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12 Topics all community leaders
need to know about now

Lots of legislative happenings!

Community civility – a pledge
for peaceful dialogue

Edition 1, 2020

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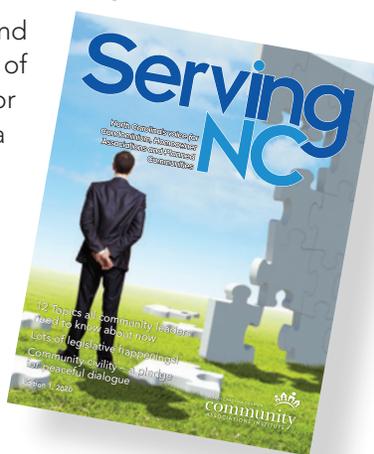
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On the Cover

Piecing together our new normal... together.

Hearing and uttering words and sentences we never dreamed of is literally becoming normal for us. Suddenly struggling with a world so different feels like putting together a jigsaw puzzle with no picture box to follow...

This issue contains no pretty picture box but its pages do showcase some help, from 12 new on-demand webinars debuting at Annual Conference to legislative leadership to dedicated COVID resources. Piecing together our new normal... together.



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The Community Associations Institute provides valuable resource program education and advocacy to preserve, protect and enhance community associations. The NC Chapter is one of the largest of 60 chapters worldwide.

We work to inspire professionalism, effective leadership and responsible citizenship— ideals reflected in communities that are preferred places to call home.

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Hope Derby Carmichael

My family and I occasionally play the game of guessing “what do you think ‘THE WORD’ of 2020 will be?” “Pandemic!” shouts the teenager. “Unprecedented” says the husband. “Zoom” from the unfazed college student. Frankly, I’m tired of them all (the words that is, not my family!). The word I most value as I think about our CAI chapter is RESILIENT. Maybe 2 words – resilient and ADAPTABLE.

In early March your Chapter board was riding high on last year’s success of hitting the 1000-member mark and sweeping all five of the top CAI national awards. We were looking at “unprecedented” registrations for two spring Law Day events and brainstorming exciting new programs and opportunities for our members. And then the world stopped in its tracks.

Eleanor Roosevelt said, “A stumbling block to the pessimist is a stepping-stone to the optimist.” Our executive director Leslie Blum said, “We’re going to make lemonade out of lemons.” And with that attitudinal shift, CAI-NC was off to the races. I have never been prouder to work with an organization than I have been of this chapter in the last four months. Wow, just think about that – four months! In four months we’ve conquered

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the last four months.*

online learning, blown out the attendance numbers we would have had at BOTH law days, and armed members with tools to manage communities, safely open pools, and host virtual annual meetings during a pandemic. We even managed to throw in getting some important legislation passed.

I have seen managers, business partners and homeowners rise to every challenge your Chapter board and staff have put before them – swiftly adapting to virtual technologies, anticipating needs for the communities they serve, and banding together in their communities to rally around

front line workers, connect with neighbors over socially-distanced fence lines and make tough but important decisions for their communities as elected volunteer board members.

And hats off to the creative leadership of our wonderful staff. Without Leslie Blum and Amy Morrison, we’d be lost, I can assure you. Finally, kudos to your dedicated volunteer Chapter board who has continued to meet, brainstorm, and even boldly plan a virtual Annual Conference! Even more importantly, your board continues to look ahead and plan for the challenges we now know the chapter will face for some time to come.

Yes, I am very, very proud to work with this RESILIENT and ADAPTABLE group. And I look forward optimistically to where we are headed! ■

Membership Matters!

Membership does matter! The power of our numbers helps strengthen our voice in the halls of government on your behalf, and the power of our diverse network of professionals means a world of resources and connections are made accessible.

CAI-NC welcomed 153 new members from December 16, 2019 through June 15, 2020.

Please help our chapter engage our new colleagues, and if you know or meet them encourage them to join us at our many events throughout the year! ■

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Congratulations and a huge THANK YOU to Susan Rouanzion, PCAM®, the national CAI Recruiter of the Month for May 2020.

