special conditions or problems, and additional scope required or recommended
- ▶ Payment provisions/terms: include payment cycle, late payment terms, where/how payments are made, and contact information for both parties
- ▶ For critical services: for emergency calls or a disaster response plan, ensure services will not be interrupted or unnecessarily delayed
- ▶ Provisions stating that either party can terminate contract at any time after giving a 30-day notice, or other termination provisions
- ▶ Warranty: this must be clear and list specifics including the term of the warranty
- ▶ Insurance: automobile, liability and workman's comp to meet federal, state and local laws and your corporate standards
- ▶ Compliance with OSHA: note future requirements may be taken as an exception
- ▶ Indemnification: indemnify either party from fines, damages and legal fees due to the negligence or crimes of the other party, employees or agents
- ▶ Transfer clause: the owner must be notified with sufficient time to approve any transfer of contracted services to others
- ▶ Exclusions: provide clarifications and specific exclusions

Ultimately, the best contract is a fair contract. Place the responsibilities and liabilities on the appropriate party.

Key Elements of Building Security

Security is about protection and prevention, important facets of asset management in the overall operation of senior living communities. In past years, high-profile cases of unauthorized entry, theft, and abuse has heightened the need for security. A secure living environment gives comfort to the residents and the families who are entrusting their loved ones to your care. The key areas and issues to building and grounds security are:

Security Equipment and Systems:

Every facility should have state-of-the-art CCTV equipment to monitor and record day-to-day operations and areas of the building where security personnel cannot always patrol. Good coverage with continuous taping of common and living areas, property and building entrances, parking garages, and grounds is a sound prevention tactic. The knowledge that security cameras are recording day-to-day patient care activities helps ensure quality care is administered, and that neglect or abuse will be detected and dealt with by management.

Doors, Door Hardware/Keying & Locks:

Qualified security consultants should evaluate automatic locks, keyless entry and wander guard systems, and remote control of locks at workstations to ensure the entire system is properly integrated so unauthorized personnel cannot enter. Residents in Alzheimer or Memory Care Units require monitoring so they do not wander outside the boundaries of their designated areas and care givers. A complete key control system is required so issuance of keys is secure. This includes issuance of master keys to staff and maintenance personnel.

Regular inspections documenting security equipment, doors, doorframes, and hardware are in good operating condition are fundamental. Security technology continues to evolve, becoming more sophisticated, intelligent, expensive, and oftentimes overly complicated. These systems are in active use every minute of every day, crucial to your operation, safety, and security. When considering modifications or a new security system(s), do your homework to understand fully how these systems interact and affect your daily routines; only buy after getting detailed references from other communities.

Lighting:

Proper light levels in surface parking lots, parking garages, stairwells, exit corridors, and around the perimeter of the building are key components of a secure and safe community. If, at any time, you feel that light levels are not adequate for resident and staff safety, commission a lighting consultant to take foot-candle illumination readings in these areas to ensure they meet current code requirements and good practice.

Landscaping:

Plan the plantings of large trees and shrubs so not to provide hiding places near entry doors or parking lots, or cause blind spots for drivers at intersections or crosswalks. Incorporate a regular trimming maintenance program to prevent landscape from overgrowing in these areas.

In addition to the above security features for buildings and grounds, there are overall security management concerns to address to ensure a high level of security; they are:

Hiring Practices for Staff:

Prior to hiring any staff members, complete background checks and drug testing by independent consultants and labs. Random drug and alcohol testing, with strict disciplinary actions spelled out up to and including termination, should be a part of employment contracts so all staff is keenly aware of your drug free policy.

