

# Common Interest

The Official Publication of CAI-Connecticut

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*Inside:*

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THE ERA OF  
CORONAVIRUS**

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PROOF  
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IN THE ERA OF  
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A NEW  
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The Connecticut Chapter is one of 63 Community Associations Institute chapters worldwide. CAI-CT serves the educational, business, and networking needs of community associations throughout Connecticut. Our members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to associations. The Connecticut Chapter has over 1,200 members including nearly 150 businesses, and over 450 community associations representing 50,000 homeowners.



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To submit an article for publication in *Common Interest* contact Kim McClain at (860) 633-5692 or e-mail: kim@caict.org.

## President's Message



Reggie Babcock

*"By early indications the response from our members has been enthusiastic; the first events were sold out."*

My challenge today in crafting this Message in early April is to try to offer a thought or two that will have any relevance when you actually have received this issue of *Common Interest*. Our worlds are changing so quickly, and uncertainty is rampant.

Throughout these first weeks of the crises, Kim and Ellen have kept the CAI-CT fires burning, not without some fancy footwork. The Board and the Committees have been discussing at length the fate of the programs we ordinarily would be attending now. Most of the programs planned through June have been cancelled. Seemingly difficult decisions at the time they had to be made, now appear as no-brainers in the world of Executive Orders and CDC Guidelines.

But to the credit of CAI-CT, we responded immediately to the new order and organized webinars addressing the most topical issues we now are facing. By early indications the response from our members has been enthusiastic; the first events were sold out. Much more information is available on the website. The efforts of CAI-CT and all of its committed volunteers already have informed our stakeholders on many issues of immediate concern, but in the process have solidified CAI-CT's position as a "go-to" source of reliable, timely insight and help on the novel issues we are facing.

So, by the time the next issue goes to press and you are reading it, much, much more will have changed. The pace of change is breathtaking. Adoption and deployment of technology in all industries but certainly in ours, is remarkable. Many more of us than ever was conceivable, now are working remotely and potentially can sustain this model indefinitely. It is fascinating to speculate as to how our businesses may have permanently changed overnight. Could one of the silver linings in the neo-Normal world be (finally) the acceptance and widespread use of electronic meetings? We shall soon see! ■



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## From the Chapter Executive Director

**As you grow older, you will discover  
that you have two hands — one for helping  
yourself, the other for helping others.**

~ Audrey Hepburn



Kim McClain

Courtesy CAI-CT

These times are truly extraordinary. Here at CAI-CT we have been very fortunate to have so many amazing volunteers who consistently go above and beyond to provide support and information to our members.

We have ramped up the number of education programs in the form of webinars. We are offering weekly webinars on COVID-19 related issues. These programs are happening due to the yeopersons' efforts of our Program Committee and Board members. Ellen Felix has been nothing short of phenomenal in navigating the world of Zoom so that we can now reach you.

We are very sad to note that in 2020 we will not be able to hold the Conference & Expo that we all look forward to each year. Nevertheless, we are actively developing new and different ways to connect. Please be sure to include [www.caict.org](http://www.caict.org) as one of your favorite spots to visit on the internet. That's the place you will find current information about all of our webinars and events as well as COVID-19 information your community can use.

We miss you all!

Be safe and be well! ■



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## Website Insights – CAI-CT Member Pricing

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The official website of the Connecticut Chapter of CAI

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**Joel W. Meskin, Esq.,  
CIRMS, CCAL, MLIS,  
EBP**

# Coronavirus and a Community Association's Property Insurance

(Copyright © 2020 Joel W. Meskin)

By Joel W. Meskin, Esq., CIRMS, CCAL Fellow, MLIS, EBP

THIS ARTICLE IS NOT A LEGAL OPINION, IS NOT THE POSITION OF ANY SPECIFIC INSURER OR THE MCGOWAN COMPANIES. THESE ARE THE BEST THOUGHTS OF THE AUTHOR.

The Coronavirus Pandemic has found most of us with our arms up in the air. These are definitely uncharted waters. My question, as someone who has been spending a great deal of time answering questions on the Coronavirus and insurance coverage is: did any prior pandemic, epidemic or outbreak of a communicable disease lead to the myriad of insurance issues we are now being asked to respond with clear responses. Maybe our standard response should be “maybe” or “it depends” on many variables before an intelligible response can be provided.