Susan is a not only a CAMS team member, she is a consistent and passionate team player for our chapter and ambassador for CAI's work. She recruited 6 of the new members shown above!



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Leslie C. Blum, CAE

From across the street I sit at my desk and track the fascinating daily progress. A creative newcomer bought an “OK-looking” ranch house and is literally building a new set of walls around it. He left the original intact, and is surrounding it with a larger footprint of rooms around the perimeter, with a couple tall “tower-like” rounded rooms on the ends.

It’s a corner house and the front door now actually faces the other street, with a totally new orientation. Now the home is much larger than before and likely worth a good bit more. But oh the local heartburn...

We don’t live in an HOA community but if we did, the harshness of some neighbors’ criticisms and the open boldness of their barbs could likely be spat out in community meetings instead of across back fences and in chance sidewalk gatherings. I can only imagine.

It’s a bit odd to my eyes, yes. But as 2020 is teaching us, there’s no such thing as normal anymore.

And though we ache to get out, we’re all spending more time at home than we ever imagined we would (or could). And so we study what’s in front of us – our neighborhood. And we’re learning way more about our neighbors...

They have different ideals, preferences, and values. While we may enjoy sharing our views with people who already agree with us, sharing our opinions while leaving room for someone else’s viewpoint can be really hard. And how we talk about these and other things does matter.

Community association boards face issues that can spark strong emotions, now more than ever. It’s a critical responsibility of board leaders to facilitate calm community conversation about these important issues. There’s help to make that happen.



This spring CAI launched the Community Association Civility Pledge. This framework can help community leaders truly lead communities through conversations about difficult and complex issues, and into decisions that are informed and well balanced for the community as a whole.

Check out a short video on the Civility Pledge here: <https://bit.ly/CivilityVideo>.

You can make a difference in your community right now. Download the Pledge here: https://bit.ly/Civility_Pledge.

Share it with your community leaders, and ask for their buy-in. Help civility become part of our “normal.” ■

Talk to us about your community association needs. We can help.



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HB902 Brings Twin Impacts to Community Associations

Limited Immunity for Pools

Gov. Cooper signed HB 902 on July 2, a bill mandating that owners and operators of community pools and their agents shall not be liable in any claim or action seeking damages for injury or death resulting from transmission of COVID-19 alleged to have resulted from the reopening of the community pool in accordance with applicable executive orders of the Governor. The immunity provided will not apply to claims for injury or death resulting from gross negligence, wanton conduct, or intentional wrongdoing.

CAI-NC Chapter president Hope Carmichael, Esq. and fellow of the College of Community Association Lawyers (CCAL), had provided testimony related to the challenges faced by many community associations in operating their pools in the current environment.

Real Estate Closing Fees/Statement of Unpaid Assessments

Late into the night of June 25, the following language was inserted into this bill amending Chapters 47C and

47F, Section 3-102-12 to amend allowing “reasonable” charges for Statements of Unpaid Assessment (sometimes wrongly referred to as “closing” or “transfer fees”) as follows:

Impose reasonable charges in connection with the preparation of statements of unpaid assessments, which must be furnished within 10 business days after receipt of the request, in an amount not to exceed two hundred dollars (\$200.00) per statement or request, and an additional expedite fee in an amount not to exceed one hundred dollars (\$100.00) if the request is made within 48 hours of closing, all of which charges may be collected by the association, its managers, or its agents.

Since circumstances among CAI’s thousands of members vary widely, CAI’s public policy does not favor legislatively imposed fee caps. CAI and the NC Legislative Action Committee (NC-LAC)’s policy has recognized that the preparer of the disclosure documents/resale certificates incurs expenses relating to the preparation and production of such documents and has supported the right of the preparer to charge a reasonable fee for such transactions.

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Through CAI’s lobbyists, the NC-LAC learned of an effort by others to establish a maximum fee cap in North Carolina for Statement of Unpaid Assessments. As soon as CAI became aware of this legislative push, we worked very hard to negotiate a compromise and were successful.

