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The California Self-Storage Report

California Self Storage Association

Volume 2, Issue 4

A letter from our Association President - 2008 Results & 2009 Plan

By: Jim McNamee - CSSA / West Coast Self Storage Group

Hello all, hope all of you are well in these difficult times. Since this is our last newsletter of 2008 I wanted to take this opportunity to review the progress of the Association in 2008 versus our plan and communicate the key elements of our 2009 plan.

In 2008, our goal was to increase membership revenues by 20% focusing in three areas: networking, education and legislative advocacy. With regard to networking and education, our plan was to expand the reach of the Association with more events and better content since these areas have been longstanding focus areas of the Association. Legislative advocacy was a new focus for the Association.

While we did not achieve our goal of 20% membership growth (we achieved 4% growth), we did increase state industry investment (expenses) by a whopping 27%. We invested over \$330,000 in the industry in 2008. A brief summary/highlights are as follows:

Networking

- Continued our core events
 - N California Legal and Real Estate Summit
 - Newport Beach Owners Summit
 - Annual Conference
 - Added Local Area Networking Dinners (2 events, in Sacramento and W. Los Angeles)

Education

- Continued the MCC courses with the SSA with two sessions, one in N Cal and one in S Cal.
- Added our own CSSA Education days with two events, a legal education event in Sacramento and a sales and marketing event in Los Angeles.

Legislative Advocacy

- Successfully defended a rent sales tax measure in Needles, CA.
- Began the process of reforming the California Lien Law Statute.

The event and focus areas outlined above represent a doubling of events over 2007 and the feedback received in all cases was overwhelmingly positive. We believe the Association is on the right track with the right priorities to best serve our members and the state industry.

A letter from our Association President - Continued from Page 1

As a result, our 2009 plan will have the same key priorities, with Networking, Education and Legislative Advocacy as the key elements of the plan. Our goal will be to grow the Association investment another 30% to \$430,000 in 2009. Key actions in these plan areas are as follows:

Networking

- Again, we will continue with our core and very popular events, the N Cal Legal and RE Summit, the Newport Beach Owners Summit and the Annual Conference. The goal for these events is to bring national quality speakers and content to our members, and to attract the best industry talent to these events. We plan to continue to refine and improve these events in the years ahead using the great feedback we have received from this year's attendees.

Expansion of the Local Area Networking Dinners. This new event in 2008 is a great way to get owners and vendors together in local markets. The Association is committed to getting these groups together as frequently as possible as we believe that sharing best practices and allowing vendors access to owners such that they can innovate better products and services for the industry results in a better customer experience that will benefit all associated with the industry. We will put on six networking dinners in 2009, up from the two that were hosted in 2008.

Education.

- Elimination of the MCC program. The MCC program has been a good tool, and helpful to a lot of Managers and operators in the state over the years. However, it is costly and a general program and the attendance has continued to decline in recent years.

Expansion of Association Education days. These events instituted in 2008 were tremendous successes. The attendance was excellent, but more importantly, the information, the energy that existed between the participants and facilitators exposed the urgent need and desire for education and tools that front line employees desire. The Association is equipped to deliver these classes with high quality instructors and very good content. In addition, we can host these classes frequently (10-12) in broad locations around the state with a very affordable cost to the operator. Stay tuned for exact locations and content and send your people as they will get a tremendous boost in knowledge and motivation.

Legislative Advocacy

- I know that Carlos is submitting an article regarding our lien law effort, so I will let him give you the full briefing, but suffice it to say that we are on track to deliver a more cost effective delinquent process for the operator and the customer before the end of 2009.

The Association is prepared and has the resources, or can marshal the resources, to defend un-

A letter from our Association President - Continued from Page 2

friendly actions. Just as in Needles, if another jurisdiction looks to enact unfriendly legislation, we will be there to fight along side local operators and the community.

Other Priorities

◆ **Website.**

- It is time for the Association to enter the 21st Century and deliver the full benefits of membership to our members. In 2009 we will be adding on line application functions so that you can much more easily register for events.
- An additional action here will be to have business forms available to assist you in managing your business. Just as the Association lease has been a great benefit to members, these additional forms such as a hold harmless agreement and some other crucial forms will be available very affordably via the website.
- The on line Self Storage directory and updates of the membership directory and featured vendor advertising will happen in real time.