This conundrum provides numerous opportunities for creative coverage attorneys representing Insureds to boldly assert and plausibly argue to find coverage where no such coverage was intended to exist. To trigger coverage under the Insured(s) Property Policy (aka Master Policy) is that the existence of the *coronavirus* in a common area constitutes “property damage.” To satisfy the existence of property damage, most property policies require that there is a “Covered Cause of Loss” (the coronavirus) that results in *direct physical loss of or damage to the Insured(s) covered property*? I presume, but do not assume, that these requirements will not be met to trigger coverage for direct physical damage. I also presume, but do not assume, that contingent damages arising or resulting from the alleged property damage will not be covered. These potential coverages include business interruption loss, loss of business income or loss of use.

The anticipated arguments, protracted litigation, attorney fees and costs, as well as the fees and costs of countless multidisciplinary experts will depend on the specific policy wording, state laws, court interpretation, judges and creative attorneys. All these factors will ultimately determine *coverage or no coverage*. These coverage issues and related litigation will undoubtedly go on for years, or until the insureds can no longer afford the fight. On the other hand, insurers may choose to resolve such claims on a cost of business basis. This is less likely due to the nature and extent of the potential claims.

I do not believe that insurers intended for coverage to exist under these circumstances. There are potential cases where express language, endorsements or definitions providing coverage exist. I also confidently intent that actuaries did not consider these exposures in developing rating and other modeling they use to best anticipate acceptable loss ratios and underwriting criteria. Again, this is different where there is specifically crafted or included provisions.

The focus of the issues set forth below involves the “common elements, property and amenities” of a not-for-profit community association such as a Condo, Coop or HOA. In addition, the focus here is on the alleged consequences from the existence of the coronavirus



existing in/on a common element. These may have issues that differ from an analysis of general business where direct financial loss will result from the closure of a business.

**Issue No. 1:** Is the existence, or possible existence of coronavirus direct physical loss or damage to Insured property? Most property policies require that the Insured(S) property suffer direct physical damage to Insured property resulting from a covered peril.

## Response No. 1: Probably no.

Insured(s) will assert that the coronavirus introduced into the common elements constitutes direct physical loss or damage. Policy interpretation is subject to state law. Courts in some states have opined that contamination and other incidents that render property uninhabitable or otherwise unfit for its intended use constitutes a “physical loss.” I believe that this is the minority opinion, and is not applicable with respect to the Coronavirus.

The coronavirus issue in community associations is not really the existence of contaminated property as a result of the virus. One study concluded as follows:

“The researchers behind the new study tested the virus’ life span in a 71-degree-Fahrenheit room at 65% relative humidity. After three hours, the virus had disappeared from printing and tissue paper. It took two days for it to leave wood and cloth fabric. After four days, it was no longer detectable on glass or paper money. It lasted the longest, seven days, on stainless steel and plastic.” (*Business Insider*, April 7, 2020 — <https://www.businessinsider.com/coronavirus-lifespan-on-surfaces-graphic-2020-3>)

[Continues on page 27.]

## NEW & RENEWING MEMBERS

### Welcome New Members

#### Associations

Kensington Woods Association, Inc.  
Parker House Association  
Proprietors of Sterling Woods  
Summit Master Association  
Sylvan Point Condominium Association

#### Individual Managers

Edward Dutka  
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### Thank You Renewing Members

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Cedar Crest Condominium  
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Heatherwood Condominium Assn.  
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The Meadows of Enfield Condominium  
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## From the CAI-CT Education Program Committee

Pamela Bowman, CMCA, EBP and  
Donna Rathbun, CMCA



Pamela Bowman,  
CMCA, EBP



Donna Rathbun,  
CMCA

CAI-CT's Education Committee has gotten together to prepare and deliver online education through webinars to managers, board members, community members and business partners. All members and non-members are welcome. We are producing weekly one-hour sessions, Thursday Lunch Webinars at 12:30 with a variety of topics. Registration is through the website, [www.caict.org](http://www.caict.org).

We recognize there are questions, uncertainty and new ways of operating day-to-day for the current short term and this will shape what is to come going forward.

*"We recognize there are questions,  
uncertainty and new ways of operating  
day-to-day for the current short term and  
this will shape what is to come  
going forward."*

The varied professionals that CAI-CT brings to the table for all of us allows us to assemble timely information available for distribution to you.

The Education Committee is looking to bring you topics that are current, relevant and timely for you to service your communities and clients. Ultimately, our goal is to provide you aids and tools to allow better decision making for running your associations and businesses.

We always welcome suggestions for topics, please email [kim@caict.org](mailto:kim@caict.org) with any topics you would like to see covered.

We look forward to getting together soon and in the meantime, we hope that you, your families and community can be safe, well and healthy! ■



**To Join CAI-CT  
Visit [www.caionline.org](http://www.caionline.org)**

## Legislative Update

As of press time, the State Capitol is still closed. It seems unlikely that the General Assembly will be able to reconvene any time soon.