While CAI remains opposed to legislatively mandated rates, CAI is pleased that the NC-LAC’s input was considered and believes that the maximum amount adopted by the Legislature is in a range many CAI members will feel is acceptable. By way of background, approximately 11 other states have similar maximum fee rates and \$200 (with a \$100 expedite fees) is consistent with the range other states have imposed. For example, the maximum in Virginia is \$164, Maryland \$250, Connecticut \$125 and Florida \$250. Because details and requirements vary greatly, specific comparisons are difficult.

CAI believes that homeowners should be informed about association matters that may impact their decision to purchase a home/unit and will educate them about their personal rights and responsibilities with regard to the community association. Disclosure documents/resale certificates are invaluable consumer information tools

because it is vital that buyers know what they are buying. Disclosure documents/resale certificates should be mandated by state statute to ensure that every buyer is aware of essential information relating to his new home or unit and the community association.

CAI continues to support mandating disclosure documents/resale certificates for all ownership transfer.

The full language for HB902 can be found here: <https://www.ncleg.gov/BillLookUp/2019/HB902> (see beginning on p. 7)

Limited Immunity from COVID-19 Transmission Liability Claims

In the last week of session the NC General Assembly passed House Bill 118, which applies broadly to businesses, nonprofits and individuals, including planned community and condominium associations. Gov. Cooper signed the bill July 2. **Now, associations will not be liable as a result of ordinary negligence in any claim brought by someone who claims to have contracted COVID-19 while on HOA or condominium common areas.**

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Speaking to NC senators June 10 in support of limited liability for owners associations, CAI-NC President Hope Carmichael told legislators: CAI has confirmed with multiple insurance carriers the common policy exclusion in HOA insurance policies for claims related to COVID-19. Volunteer boards of directors across NC are trying to make the best possible decisions for their communities. But these volunteers are faced with the tough choice of denying members access to their commonly owned amenities or risking what could be devastating legal costs to defend potential claims, even if the boards are following all of the recommended guidance for opening their pools and facilities.”

House Bill 118 gives some reassurance for associations in light of the growing awareness that general liability and directors & officers insurance policies almost universally exclude coverage for claims arising from pandemic, virus and disease. However, associations should be aware that gross negligence, willful or wanton conduct or intentional wrongdoing would still subject an HOA to potential liability. This might include a reckless disregard for following local and state guidance on reopening swimming pools or other amenities, so it’s important to be diligent about compliance with all state and local Executive Orders and decrees. The law requires an association to “provide reasonable notice of actions taken to reduce the transmission of COVID-19 on the premises.” Once that notice is provided, the association will not be liable for the failure of individuals to follow the rules or guidance called for in the notice. This provision in the law makes the posting and publication of detailed rules and guidelines extremely important in the association’s liability protection.

The full language for HB118 can be found here: <https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H118v6.pdf>

Condo Act Technical Updates/ Corrections Become Law

House Bill 920 makes numerous changes to the NC Condominium Act most of which are technical and being done at the request of title companies. Of particular interest to CAI members, the bill addresses developer control periods, ambiguities resolution and adjusts various provisions of the NC Condominium Act to conform with to the NC Planned Community Act. While CAI did not take a position on this bill, because it was

seen as primarily of a technical nature, the content is seen as favorable to our members.

The CAI North Carolina Legislative Action Committee led by Paul Mengert, CMCA, PCAM and CAI’s lobbyist, Henry Jones, Esq. worked tirelessly, masterfully, and late into the evening (early morning) to protect the interests of CAI members. Former State Senator Tom Apodaca joined the lobbying team to assist. A special thank you to these individuals and the entire legislative action committee. ■

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All the sessions will be available to any Conference registrant through Sept. 15.

A look at our 12 topics:

A Fresh Look at Insurance Basics: Protecting Your Association Today



Becker-Durin



Wheeler



Bateman

Dawn Becker-Durnin, CIRMS (PeopleFirst Property & Casualty); Scott Wheeler, CIC, CMCA, AAI,

CPIA, CBIA, CAWC, ANFI AINS (SFI Group) Moderator Andrew Bateman, CMCA, CIRMS (TriSure)

Take a fresh look at the basics of insurance protections for community associations. In the current environment, managers' and board members' understanding of the

scope and practicalities of your Directors & Officers, General Liability and other policies is more critical than ever. What are they intended to cover (or not cover), and how should that inform the decisions community leaders must make?