◆ **Membership Dues Change**

- The Association will be moving from an individual to a company membership in 2009. This change is not designed to increase the income of the Association, and is basically revenue neutral. The benefits of this change include the following:
 - Ease of administration for the CSSA Staff
 - Reduce confusion of members
 - Improve the clout of the Association as it relates to legislation, as with the same members and dues, the company membership dramatically increases the number of companies, locations and employees represented by the state industry.

I hope this gives you a good sense of what the Association is doing on your behalf. The end goal is really to improve the information and knowledge of all industry participants and to be a strong advocate for the industry in the state. The Board believes this approach will fuel growth of the state industry for the benefit of all.

Going from five, to nine to nineteen events for a largely volunteer Association does not happen without the dedicated service of the Board and our wonderful staff. I want to thank the current board members, Paul Grossberg, Christen Gibson, Carlyn Patterson, Carol Krendl, Kelly Gallagher, Tim Hobin, Shelley Geiler, Jim Davies and Peter Ingersoll. This is a true working board with all members having responsibilities for specific events. The most important people however are the great team we have running the Association, Erin King now in her third year as Director, and Brenda Lafontaine who began with the Association in January. They are a great team and under Erin's leadership con-

Cost Segregation, Increased Cash Flow for Tough Economic Times

By: Kirk Dudley, CB Richard Ellis - San Jose, CA

In these historically challenging economic times, cash is tight. If you could use an interest free loan, try a cost segregation study. Recognized by both the IRS and the American Institute of Certified Public Accountants, cost segregation is a tax deferral strategy that provides increased after-tax cash flow that can be used to help a purchase pencil out, improve a property or help buy a new one. You could also install a swimming pool but that may not be the highest and best use for the funds.



Cost segregation creates \$30,000 to \$200,000 in federal tax benefits for every \$1,000,000 spent by accelerating the depreciation of building costs. Cost segregation identifies the cost of specific assets such as special purpose electrical conduit that can be treated as personal property or site paving that can be classified as land improvements. These items can then be depreciated over 5 or 7-years at a 200% declining balance or 15-years at a 150% declining balance rather than 39-years straight-line (27½ years for residential real property).

If you spend at least \$1,000,000 on the acquisition or construction of a building or \$500,000 on improvements and intend to hold the property 3-years or more, it is usually worthwhile to do a cost segregation analysis. The increased cash flow is effectively an interest free government loan.

The best time to contact a cost segregation firm is during escrow or right after purchase. If you construct a new facility, bring in a cost segregation firm during the architectural phase or before construction starts for valuable advice and cost detail management. Extra cost details from the contractor can double the benefit.

Studies can also be done on property placed in service as far back as January 1, 1987. A significant aspect to these "look back studies" is that depreciation missed over the years can be pulled forward and taken at the next tax filing without amending past returns. Savings can be significant.

What are the negatives? Recapture, unless the owner passes on, or the property is 1031 exchanged, upon sale, some or all of the accelerated depreciation will be subject to recapture as ordinary income. The solution to this is to plan for it. The present value of the accelerated depreciation typically makes a study worthwhile especially when the property will be held 3-years or longer. Also while cost segregation is not typically a red flag for audits, if one occurs you want to have worked with a firm that communicates with the IRS on a regular basis and has successfully defended its work.

Fees are based on an hourly rate according to how many worker hours are required to complete a job and are typically ten percent or less of the benefit. Initial cost/benefit estimates that include a capped fee are standard in the industry so you can mull it over and decide if a study is worthwhile.

Self storage facilities return a solid benefit that varies with construction type. If you'd like to free up some cash, ask a local firm for a free estimate to see if cost segregation is for you.

Kirk Dudley is a cost segregation manager for CB Richard Ellis in San Jose, California. CBRE provides a variety of real estate services including cost segregation nationwide. He can be reached at (408) 467-7517 or by email at kirk.dudley@cbre.com.