CAI National has been very active at the Federal level both to monitor and advocate for programs that could benefit community associations. The information on the CAI National COVID 19 page is continually being updated. Go to: [www.caionline.org](http://www.caionline.org) for the latest information. ■





### Statutory Snippet...

#### Collection Policies.

- a. The common charges are the lifeblood of the association. Unit owners are required to pay common charges despite any complaint they may have against the association. (Maintenance, repair and replacement and common charge payments are two separate issues).
- b. If a unit owner is two months past due on common charges, the association should send demand to the unit owner as set forth in the association documents. After making the demand, the association can turn the matter over to counsel.
- c. Counsel can then make demand on the unit owner and give notice to lien holders (30 days if no mortgage; 60 days if a mortgage). If no payment after the required time passes, the association can bring a foreclosure action on the unit.
- d. The association is required to have a collection policy in place that has been voted on and adopted by board resolution or in the alternative the board must vote on every collection action individually.
- e. The association has a nine (9) month priority lien over other lien holders, except government taxes and liens.

*This is an excerpt from a Condo Inc. presentation given by Michael Feldman, Esq. & Kasey Burchman, Esq. of Feldman, Perlstein & Green, LLC. Reprinted with permission.*


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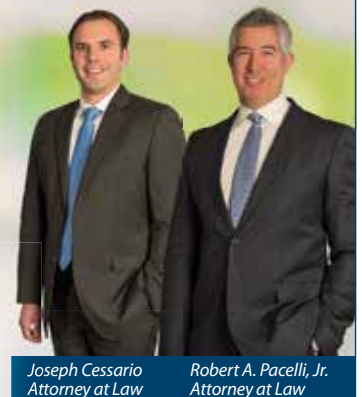
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## Legally Speaking...



Adam Cohen, Esq.

### Meetings in the Era of the Corona Virus

By Adam J. Cohen, Esq.

Community association lawyers are being flooded with questions from their clients about their options for holding meetings in light of the threat posed by COVID-19, commonly called the corona virus.

The most important thing to do is to stay safe. “Social distancing” — which means staying several feet away from other people at all times, not touching them even for a handshake, and avoiding crowded indoor areas — is essentially to stop the spread of this virus. This means large groups of people should not be congregating for any reason, including homeowner’s meetings. On March 16, Governor Ned Lamont issued an executive order declaring a prohibition of community gatherings of over 50 people, but the safest thing to do is to postpone all community meetings even for smaller numbers of attendees for the foreseeable future.

Association boards have options for conducting their business without live meetings. State law says that boards can make decisions without a meeting if two-thirds (or all, if the bylaws so require) of the board members agree on something by phone or email. The unit owners must be promptly notified in writing (by mail, email, or hand-delivery) of the outcome and how each board member voted. Another option is that, unless the declaration or bylaws prohibit doing so, state law allows the board to hold a meeting by telephone or video if a notice is sent to every owner that explains how unit owners can connect into the conference, and comments are possible in that every participant can both hear and be heard. (The statute also allows owners to participate from a designated central location, but that’s what we’re trying to avoid.)

The bigger problem is meetings of the unit owners themselves, such as the annual meetings which most communities typically hold at this time of year. Unfortunately, state law does not currently allow community associations to hold unit owner meetings by telephone or video unless the declaration or bylaws so allow, and very few do. Since holding a large meeting can be extremely unsafe now — and literally illegal for communities of 50 or more — this is simply not an option. Associations should postpone their unit owner meetings until after the risk of infection has subsided.

Fortunately, state law does allow unit owners to conduct votes by referendum instead of during a live meeting unless the declaration or bylaws prohibit doing so. This means elections, budget approvals, and other items can often be conducted by mail or online. The board must distribute paper or electronic ballots, along with notices which explain



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*“Another option is that, unless the declaration or bylaws prohibit doing so, state law allows the board to hold a meeting by telephone or video...”*

the applicable quorum and passage thresholds, the deadline for returning the ballots, and how owners can communicate with each other about the subject of the vote. This can be a useful alternative in order to decide key issues without exposing everyone to the serious risks of a live meeting.

Governor Lamont issued another executive order on March 14 suspending in-person meeting requirements for municipal entities. These include taxing districts and special services districts which many homeowner’s associations have established to conduct a portion of their affairs. The executive order requires that the meeting be held by telephone, video, or online such that the public is able to view or listen; participation instructions and relevant materials are posted to the organization’s website before the meeting and a transcript or recording is posted there afterward; and everyone who speaks must clearly state their names and titles. The Governor’s order applies only to government entities like districts, not private associations like condominiums.