Virtually There: Board, Membership & Committee Meetings and Violation Hearings in a COVID-19 World



Slaughter

Jim Slaughter, CCAL Fellow (Black, Slaughter & Black)

COVID-19 concerns and restrictions will eventually ease, but board member and homeowner interest in holding meetings and hearings online will not. But if meetings are online, how do you deal with specific issues such as owner participation in board meetings, membership meetings, proxies, and budget ratification? And what about violation hearings? This program will take a look at statutes that impact meeting electronically as well as bylaws or rules provisions that can help meetings be more legal and run more smoothly.

Mischief Managed: Practical Solutions for Managing Association Mayhem



Jones



Dortch

Cynthia Jones and Bob Dortch (Sellers, Ayers, Dortch & Lyons)

'Dysfunctional family' syndrome can hit community associations too. This session will explore practical and relational solutions for 'problem Board members' whose behavior may be questionable in either private meetings or in public arenas. We'll also cover how to deal with 'membership dysfunction,' whether on social media or personally, including when and how the association should get involved in setting appropriate boundaries.

continued on page 15

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Bankruptcies: A Plain English Overview and Refresher for Today



Hunter

Mike Hunter (*Offit Kurman*)

A plain-English overview of all the terms found in bankruptcy cases explaining the processes, parties, the differences between Chapters 7, 11 and 13, and what the management company and Board need to do when a bankruptcy notice is received.

COVID Closures, Tired Tennis Courts and Rundown Recreational Areas



Jones

Lori Jones (*Jordan Price*)

In the ongoing pandemic, with “stay at home” and “safer at home” orders reigning, chances are you’ve had many (perhaps too many) conversations with residents about opening of your recreational areas. As we have learned with COVID, there may be temporary or seasonal impediments to opening an amenity. Who knew to budget for multiple, daily cleanings of pools? You may also have dealt with super-observant owners who now have time to focus on the state of some of your amenities. All of a sudden

there is interest in the cracked, pine straw covered tennis court that that fell out of use ten years ago and became the local dog owner hangout. Over time, amenities and recreational facilities don’t always fare well. In some cases, interest wanes. In others, the legal documents may not provide an assessment method sufficient to support an amenity over an extended period of time ... Hello, abandoned pool that can’t be opened due to lack of funding. What options does an association have? Can the amenities be closed – temporarily or permanently? Can the amenities be sold or converted to other uses? Who gets to decide? This session will explore the considerations boards should take into account when dealing with COVID closures and aging amenities.

Reasonable Accommodation and Modifications Under the FHA Today: Best Practices, Who’s Entitled, and Who Pays?



Sellers

Steve Sellers (*Sellers, Ayers, Dortch & Lyons*)

This presentation will provide a usable overview of reasonable accommodations and modifications (“RA/RM”) under the FHA with an emphasis on the new support animal guidelines issued by HUD January 28, 2020. Gain a better understanding of:

continued on page 15

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- Who pays?

Who's Watching Who? Surveillance Cameras and the Law



Taylor

Harmony Taylor (*Law Firm Carolinas*)

In this we'll discuss legal and practical considerations for communities related to the use of surveillance cameras and other emerging technologies by individuals and associations on private property and common areas. Harmony will cover privacy concerns, the pros and cons of this technology and best practices to keep your community safe and out of the headlines.

Show Me the Money! How to Manage Reserves and Capital Repairs and Find Some Budget Help



Giles

Kevin Giles, RS (*Giles Flythe Engineers*)

Associations are likely spending unanticipated money in response to the pandemic: cleaning/sanitizing common areas, additional communications, signage, attorney fees, pool staffing, etc. The income side of the budget has remained flat or possibly even reduced by an increase in delinquencies. What are some ways to save money in other areas of the budget including reserve contributions, and what are the future impacts?

A Blueprint for Ongoing Exterior Maintenance: How Often Should We Do What?