California Lien Law Reform

By: Carlos Kaslow - Self Storage Legal Review Network



The California Self Storage Association is already working on its primary 2009 legislative project: Lien law reform. The California lien law, enacted in 1980, was one of the first self storage lien laws enacted in the country. While the law has proven to be a good remedy for the state's self storage operators, it is showing its age. The CSSA goal is to correct some flaws and make a few updates in what is otherwise a good lien law. The primary flaw in the current law is the Declaration in Opposition to Lien Sale procedure, which permits the delinquent customer to stop a lien sale by simply sending back a form, and requires the storage operator to file a suit to enforce the lien. No other state except Nevada, which based its lien law on California's, provides such a right. The procedure is both time-consuming and costly and litigation seldom involves a claim by the customer that the rent and other charges were ever paid or can be paid. The change would bring California's lien law into the nation's mainstream of self-help lien remedies.

Another proposed change is to eliminate the requirement that the sale be advertised once a week for two consecutive weeks in a newspaper of general circulation. The cost of newspaper ads has gone up significantly over the years and running each ad can now cost \$500 to \$800. Also when the lien law was enacted, newspapers were the primary means of communicating public information. This is no longer the case. The bill would replace the current system with a more flexible advertising requirement that would include posting lien sale on the facility's website, running advertisements in any local publications whether or not it is a newspaper of general circulation and any other means reasonably calculated to inform the public about the sale. The bill would also simplify the current late fee law and replace a complex tier system with the national standard of a maximum late fee of \$20 or 20% of the monthly rent, whichever is greater.

The CSSA is working with a broad coalition of self storage operators to develop changes that will make the lien law easier and less costly to implement while providing delinquent tenants a fair opportunity to resolve their payment problem. The goal is to have a final version ready to submit to the legislature this fall so that it can be introduced early in the legislative term. Thousands of bills are introduced into the California legislature each year and only a handful get enacted into law. The CSSA is working hard to make sure its self storage lien law reform bill is one that becomes law.

ARE YOU LIABLE????

By: Paul Cardamon - Bader Company

Question:

1. Your tenant asks you to sign for his package from the Post Office or a delivery service. If something happens to it, will your commercial insurance cover your expenses?

Yes, of course. I have the best insurance in the country.

Maybe, they don't always like to hear from me.

No, it is not covered in my policy.

Question:

2. My lease explicitly states that I, as the landlord, take no responsibility for the property that my tenant keeps in storage. After I put their package into their unit, it is either lost or damaged. Am I liable for this?

Not at all. It says so in my lease.

Maybe, but I'm not going to admit anything

Probably. My lease says one thing and then I took responsibility for it anyway.

Question:

3. A tenant asks me to send a package for them along with my own mail. Am I liable if their package doesn't arrive or is damaged?

Of course not. They are the ones who prepared it for shipping.

Maybe, but I followed their instructions.

Yes, very likely.


Don't be surprised if the answer is C in each case. When you take that package into your hands, you now have incurred what is called in insurance terms 'Care, Custody, and Control' (CCC) of that package. That means you are responsible for it. And if you don't have a separate agreement covering that transaction specifically, you may be out of pocket or in court for losses.

Any time you do a service that is not in the definition of a Landlord (basically, someone who rents and maintains property) you run the risk of assuming the liability for damages. This can be accepting deliveries, sending packages or mail, putting boxes into a tenant's unit, or anything similar.

In insurance terms, liability means that you have taken the legal responsibility for the condition of that property. Your commercial insurance will protect you if something listed in the policy goes wrong with your building or onsite. Your lease should protect you if your tenant's property is stolen or harmed and it is not your fault. However, if you take CCC of the tenant's property and don't have something in writing protecting you, you may wind up with no protection at all.

The lien laws in almost every state are very specific: A self-storage owner/operator is a *landlord*. That is: they are responsible for the upkeep of the facility and its grounds. They rent storage space on a regular basis. They do not have access to the rented space or to the property of the tenant. The tenant takes full responsibility for the condition of their property in the unit.

But what happens if you go beyond that definition?

One of the hottest ancillary services today is an  outlet in your facility. You and or your staff regularly handle packages to/from eBay on behalf of your clients, even those not necessarily your tenants. If you take 'Care, Custody, and Control' (CCC) of that package without an agreement, you may be liable for damages or losses to that package. You need to have a legal contract with these clients detailing the responsibilities of each party. This should be a contract separate from your self-storage contract.