Our communities will get through this difficult time together. Focus on keeping yourself healthy and safe, and work with your community’s attorney to ensure you are following the law applicable to your type of community as well as your individual governing documents. And of course, remember to wash your hands. ■

*Adam J. Cohen is an attorney with the Law Firm of Pullman & Comley, LLC headquartered in Bridgeport, Connecticut. As the Chair of its Community Associations Section, he represents and gives seminars to condominiums, tax districts, and other communities in matters ranging from amendments of governing documents to revenue collection strategies and commercial disputes.*





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## Financially Speaking...



Daniel Levine, CPA

### Cash Flow Management

By Daniel Levine, MBA, CPA

As a result of current events, there is a lot of uncertainty right now. With record high unemployment and job losses it will be a challenging few months for many individuals which potentially will include members of your community. As a member of the board of directors, this will have a direct impact on the management of your association. To help during this challenging time, this article will focus on cash flow management and areas to focus on to ensure healthy cashflow of the community. We will first look at the accounts the association should watch to develop an expectation of their cash flow and follow this up with general ideas for cash flow management.

#### Cash Flow Health

##### Accounts Receivable

Accounts receivables of an association are the listing of unit owners that owe the Association money. An accounts receivable balance can be comprised of any combination of past due common charge, assessment, or billback. This line item on the balance sheet is a great leading indicator to any potential cash flow problems for the association because it shows what will potentially be paid to the association, if it is collectable.

Each month when common fees or other charges are assessed to the unit owners accounts receivable will increase. When payments are made the overall accounts receivable will decrease as payments are received. If the accounts receivable balance continually increases this effectively means that the fees the association has charged are not being paid by unit owners. This can be the canary in coal mine as it relates to cashflow. If there are substantial increases in your accounts receivable and the association did not have a large starting cash balance this can lead to having insufficient cash on hand for operating costs.

##### Prepaid Fees

On the other side of the coin there are unit owners who have paid their fees in advance. These fees are also reflected on the balance sheet as, under accrual basis accounting, they shouldn't be reflected as income yet. If this number decreases, it means two things: either unit owners are taking advantage of their pre-paid fees and not writing new checks to the association, or the association has had to refund the over-paid amounts.

The cash flow implications for this are twofold. First unit owners applying pre-payments to current charges means that no additional cash is being received and deposited into the bank. The funds were



Katlin/E+/Getty Images Plus

*“Depending on the need for cash, the association can investigate the following ideas...”*

already held by the association. This means the association won't be able to count on additional funds from that owner for the month. Second, if a unit owner has prepaid multiple future months, they may request a refund which would then become a cash payment from the association. Reviewing the detail of who has prepaid their common charges and being pro-active about refunding or setting aside any potential refunds can help better frame the actual available cash for use by an association.

##### Ideas to Manage Cash Flow

With an understanding of the above two accounts the association should work to put together a potential projection for the next few months and based on that projection make management decisions. Depending on the need for cash, the association can investigate the following ideas:

- **Negotiate terms with vendors.** While still having work performed, the association can discuss terms with their vendors. Are there certain costs that can be paid over time? Are there certain costs that can be paid in 30 or 60 days vs. on receipt?
- **Review the association's policies.** Review the collection policy for the association and have a call with the association's attorney about

*[Continues on page 12.]*





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## FINANCIALLY SPEAKING...from page 10.

the feasibility of being able to enforce said policy. If collections aren't possible in the current environment, this will have a potential impact on cash flow.

- **Implement short-term policy changes:** The board may want to consider their current policies towards late fees and decide to implement a short-term waiver of those fees. The board may also want to offer unit owners an installment plan for their common charges during this time. These items may help preserve some sort of incoming cash flow while also being supportive of their community's needs.
- **Borrow from reserves:** This should really be a last resort. Should there be a serious cash deficiency for operating costs, the association could borrow the money from reserves. Should the association plan to do this, a payment plan should be put in place either through an

assessment or future budgets. This ensures that the short term needs of today don't impact the long term needs of tomorrow.

- **Leverage your network:** CAI-CT has a large network of professionals that can help provide guidance during this time. If there is a specific challenge or issue, accessing this network can help provide expertise to arrive at a possible solution.
- **Communicate with owners.** Communication is always critical. Letting unit owners know if there is any leniency to late fees, or payment plans available. Letting owners know how the association plans to handle the next few months, whether it's a changed level of service, or changes to certain policies, can allow them to plan their personal situation and make sure everyone is on the same page. While the association is a business, everyone is part of the same community.

