

June 13, 2020

Dear Unit Owners:

As you are aware, association amenities were closed earlier this spring due to concerns about the COVID-19 pandemic coupled with orders from the Governor of Connecticut. Your Board of Directors and REI recognize that these are trying times and that not having access to amenities has only made matters worse for you. We understand that many owners have been anxiously awaiting Phase Two of Connecticut's plan to re-open. Further, we most certainly are aware that owners were excited to learn that Phase Two was moved up from June 20, 2020 to June 17, 2020.

It is true that association amenities can open come June 17th. That is well known as is the fact that the state has provided rules that must be followed in order to do so. They are somewhat burdensome and costly, compared to pre-COVID-19 requirements. But, admittedly, they are not insurmountable. Unfortunately, it is the information that owners are not hearing about, that is of most significance to you, your Board of Directors and management. That information is that national and Connecticut based community association experts, in both the insurance and legal fields, have unanimously counseled our boards to not open amenities at this time.

Community associations have various insurance policies in place to protect all owners, their elected officials and management. Let us focus on two critical components of the standard protections that virtually all associations purchase - liability and directors/officer's insurance. The experts mentioned above have opined that should litigation be brought against the association and/or its board of directors, due to a COVID-19 health matter, there would be no legal defense nor indemnity provided to the association, the board or management (which your association indemnifies). As you can imagine, this places a great deal of risk at the feet of board members and, therefore, all unit owners. While I cannot speak for every board and every board member, I do think it is fair to say that this risk, and the lack of insurance coverage, is the main reason why our clients have voted not to open amenities at this time.

Certainly, there are many other factors that went into the decision-making process. However, can you imagine a board of directors being told by their legal and insurance counsel to not open amenities and they ignore that advice? Do you believe that your elected board members would have properly fulfilled their fiduciary duties to all unit owners if they did open the amenities despite this advice? It is the boards charge to protect the associations assets. To open amenities under the present health conditions, the state required rules in order to do so and the lack of protection from litigation flies in the face of their charge as your board. My opinion, community association directors were left with no choice but to keep your amenities closed.

Other reasons that gave boards concern about opening amenities that have been discussed for weeks now...

Sincere health concerns for owners, residents and the extended group of people they meet.

States that were late with restrictions, loose with restrictions and/or have already loosened restrictions are already seeing a significant rise in the rate of infections. Look at daily statistics that are released by John Hopkins University. Over the last week, those states that have seen a double digit increase of infections include - CA, TX, FL, NC, AZ, TN, AL, MS, SC, UT, AK, NV, OK and OR. The U.S. is not in an enviable position at this moment.

With the rules that are required, the pool would be very limited in terms of just how many people could be served. Occupancy must first be cut by 50%. Paths must be marked off for “walkways” around the pool area. Space assigned to a pool occupant must then have a 6-foot gap between them and the next space assigned to a pool occupant. Picture your pool deck and imagine how – just how much space there is there left for visitors?

Having to document a plan that fits your amenities and hiring staff to implement the plan. Now you have an added risk - staff getting sick, staff not fulfilling their duties, a staff injury from improper use or an accident using strong cleaning chemicals and staff being confronted by owners while trying to enforce the rules.

Who will serve as the rule required Program Administrator (the person responsible for implementing the rules)? How will they be protected from litigation?

These are not normal times - we need to be very careful about trying to rush back to normal.

Considering the number of people that have been sick (over 2M) and/or died (113K), is sacrificing amenities too much to ask of owners?

Opening amenities at community associations is really not the same as re-opening business that are fighting for survival.

The state, cities and towns have a much higher legal threshold when it comes to an individual bringing litigation against them. Community associations do not.

Waivers are generally not legally enforceable in Connecticut. You cannot waive the rights of a minor. You cannot waive the rights of people who get infected by someone that did sign a waiver.

Insurance experts have already indicated the specific exclusionary COVID-19 language will be coming out 7/1/2020 in all new and renewal liability policies.

For your further edification, the following information is from the State of Connecticut...

Guiding principles:

Individual businesses within sectors allowed to open are empowered to make their own choice as to when they reopen. When they open, they must comply with rules we lay out to safeguard their employees and customers (unit owners).

Social distancing, hygiene and personal protection is required for workers and customers (unit owners).

Capacity limit – 50% of normally allowed capacity.

Strict cleaning and disinfecting protocols must be followed.

Those in high-risk groups (comorbidities) and over the age of 65 should continue to stay safe and stay home.

Facemasks should continue to be worn in public at all times.

Social gatherings will be restricted in accordance with the Governor's executive order.

Re-opening Process:

Share re-opening rules with your employees and inform them of any additional specific measures being taken in response to COVID-19.

Appoint a program administrator who is accountable for implementing these rules.

Develop cleaning checklists that incorporate these rules. Ensure it is clear which employees are responsible for implementing the plans.

Institute a training program and ensure employee participation in the program prior to reopen. Training shall include rules contained in this document and protocols on how to clean and use cleaning products (incl. disinfectants) safely. Additional guidance can be found here: https://osha.washington.edu/sites/default/files/documents/FactSheet_Cleaning_Final_UWDEOHS_0.pdf.

PERSONAL PROTECTION - Estimate required personal protection for employees and begin procuring.

THOROUGH CLEANING - complete a thorough cleaning of facility prior to reopening, including bathrooms, equipment, desks/workstations, etc.

LOG EMPLOYEES - maintain a log of employees on-premises over time, to support contact tracing.

SHIFTS - stagger shift start/stop times and break times to minimize contact across employees.

Capacity Tracking - employers are responsible for enforcing revised capacity limits (50%).

Certification – complete the self-certification process.