In-house Security Staff:

Security guards provide more than just security; they are an important part of your safety program and they are usually the ones to establish first impressions when welcoming residents, visitors, and potential future residents. Below is a brief guideline to review in developing security staff policies:

- ▶ Maintain a well-groomed appearance; wear only clean, pressed, and approved uniforms with shined shoes and nametag.
- ▶ Acceptance of gratuities should not be permitted.
- ▶ Provide a written policy in accordance with all laws pertaining to use of force, self-defense, defense of others, accident investigation, handling small disturbances, working with and handling police reports, search and seizer, traffic control, vehicle use, and admission of liability.
- ▶ Provide a written policy defining the role of security in emergencies and disaster-relief situations. This includes defining types of first aid and assistance that only trained security staff will provide. Examples include CPR, AED, or other life safety services; assist residents, management, and nursing staff with evacuation.
- ▶ Provide a written policy defining the regular duties, schedules, and emergency procedures. This includes operating various security stations and equipment, assisting individuals to and from parking lots, traffic control, assisting emergency vehicles and personnel, and performing security checks such as a watch clock system or other routine security procedures.

Contracts with Security Companies:

Outsourcing security is always an option. Detailed interviews and background checks are a primary component of the selection process. Continuous monitoring of the contractor helps ensure services are provided, e.g., number of rounds, interaction with residents and staff, adherence to emergency procedures, etc. Contracted security staff should comply with the same security policies and procedures as detailed above.

Occupational Safety and Health Administration (OSHA)

“Safety first” may be a common cliché, but it is fundamental in the management of your assets, whether it be real property or the safety of employees and residents. Vital concerns involve safe practices in daily operations, equipment maintenance, and storage and handling of hazardous materials including infectious wastes. The federal government has entrusted the oversight of workplace hazards to the Department of Labor’s Occupational Safety and Health Administration, more commonly known as OSHA. OSHA inspectors can visit your community and review safety procedures and issue fines and citations if you are found to be in violation of OSHA regulations, which could also apply to incomplete or inaccurate recordkeeping and documentation or postings. OSHA is mandated to be self-funded, funded by the fines it imposes.

OSHA responds to complaints by persons reporting unsafe practices, hazardous materials, odors, and so forth. Every employer must have programs in place to comply with OSHA standards. Some key points to remember in these standards are the presence of eyewash stations, easily accessible material safety data sheets (MSDSs), lock-out/tag-out procedures, personal protective equipment, handling hazardous and infectious waste and disposal, and incident reporting and recordkeeping. Each standard has the following main components: written program, education and training programs, material and equipment safety data logs, and inventory and recordkeeping. All the standards discussed below in part can be viewed in detail on the www.osha.gov website.

OSHA Hazard Communication Standard (HCS):

Protection under HCS includes all workers exposed to hazardous chemicals in all sectors; Fact Sheet No. OSHA 93-26. This standard is based on a simple concept: employees have both a need and a right to know the hazards and identities of the chemicals they are exposed to, and what protective measures are available to prevent adverse effects from occurring. The HCS covers both physical hazards (such as flammability or the potential for explosions) and health hazards (both acute and chronic effects). By identifying hazards and providing precautions for safe use, the illnesses and injuries caused by chemicals are reduced. Employees are better able to effectively participate in these programs when they understand the hazards and know the steps to take to protect themselves. Detailed records require a notebook of all Hazardous Material Data Sheets provided by manufacturers and lists of all known chemicals in use.

OSHA Standards for Lock-Out/Tag-Out Procedures:

The OSHA standard for the Control of Hazardous Energy (Lock-out/Tag-out), Title 29, CFR, Part 1910.147, addresses practices and procedures necessary to disable machinery or equipment, thereby preventing the release of hazardous energy while employees perform service and maintenance activities. These energy sources include electrical, mechanical, hydraulic, pneumatic, chemical, and thermal sources. A lock-out/tag-out standard establishes the employer’s responsibility to protect employees from these dangers. This program is required to be tailored to your community and to suit the particular needs of the types of equipment and machines being maintained and serviced.

OSHA Standards for Bloodborne Pathogens:

In 1991, OSHA issued the Occupational Exposure to Bloodborne Pathogens Standard Title 29, CFR, Part 1910.1030, designed to protect approximately 5 to 6 million workers in healthcare and related occupations from the risk of exposure to bloodborne pathogens, such as the Human Immunodeficiency Virus (HIV) and the Hepatitis B Virus (HBV). This standard has numerous requirements, including the development of an Exposure Control Plan. It includes rules specific to certain types of wastes generated at healthcare facilities, termed “regulated waste.” Regulated waste includes blood and items contaminated with blood or other potentially infectious materials (OPIM). This standard covers the management of contaminated sharps, regulated waste, communication of hazards to employees, and training. It is important that you be aware of the employer responsibilities mandated in this standard.