### Conclusion

This will be a challenging time for many reasons and there will be no one size fits all solution. A pro-active monitoring of your fiscal health and working to preserve incoming cash receipts while deferring cash payments can help maintain the status quo of the community during this time. ■

*Dan Levine, MBA, CPA is a Certified Public Accountant at Tomasetti, Kulas, And Company P.C. Dan has extensive experience with tax and attestation services to condominium associations from all around Connecticut. Dan is an active participant in CAI-CT related programs and can be found presenting accounting best practices at these events throughout the year. Dan is also a member of our Legislative Advocacy and Next Generation Committees.*



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*"CAI-CT has a large network of professionals that can help provide guidance during this time."*



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Steve Weir

# Cleaning & Disinfecting Against Coronavirus

By Steve Weir

With this pandemic upon us, most of us have never heard the word “disinfecting” so much in our lives. With Coronavirus affecting all of us in one way or another, and a significant number of people testing positive for COVID-19, it might be hard to imagine when we can all return to “normal.” We’re also all aware of the terms “social distancing” but in addition to that, we should be mindful to keep our environment as clean as possible. Unfortunately, the virus can be carried from space-to-space on our clothes, skin, shoes, etc. Because this virus spreads so quickly and easily, it’s important to increase the amount of handwashing and good, frequent hygiene.

Common areas include, but are not limited to: Laundry rooms, hallways, stairwells, community rooms, pool rooms, exercise/ game rooms, auditoriums, mail rooms, elevators, lobbies and more. These areas are generally of more concern, because lots of people pass through them. Below are some tips and best practices for disinfecting common areas, and also private living areas.

## Why So Much Focus on Surfaces?

Although the Coronavirus can become airborne, generally speaking, it’s most likely to be found on horizontal surfaces. This is why it’s critical to wash hands after touching areas that others may touch. These areas are referred to as “high touch areas”. If you look around any common space, or even spaces within a residence, these high touch areas are relatively uniform. They include, but again, are not limited to:

- Light switches
- Thermostats
- Door knobs/ cabinet handles
- Doors/ door frames
- Electronic Devices - Copiers/ printers/ remote control devices
- Bookshelves, table/ desk tops, chairs
- Handrails, grab bars, levers
- Bathroom items, such as faucets, knobs, stalls, toilets
- Wall Areas below 7 feet high, Floors

The list can be nearly endless. Think of it this way: Anything you touch in a common space is most likely to have been touched by someone else. This raises the possibility for the transfer of the Coronavirus from person-to-person.

## Primary Methods of Disinfection/ Deep Clean

1) Spray & Wipe: This method is critical to any attempt at disinfection. In addition to the pathogens/ viruses/ bacteria that can be present on surfaces, there is often oils (from our hands), grease, dirt, dust



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*“Although the Coronavirus can become airborne, generally speaking, it’s most likely to be found on horizontal surfaces.”*

and other gross contamination. In order to attempt to disinfect, you must remove the gross contamination, one of the most effective ways to achieve this is by spraying a surface disinfectant, then removing it mechanically with a cloth/ wipe/ rag, etc. The problem with this method is that it can be inconsistent. Below are a few ways which leave some room for error:

- The disinfectant must be applied in accordance with the manufacturer’s label instructions:
  - Correct applicator
  - Proper coverage
  - Must be left on the surface for adequate time (Dwell Time)
  - Disinfectant must be approved for the appropriate pathogen you’re trying to remove
- Areas can be missed
- Cloths/ rags/ wipes must be changed out frequently.

2) Fog/ Mist/ Vapor: This method is quite comprehensive, since there is less of a chance that an area will be missed. While it’s highly effective on a final clean (Terminal Clean), it doesn’t address any of the gross contamination that may be left on a surface. Some keys to success in applying a fog/mist vapor are:

*[Continues on page 16.]*





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## CLEANING & DISINFECTING...from page 14.

- Using the correct applicator (The solution must be approved to be used with the applicator.)
- Proper coverage
- Must be left on the surface for adequate time (Dwell Time)
- Disinfectant must be approved for the appropriate pathogen you're trying to remove.
- Chemicals leave behind a residue which can be hazardous to workers, occupants and residents (Silver Oxide, Quaternary Ammonium, Chlorine Gas). Know what's being applied.

Proper disinfection should employ a combination of both methods, to be sure that Gross Contamination was removed, and that all areas were reached. Our projects receive both a Gross Contamination wipe-down, as well as a Steramist™ application to ensure all areas were reached. Generally speaking, in most environments, there are no verification tests being performed. Additionally, once a deep clean/ disinfection is performed, as soon as an area is reoccupied, the potential for contamination is immediate. This is why we recommend frequent cleaning/ disinfection.