Physical Space Set Up

One-way foot traffic in and out of the amenity.

Acquire and install signage - social distancing protocols, cleaning/disinfection protocols, personal protection protocols (masks/gloves), stay home if sick - staff, residents shall not enter if they are experiencing symptoms.

Ventilation - increase ventilation rates and make up air.

Social distancing markers - CH, gym, locker rooms, around pool.

Temporarily close common areas, check in areas, etc.

Timing - limit openings to decrease congestion and allow for additional sanitizing.

Intraday cleaning all equipment – frequently.

Install touchless appliances - wherever possible, paper towels dispenser, soap dispenser, trash cans.

Post clear signage – 211 hotline for rule violations.

Shared equipment – thorough cleaning after every use.

Locker Rooms – disable every third locker, remove seating (other than benches by lockers), disable steam rooms and saunas, showers attended and sanitized between each use, water fountains for refilling only. Disable or close-off showers except for rinsing before and after any pool activity. If independent showers are available and used, they must be attended and sanitized between each use.

Pool Specific

Limit patrons, 6 feet social distance, 3-foot-wide walking paths.

Cleaning/disinfecting at least daily - handrails, chairs, tables, door handles, gate touch points, bathrooms, etc.

Patrons should arrive in swim wear.

Change deck layouts to ensure that in the standing and seating areas, individuals can remain at least 6 ft apart from those they do not live with. Additional information can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/community/parks-rec/aquatic-venues.html>.

Provide physical cues or guides (for example, lane lines in the water or chairs and tables on the deck) and visual cues (for example, tape on the decks, floors, or sidewalks); and signs to ensure that staff, patrons, and swimmers stay at least 6 ft apart from those they don't live with, both in and out of the water.

No sharing of personal and/or facial items such as goggles, nose clips, snorkels, or caps.

Personal Protection

PERSONAL PROTECTION FOR EMPLOYEES

All employees are required to wear a facemask or other cloth face covering that completely cover the nose and mouth, unless doing so could be contrary to his or her health or safety due to medical conditions.

Employees may utilize their own cloth face covering over that provided by their employer if they choose.

Gloves and eye protection are required when using cleaning chemicals.

EMPLOYERS ARE RESPONSIBLE FOR PROVIDING PERSONAL PROTECTION TO THEIR EMPLOYEES

If businesses do not have adequate personal protection, they cannot open
PERSONAL PROTECTION FOR CUSTOMERS

Customers are required to bring and wear masks or cloth face coverings that completely cover the nose and mouth unless doing so would be contrary to his or her health or safety due to a medical condition. Customers do not need to wear a mask while engaged in physical activity if 12 ft of distance can be maintained. But, should as they enter and exit the facility and use the restrooms.

Cloth face coverings shall be worn throughout these facilities, except for while swimming/showering unless doing so would be contrary to his or her health or safety due to medical conditions. Cloth face coverings can be difficult to breathe through when they are wet.

Cleaning and sanitizing

Hand sanitizer shall be made available at entrance points and common areas, where possible.

Ensure employees wash their hands routinely using soap and water for at least 20 seconds.

CLEANING, DISINFECTANT PRODUCTS, &/OR DISPOSABLE DISINFECTANT WIPES

Make available near commonly used surfaces, where possible, e.g. Machinery and equipment, Free weights, Bathrooms

BATHROOMS - clean and disinfect frequently and implement use of cleaning log for tracking. Clean multiple times a day and hourly during busy times.

INTRADAY CLEANING - Employees shall clean all equipment frequently, and customers must wipe down equipment after each use. This includes free weights.

CLEANING & DISINFECTING - businesses shall follow federal guidelines (CDC, EPA) on what specific products shall be used and how.

Use products that meet EPA's criteria for use against SARS-CoV-2 and that are appropriate for the surface. Prior to wiping the surface, allow the disinfectant to sit for the necessary contact time recommended by the manufacturer. Train staff on proper cleaning procedures to ensure safe and correct application of disinfectants.

Disinfectants are irritants and sensitizers – they should be used cautiously.

Avoid all food contact surfaces when using disinfectants; these surfaces should be sanitized instead.

Clean and disinfect common areas, high transit areas, and frequently touched surfaces on an ongoing basis (at least daily) and more frequently if used more often. Clean and disinfect shared objects after each use. Examples include - Entrances and exits, water bottle refill stations

Health guidance for employees

DAILY HEALTH CHECK - ask employees resuming on-premises work to confirm they have not experienced COVID-19. CDC-defined symptoms and to monitor their own symptoms, including cough, shortness of breath, or any two of the following symptoms:

- Fever
- Chills
- Repeated shaking with chills
- Muscle pain
- Headache
- Sore throat
- New loss of taste or smell

Employees should stay home if sick.

IN THE EVENT OF A POSITIVE COVID-19 CASE - Employees shall inform their employers and follow state testing and contact tracing protocols.

LEAVE – employers shall adhere to federal guidance pertaining to paid leave for employees and provide this guidance to employees. Employers shall post the Families First Coronavirus Response Act (FFCRA) Department of Labor poster. The poster can be accessed at:

<https://www.dol.gov/agencies/whd/posters>

- Additional guidance can be accessed at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

WHISTLEBLOWER PROTECTION

Employers may not retaliate against workers for raising concerns about COVID-19 related safety and health conditions.

Additional information for the public sector can be accessed at www.connosha.com

Additional information can be accessed at www.whistleblowers.gov

We hope all owners will now have a better understanding about the dilemma your board faced and the many factors that went into their decision to not open the amenities at this time.

Sincerely,

Arthur C. Stueck II

President

REI Property and Asset Management