Continued on Page 5

ARE YOU LIABLE????

By: Paul Cardamon - Bader Company

Continued from page 4

Another example is for the many self-storage facilities with commercial tenants who use the unit as a mini-warehouse for their samples or supplies. They regularly receive shipments. Vendors like pharmaceutical reps and others have packages coming in and out frequently.

If you take that package on behalf of your tenant, what do you do with it? Do you have a unit set aside for that purpose? If so, who has access to it? Who has the keys? Do you monitor the in and out of that unit? Do your tenants have access to it? Do you put items from more than one tenant in this space?

And if you put the delivery into the tenant's unit, you must have a set of keys to the lock on the unit. You now have access to the unit, and may be responsible for EVERYTHING in that unit. You've gone beyond the definition of a landlord because you can access the unit at will. If something goes missing or is damaged...who takes the blame?

Question:

How do you protect your business and your tenants when operating a self-storage facility?

I am a landlord and my lease spells out my responsibilities. My tenants understand this, as well.

I take CCC of their property only when we both sign a document that outlines each of our responsibilities.

I make sure that my commercial insurance is up to date and has enough coverage to protect my employees, my business, and me.

I offer a tenant property insurance program to my tenants so that their property is protected.

All of the above.

How did you answer this question? Hopefully, you've selected E. Your lease is the first line of defense, followed by other legal documents, including your insurance policy. Finally, a tenant property insurance program gives your tenants a way to repair or replace damaged property without coming to you.

Don't be caught without protection. Check with your attorney or an attorney who is familiar with the laws in your state and with the self-storage industry. And with your insurance agent to see if you have coverage under your commercial policy. Adding an endorsement (additional coverage) called Customers' Goods Legal Liability may give you some protection.

Do this before you get into a situation you'd rather not face.

#

Paul Cardamon is the National Sales Manager for Bader Company, a national insurance company offering affordable and convenient point-of-lease Tenant Insurance and Commercial Insurance for the self-storage industry. For more information about a Bader Insurance program for your properties, contact Paul Cardamon at 888/223-3726 or pcardamon@baderco.net



Still not a member? Contact Erin King today for information on membership.

888-887-CSSA or www.cssaweb.com

California to Audit Employers' Workers' Compensation Coverage

By: Carlos Kaslow - Self Storage Legal Review Network

The California Department of Industrial Relations (DIR) has launched an enforcement program designed to identify and target employers who fail to carry workers' compensation insurance, which is required under state law. "Through this new enforcement program we will be able to systematically identify unlawfully uninsured employers to prioritize as enforcement targets," said DIR Director John C. Duncan. "By partnering with other agencies we are leveraging our resources to seek out illegally operating employers and to level the playing field for those who follow the laws." California, like most states, requires employers to carry workers' compensation insurance and imposes penalties on employers who do not comply with the law.

Employers can run into trouble when they misclassify workers as independent contractors, who are not covered by worker's compensation insurance, when they are in fact employees. Most self storage workers who regularly work at the facility will be employees, not independent contractors. Self storage operators who have doubts about the proper classification of a worker should consult their attorney for advice. Misclassification of workers can result in serious liability for employers because they are not only failing to provide required workers' compensation coverage, but they are also not paying required state and federal employment taxes. If an audit discloses misclassification for workers' compensation purposes, the employer can also expect a visit from state tax authorities looking for back taxes and penalties.



Still not a member? Contact Erin King today for information on membership.

888-887-CSSA or www.cssaweb.com

HELP US HELP YOU!

The CSSA is leading an effort to amend the California Self Storage Lien Statute.

Proposed Changes:

- Eliminate the Declaration of Opposition Provision
- Amend late fee language to increase maximum to \$20 or %20
- Change notice of lien requirement to certificate of mailing
- Eliminate newspaper advertising requirement

ESTIMATED SAVINGS (PER LOCATION)

\$1,500.00 PER YEAR!!