When we're called in to provide a disinfection service, our first focus is on SAFETY. We are concerned for the safety of our employees, our clients, and the residents. We enter hazardous environments every

day, but our staff is trained on recognizing risks and the following:

- Performing a risk assessment or Infection Control Risk Assessment (ICRA)
- Proper training, certification and use of Personal Protective Equipment
- Proper training, certification and use of application equipment
- Proper training, certification and use of chemistry, cleaning agents

If the presence of Coronavirus is suspected, or if a confirmed COVID-19 case has been confirmed, this is NOT the place for an amateur or routine cleaning. A professional who has been properly trained to perform deep cleaning/ disinfection is a must.

For other information and updates on Coronavirus, consider the following sources:

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

<https://portal.ct.gov/Coronavirus>

One of the quotes we've heard over the past several weeks, is that "We're All in This Together". This rings true. Let's take the proper precautions to keep ourselves, and our environments safe and clean, and we stand to emerge from this crisis showing more strength and courage than many of us may have thought we were capable of.

As I've written before, part of preparation is having strong business partner relationships in place prior to needing them. It's good to have

*[Continues on page 23.]*



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## Manager's Column...



Rich Wechter, CMCA

Being Practical, Part LXII

# Community Associations in the Era of the Coronavirus — A New Reality

By Rich Wechter, CMCA

In this column, we tackle various topics of interest with the intent of imparting practical advice. This issue's column addresses the only topic on the minds of everyone right now: the current coronavirus health crisis and its impact on our personal safety and economic well-being both now and in the future. We intend to focus our attention in this article on community associations rather than the world around us. We hope that this review will aid Association Boards of Directors and our fellow community association managers in their efforts to govern and maintain their communities going forward during the hopeful end of the current pandemic and the likely next pandemic.

### A. Setting the Table on this Topic

Just a few short months ago, we were enjoying an exciting Super Bowl and looking forward to the continuation of an exceptionally mild and dry winter and the hope of an early spring. The coronavirus outbreak in China was nothing more, so we thought, than a localized outbreak of a virus with no ramifications to us. Nothing could have been further from the truth. We are in the midst of a health crisis, the likes of which has not been seen for over 100 years since the Spanish Flu epidemic of 1918. Some associations have handled this situation well while others have not.

It is within this context that we begin our discussion of this matter. Before doing so, however, we would like to thank all of the people in our world of community associations and outside our little world (the doctors, nurses, other health professionals, grocery store workers, farmers, truckers, mail deliverers, police, fire, EMT and a host of others that time does not allow to mention) who are out on the front line during this health crisis. We are so very grateful for what you do for all of us.

### B. Actions by Management Companies

Management companies with the resources to enable all of their employees to work from home by use of cell phones with a link to office phones, laptops/notebooks or similar devices to retrieve management and association documents and programs, and printers/copiers/scanners will be able to function close to normal pre-coronavirus outbreak conditions. Any management company that has not been able to achieve this will need to get up to speed ASAP. Check approval processes that can be conducted electronically are also vital to the ability of a management company to function during the current lock-



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*"We are in the midst of a health crisis, the likes of which has not been seen for over 100 years since the Spanish Flu epidemic of 1918."*

down in CT. Similarly, the ability to have payments of dues by unit owners processed electronically, is vital to the continued operation by associations. Finally, the ability of those management companies that also provide maintenance services to continue to so provide such services, in a safe and appropriate manner is critical to the proper maintenance of our associations.

It is also critical for constant communications with Boards and unit owners/residents, providing updates on association matters and the response to the health crisis. These communications are a lifeline for our associations and have been well-received to date. They do not need to be extensive treatises but should contain valuable information for all concerned.

Finally, management companies must be vigilant in watching over both the revenue coming in as well as the expenses going out. Those associations without extensive reserves may find themselves unable to withstand multiple unit arrears and/or unable to fund reserve projects in whole or in part. Communications with association vendors is critical in watching over both operating and reserve expenses. Hard decisions may need to be made by Boards with the guidance of their management companies while this health crisis comes to a peak and thereafter.



### C. Actions by Boards

Association Counsel have advised that Boards can meet by electronic means, as long as their governing documents do not forbid such meetings. There must be means by which unit owners can participate in such electronic meetings. Fortunately, the available methods for such Board meetings has increased over the years.