Graybeal

Tyler Graybeal (*Southern Outdoor Restoration*)

What's the appropriate timing and cadence of various exterior maintenance services including pressure washing, gutter cleaning, pipe jetting, vinyl restoration? What factors are in play, and how do we weigh each of them to create a predictable schedule and budget? Join us for the "facts & fiction."

continued on page 19

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Don't Build That Wall: Association Authority over Architectural Review and Rule Making



Todd



Beaudoin

James Todd and Adam Beaudoin (*Ward and Smith*)

This session reviews the importance of proper procedural safeguards for Associations to avoid liability and properly enforce their

architectural covenants. Common problems addressed include "automatic approval" deadlines in covenants, owners who build before they submit an application, and how Boards or ARC Committees should exercise their "aesthetic preference" discretion.

How Trees Can Save the World: 12 Ways Communities Can Make a Difference and Save Money

Basil Camu (*Leaf & Limb*)

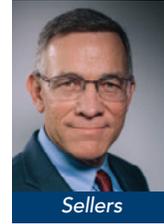


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health of our residents, communities, and planet as a whole. It can also affect community budgets and beauty. Join us to learn how we can care for our trees and landscape in a way that results in a triple win: good for our residents, good for our community budgets, and good for our planet.

Association Collection Strategies in the Age of COVID-19: Specific Strategies in the New Reality



Sellers

Tim Sellers, CCAL Fellow (*Sellers, Ayers, Dortch & Lyons*)

The COVID-19 pandemic has affected American life like nothing else has in the last 100 years. While community associations must still provide services and "pay the bills," there are new economic and legal challenges to their ability to collect the funds they desperately need. Traditional collection practices are not well suited for this new normal, and some may prompt governmental and judicial action that no association wants to see or can afford. Only the associations willing to think differently and to adjust their policies and perspectives are likely to succeed. We'll explore this new reality and talk about specific steps and strategies that will help associations stay financially afloat in these turbulent times. ■

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Will Your Community Association Require Face Masks?



masks and staff tool puts valuable of board members, community association managers, and their legal counsel.

Community associations have a lot to consider as they react to the COVID-19 pandemic, including whether to require face for residents

members. A new information in the hands of board members, community association managers, and their legal counsel.

Researchers at the Harvard Global Health Institute created a unified set of metrics, including a shared definition of risk levels and tools, for communities to fight COVID-19. This includes a new, online risk-assessment map that allows people to check the state or the county where they live and see a COVID-19 risk rating of green, yellow, orange, or red. The risk levels are based on the number of new daily cases per 100,000 people.

Several states recently have paused or even reversed re-openings amid alarming increases in new COVID-19 cases. Texas and Florida have reinstated previous restrictions. Arkansas, Idaho, Louisiana, Minnesota, New Mexico, Nevada, North Carolina, and Oregon have paused reopening.

Meanwhile, many states and localities have adopted regulations mandating the use of face masks inside public facilities. Washington state mandates face masks for indoor public facilities and outdoor if residents are unable to meet the 6-foot social distancing requirement. Many states require face masks for employees of businesses.

Does that mean community association managers and on-site engineering staff, front desk staff, and other personnel need to wear face masks? The Centers for Disease Control and Prevention recommend a face mask, especially inside, to help stop the spread of the virus.

This also presents an interesting issue for community associations, especially condominiums, housing cooperatives, and other multi-family housing buildings with shared space. Should they require residents to wear masks?

To make it more challenging, some localities within states that have mandatory mask laws declared that they are not enforcing the restriction. While community association boards may not be obligated to enforce face masks requirements, state and local mask requirements, CDC guidelines, and Harvard’s new online risk assessment map can help boards, their managing agents, and legal counsel make important decisions.

For a complete list of state face mask requirements, visit <https://www.caionline.org/Pages/statecovid19.aspx>.

While we are engulfed in COVID-19, I would be remiss if I didn’t remind my fellow Americans to proudly display our American Flag in honor of Independence Day. July Fourth festivities may look different than previous years as parades, carnivals, and many firework displays are canceled, but we will get through this pandemic and celebrate again soon. Stay healthy and safe, and have a happy Fourth of July.

The post “Will your Community Association Require Face Masks”? appeared first on CAI Advocacy Blog. Follow or subscribe here: <https://advocacy.caionline.org/>. ■



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