OSHA Standard for Indoor Air Quality/Sick Building Syndrome:

OSHA has no indoor air quality (IAQ) standards, but it does provide guidelines addressing the most common workplace complaints about IAQ. Complaints are typically related to temperature, humidity, lack of outside air ventilation, or smoking. However, when IAQ complaints move beyond matters of comfort to potential hazardous conditions leading to serious physical harm or death, OSHA standards become applicable. Such standards may include those for specific air quality contaminants, ventilation systems, or the General Duty Clause of the OSHA Act. IAQ concerns increased during the 1970s when energy conservation measures were instituted in office buildings. These measures minimized the introduction of outside air and contributed to the buildup of indoor air contaminants. Other terms related to IAQ include indoor environmental quality (IEQ) and “sick building syndrome” (SBS).

OSHA Guidelines for Nursing Homes:

Relatively new are the Guidelines for Nursing Homes – Ergonomics for Prevention of Musculoskeletal Disorders, OSHA 3182-3R (2009), issued as recommendations designed specifically for nursing homes. The guidelines are advisory in nature and are not legal standards enforceable by OSHA. The standard primarily deals with proper techniques for positioning, re-positioning, and lifting of patients to help reduce the number and severity of musculoskeletal disorders including back pain and injuries, sciatica, rotator cuff injuries, and carpal tunnel syndrome. However, the standard does include good recommendations for other tasks such as are involved in housekeeping, cleaning, and handling of heavy items such as laundry and supplies.

OSHA has various publications, technical assistance, and compliance tools to help you and offers extensive assistance through its many safety and health programs: workplace protection programs, grants, strategic partnerships, state plans, training, and education. Guidance such as OSHA’s Safety and Health Management Program Guidelines identifies elements that are critical to the development of a successful safety and health management system. This and other information are available on OSHA’s website www.osha.gov; regional offices located in major cities can be contacted directly.

Insurance

The final section of this paper focuses on insuring your assets from the potential impact of costly lawsuits. When evaluating insurance, whether it is property and casualty; directors and officers; the various liability policies; worker's compensation; or others, there are three primary considerations:

- ▶ Premiums
- ▶ Payouts for deductibles
- ▶ Appropriate coverage

For policies with deductibles, it can be said that premiums and deductibles go hand-in-hand; some liability policies have no deductible. Industry experts report that a frequent misconception is a high deductible will be justified by premium savings. Although there is never an equal reduction in premium to the deductible amount, some key factors are the frequency and severity of claims. Other factors that affect deductibles are type of coverage, financial size of the corporation, and evaluations of the underwriters. Ultimately, the deciding factor is the insured's appetite based on underwriter approval. If an insured's past history shows a low frequency, a higher deductible may make sense. However, in some of these cases, the insurance company may also require a Letter of Credit. Typically, it takes an average of two or three claims to erase premium savings.

There are four primary insurance forms to choose from, they are:

- ▶ Traditional Insurance
- ▶ Captive Insurance Company
- ▶ Self-Insurance – Individual
- ▶ Self-Insurance – Group Trust Fund

Traditional Insurance:

This is coverage placed through insurance companies without having to make a capital contribution up front or maintain trust assets in excess of liabilities. As to the different approaches to insurance, the marketplace usually dictates, by cost, as to what an insured can or will do. In a hard market, high cost, alternative ways to traditional insurance are more likely to be explored. In a soft market, traditional insurance may prove more attractive, as coverage becomes less expensive so higher limits become more affordable. Driven by ever-increasing costs, providers will continue to evaluate approaches to insurance other than the traditional insurance forms such as the captive and self-insurance programs outlined below.