There are two other methods that can be implemented to achieve action by Boards. The first is the ability of Boards to act by the consent of at least 2/3 of the Board members. This consent is generally by e-mail. The particular item(s) that a Board must consider can be voted upon by e-mail consent. In many cases, the matters that Boards consider in between Board meetings can be acted upon by 2/3 e-mail consent. Nothing about the current health crisis has changed this means of Board action. The Board must note these “between Board meetings actions” by at least 2/3 e-mail consent to Unit Owners at the earliest reasonable opportunity. The second is to have the President, in the exercise of their power, to establish a Committee of the Whole, which is permitted under Roberts Rules. The Committee of the Whole is made up of all of the Board members. This committee, like other committees, has no power. It can issue recommendations only to the Board and the Board then can act upon those recommendations either at a Board meeting where the majority vote of the Board controls, or, by 2/3 e-mail consent. The matters placed before The Committee of the Whole are, for the most part, matters that require thought and discussion and cannot easily be dealt with by the Board

by e-mail consent. No notice of this committee’s meeting is required to non-members and no minutes are required. Once again, it cannot be overstated that this committee has no power to make any decisions and is strictly advisory in nature.

### D. The Return to Normalcy/The New Normalcy

At the time of the writing of this article, Connecticut is still on a lock-down that has been extended to May 20, 2020. This may be extended further by the time this article is received by the public. In any event, the following comments apply to that period of time after the full lock-down expires. It is expected that there will be a slow opening up of

*[Continues on page 20.]*

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## MANAGER'S COLUMN...from page 19.

this State that will occur over weeks and months rather than immediately or over days. Management companies, Boards and all vendors who work at properties will need to slowly and carefully begin to resume activities that were placed on hold (such as non-emergency maintenance work inside units) and resume more direct contact with others (returning to management company offices, holding in-person meetings, etc.). This is likely to be a work in progress while all of us obtain confidence that we will not fall back into a resurgence of this virus and start all over again with lock-downs. Everyone has to be patient with one another as we move into what may be a very changed world. Board and Unit Owner meetings may look very different going forward. Associations may need to change their documents to permit electronic Board and Unit Owner meetings. This may actually result in greater and easier participation by all concerned. Securing the attendance of professionals at such meetings may be more easily achievable at a lower cost to associations. What was normalcy before this coronavirus may no longer be normalcy post coronavirus. Thus, what will become the "New Normalcy" is far from ascertainable right now. Only time will tell.

### E. The Next Pandemic

Until there is a vaccine that will protect the population of the world from this horrific virus, the health professionals have stated

that is likely that we are going to face this virus again over the next fall/winter. Accordingly, it is critical that management companies and Boards continue to work to prepare for the next crisis by establishing protocols that can be initiated immediately. All of the measures outlined in this article should be ready for implementation quickly and without fail. If people avoid participating in hoarding, management companies should have masks, gloves, disinfectants and other safety items on hand to protect their employees and to service their associations.

### F. Conclusion

I keep thinking back to an old saying from my father: "This too, my son, shall pass". I certainly hope that this coronavirus pandemic will pass shortly and safely for all of us. However, I wonder if this saying will come true or whether the New Normalcy will be quite a different world from the world we lived in on the night of the 2020 Super Bowl. We will need to be prepared for both worlds and hope that we can go back to our former lives. We just need to be prepared for the next pandemic because to do otherwise would be incredibly short-sighted. We hope that this article will aid property managers and association board members in getting past the most difficult crisis in our lifetimes and to remain safe now and going forward. ■

*Rich Wechter, CMCA is Senior Vice President at Westford Real Estate Management, LLC.*

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Keith Anderson, EBP

## Pandemic Proof Your Pool:

*“An ounce of prevention is worth a pound of cure.”*

By Keith Anderson, EBP

We are now approaching the beginning of pool season, except we are in the midst of an unprecedented pandemic. As pool professionals, we are always looking to acquire the latest information from various state and federal agencies so we can continue to serve and educate the swimming pool community. We have been in constant contact with our suppliers and manufacturers to make sure we are well stocked for summer. There is no question that things are going to be different for all of us. We have been answering a lot of phone calls recently asking us “what do we do, should we open the pool?” Much like you, we have more questions than answers on how the future will play out. What we do know is the science to protect your pool and the know how to keep your pools safe and problem free. We are strongly recommending that the pools be opened on schedule one of two ways.

Option one would be to fully start the pool and have it ready to go. This would also provide the aesthetic value and the state of mind of residents to see some peaceful blue normalcy.

Option two would be to start the pool so the circulation system can run and re-cover the pool. This will allow the pool to stay healthy and keep the fence jumpers out... I'm sure many of you have some stories about that. When the okay is given to allow bathers into the pool area the cover can be removed and will be ready to go.

The other option you have is to leave the pool closed entirely for the season. This is one of the questions we also have been receiving. This is definitely the worst option to maintain the condition of the pool. I know I have personally worked with many of you and we all know the expensive renovations, repairs, and work that have gone into these pools. We need to protect these pools and ultimately the investments made by our communities. Below are some of the many problems we are trying to avoid within our pools. If you were to choose this option the water level should be pumped down below the returns. Also the pool should be re-winterized in the fall to make absolutely sure no water seeped into the lines and that the plugs are still in good shape as poor water balance can deteriorate the plugs very quickly. Also DO NOT DRAIN YOUR pool!!! This can ruin some plasters, cause the pool to shift, or even have hydrostatic pressure lift the pool out of the ground. Pools should never be drained without contacting a licensed pool professional first.