Timing of Change:

- | | |
|--------------------------------|--------------|
| • Draft Legislation | Complete |
| • Recruit Legislative Sponsors | Nov-Feb 2009 |
| • Introduce Legislation | April 2009 |
| • Pass Bill | Fall 2009 |

This effort is costly and the CSSA requests a \$40 donation per facility to its Legislative Fund from all California operators.

Please contact us today and make your donation.



JOIN US, HAVE YOUR VOICE HEARD!!

CALL 888-887-CSSA (2772)

The California Self Storage Association would like to thank those operators who have already supported our legislative efforts, with a contribution to the Legislative Fund:



(as of time of publication)

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Important Industry Press Releases

ESSEX HIRES SELF STORAGE VETERAN TO FUEL GROWTH



Sue Haviland recently joined Essex Realty Management as Regional Manager – Self Storage Division. As Regional Manager, Ms. Haviland’s role will be to facilitate business development in the growth of third party management, as well as overseeing operations for both new and existing properties. Essex Realty Management currently manages almost two million square feet of self storage product throughout Southern California, making it one of the leading providers in the Southern California Self Storage Industry.

Ms. Haviland has over eighteen years of experience in the Self Storage Industry and was most recently with San Diego based Price Self Storage, where she was responsible for the management and oversight of a self storage portfolio consisting of twelve stores. Prior to working at Price Self Storage, Ms. Haviland held Executive and Regional Management positions with both Storage West and Extra Space Storage. Ms. Haviland is active in both the California State Storage Association (CSSA) and the National Self Storage Association (SSA) where she periodically teaches certification classes in operations, financial reporting, human resources and sales training. Essex Realty Management is a full service property management company and currently manages over Fifteen (15) million square feet of office, industrial, retail, medical, commercial associations and self storage projects throughout California and Arizona. The company, an Accredited Management Organization (AMO ©) as designated by the Institute of Real Estate Management, has regional offices in Orange/ Los Angeles Counties, Sacramento, Ventura, Inland Empire, San Diego and Phoenix, Arizona. For further information on Essex please visit our website at www.essexrealty.com or contact us at 949.798.8100

Important Industry Press Releases

CALIFORNIA SELF STORAGE ASSOCIATION SELECTS MINICO PUBLICATION AS MEMBER BENEFIT

PHOENIX, ARIZ. – Poppy Behrens and Lauri Longstrom-Henderson, Co-Publishers, MiniCo Publishing, have announced an agreement with the California Self Storage Association (CSSA) to provide the company's **Self-Storage Now!** magazine as a member benefit beginning in November 2008.

CSSA members also will be able to purchase digital subscriptions to the monthly *Mini Storage Messenger* magazine at a members-only discounted rate. In addition, CSSA members will receive discounts on other MiniCo publications to include the annual *Self-Storage Almanac* and *Self-Storage Development Handbook*.

CSSA Executive Director Erin King commented, “*Self-Storage Now!* is an excellent resource for self-storage owners, operators and managers. We look forward to working with MiniCo Publishing to provide this publication to our members.”

Ms. Behrens stated, “MiniCo Publishing is excited to have the opportunity to work closely with the California Self Storage Association in its efforts to serve one of the largest groups of self storage professionals in the nation.”

MiniCo Publishing, a division of MiniCo, Inc., publishes the *Mini-Storage Messenger*, other publications include the bimonthly *Self-Storage Now!* magazine, the annual *Self-Storage Almanac*, and the annual *Development Handbook*.

Since 1974, Phoenix-based MiniCo, Inc. has been a self-storage leader providing superior specialty insurance programs, informative publications and valuable products and services created expressly for the self-storage industry.

For More Information:

MiniCo Publishing – www.ministoragemessenger.com

California Self Storage Association – www.cssaweb.com



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Working Better Together

The California Self Storage Association is managed by the Executive Director, under the guidance of the all volunteer Board of Directors who all are actively involved in the industry as owners, managers and vendors. The Board of Directors represents the interests of the large multi-site operators as well as smaller, single site operators.

Our Mission:

The mission of the CSSA is the promotion of a high standard of professionalism which is adhered to by all of its members, to provide a unified voice for the Self Storage Industry for the State of California and to enhance the performance and quality of the services our industry has to offer.

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