Captive Insurance Company:

- ▶ Owned/capitalized by the businesses they insure; ownership is unlimited
- ▶ Can be a single-parent policyholder
- ▶ Participants pay in capital to start; \$500,000 or less depending on domicile

- ▶ Can be used for any line of coverage
- ▶ Can set up anywhere worldwide where there is a captive law
- ▶ Eligible to be rated by an independent rating agency
- ▶ Can be fronted by any willing licensed primary insurer
- ▶ Have been in existence for more than 100 years

Captive Insurance Company Pros:

- ▶ If successful, members can receive dividends
- ▶ States may elect not to require using rates or forms published by NCCI or ISO, or be subject to typical insurance regulations
- ▶ Do not have to be homogeneous industries that join
- ▶ Once established can be certified as a “risk retention group” (which changes some of the above parameters, and pros and cons)

Captive Insurance Company Cons:

- ▶ A state may not allow participation in the state Insurer’s Insolvency Pool
- ▶ A state may not require participation in Self-Insurers Guaranty Trust Fund
- ▶ A state may not require participation in the Assigned Risk Plan
- ▶ If not successful, members may lose their capitalization
- ▶ To remain solvent, members may be special assessed based on % participation
- ▶ Joint and Several Liability, but is capped or limited to a maximum per member

Self-Insurance – Individual:

Typically only feasible if paying over \$500,000 in premium since state and other costs require minimum of \$500,000 in expenses for:

- ▶ Certified feasibility and actuarial studies
- ▶ Letters of credit
- ▶ Establishment of a claim fund
- ▶ Assessments and fees
- ▶ Hiring third-party administrator to pay claims
- ▶ Possibly purchasing excess insurance
- ▶ Hiring defense attorney; as an entity it is its own insurance company and must provide insurance company services
- ▶ Usually not approved if combined premium is not over \$1,000,0000

Self-Insurance – Individual Pros:

- ▶ The primary goal here is to significantly lower cost

Self-Insurance – Individual Cons:

- ▶ Initial capital investment
- ▶ Maintaining trust assets to fund liabilities

- ▶ Finding expertise to start and maintain the program; risk of failure

Self-Insurance – Group Trust Fund:

Provides alternative insurance form through which members of trade associations and other groups can obtain insurance coverage. The legal procedures to establish the group trust are similar to those for Self-Insured – Individual.

- ▶ Two or more employers which perform related activities
- ▶ Maintain an adequate net worth as specified, usually \$1,000,000 or more

Self-Insurance – Group Trust Fund Pros:

- ▶ Lower cost
- ▶ Benefit of membership in group
- ▶ Potential to stabilize costs over time

Self-Insurance – Group Trust Fund Cons:

- ▶ Unlimited Joint and Several liability for claims of other members
- ▶ Possible assessments to cover excess claims if reserves are inadequate
- ▶ No Guaranty Fund if not successful
- ▶ Finding organization with expertise to start the fund; high failure rate

In today's market, the bulk of the lawsuits are employment, general/professional, and Fair Housing claims. Breach of Contract claims regarding "aging in place" is becoming an issue for all levels of care, particularly CCRCs. Furthermore, due to the growth in legislation and technology, the need for cyber and privacy protection is becoming more relevant. The number of claims associated with document loss, and cyber and privacy theft, is growing. Over the next decade, these claims may prove to be the fastest growing trends. Until court tested, the impact of these risks will be difficult to assess.

To simply state that navigating the waters of the world of insurance is extremely complex and confusing, is a gross understatement. To put in place policies with the lowest possible premiums, while minimizing risk with appropriate coverage, requires a great individual and team effort. To ensure success, build a team of professionals, each with significant expertise in the senior living field.

About the Author:

John zumBrunnen is Founder of zumBrunnen, Inc., an independent construction and building consulting firm founded in 1989. zumBrunnen has a BS in mechanical engineering from the University of North Dakota, completed the US Army Corps of Engineers Training Program in 1972, and is a member of LeadingAge on national and state levels. zumBrunnen has 40+ years of experience in construction, property assessment, development, and reserve budgeting. He is the inventor of the FacilityForecast® software system and a respected author and speaker in the industry.