### Here are some issues to consider:

#### Water Balance

- Without proper chemical balance the water will either become acidic, corrosive, basic, or aggressive.
- The pH will not be regulated. This can rapidly deteriorate the pool,



ZeynepOzy/Stock/Getty Images Plus

*“We have been answering a lot of phone calls recently asking us “what do we do, should we open the pool?””*

anything from damaged and stained plaster to scale formation and paint failure.

- The calcium hardness levels will also not be able to be maintained. Water will seek its own calcium and can pull it from the structure of the pool. Water can pull calcium from your plaster, concrete, grout, etc. causing deterioration of these components.
- The chlorine should also be maintained to keep the water clear and in balance.

#### Algae

We have had a mild winter so we are already looking at having a larger than usual algae issue this year. If these pools are left untreated the algae will continue to bloom, even though the pool is covered there are many types of algae that have adapted to live in dark conditions. Algae like many plants, do not die, they go dormant waiting for ideal conditions to thrive. As the temperature of the water rises algae also grows, this can lead to staining that may be very difficult if not nearly impossible to get rid of depending on the type of algae.

#### Bugs and Bacteria

We all know that standing water is a breeding ground for many insects, especially mosquitos. We all know about the annoyance mosquitos bring as well as a long list of their own diseases. The

*[Continues on page 23.]*



Timothy Wentzell, P.E.

## TECHNICAL EXPLANATIONS

This column appears in each edition and is intended to touch on technical topics of general interest to common interest associations. Topics will be of a general nature, but I will also accept and respond to questions from readers. On occasion, it will be guest authored when topics can best be addressed by experts in other fields.

### Evolution and Transition Issues

By Timothy Wentzell, P.E.

One of the themes of this issue is transition issues. We have been doing transition studies for condominium associations for many years and I find it very interesting how associations have evolved over the years due to economic cycles. During peak times, associations tended to be constructed in a reasonable period of time and then transitioned. And in these cases, the transition review depending obviously on what type of issues they had, could be relatively straight forward. What we have been seeing more recently is associations transitioning after many years of construction, often with as many as two or three different developers creating different parts of the association. Often, we learn that a community association was started many years ago by the initial developer. This developer's business failed and likely the association was taken over by a bank, then at some point sold to another developer who created, likely similar units but not necessarily in the same style and type, and then used totally different contractors and even architects or designers for their period of development. In a few cases we have seen this cycle repeated more than once, and an association can have many different ages, types, and quality of construction. The developers often had very different ideas of what they thought would be saleable, and this can certainly compound the preparation of a transition review as in many ways it can be similar to conducting multiple reviews as each phase can have its own special attributes. Sometimes within the different phases of development the only commonality may be the finishing of roads, sidewalks, and some of those items which have been written about frequently before in this column are often not completed in a timely basis and problems occur where the remediation work needed can be significant before final completion.

Another subset of these problems, which we seem to be seeing more regularly, is where associations have transitioned to unit owner control while the developer still has rights in place for completion but sales are either non-existent or lagging, and many infrastructure items such as paving, sidewalks, or recreational facilities are not complete. A great uncertainty exists with regard to whether the developer is going to be willing or able to complete these items. To explain this further let me discuss one issue in more depth: that being final pavement.

When association developments are delayed because of lack of sales, what is referred to as the binder, or first layer of pavement, is often installed in these complexes. Then, in some cases many years later, the



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*What we have been seeing more recently is associations transitioning...with as many as two or three different developers creating different parts of the association."*

top coat, often referred to as the wearing course, is then installed. The concern here is that a paving system is designed to consist of both of these layers done in concert with each other in order to create a strong enough pavement to carry the loads that would be expected on this pavement. When many years elapse on only half of this paving, the paving then deteriorates often cracking or what's referred to as alligatoring, or other defects which often may include more than the paving. These may include catch basin caps, curbs and other features of the paving system thus rendering them unsuitable for installing the second layer on top of a now defective base. This can result in a situation where what is referred to as reflective cracking becomes the common phenomenon. This is familiar to many of us who travel Connecticut roads. In this scenario because the base has deteriorated it no longer provides appropriate structural support for the second layer and when the second layer is then installed years later, it does not render suitable service because the base in and of itself was not "strong enough" to carry the loads. Then when it becomes a part of an integrated system because it has failed, it then cannot carry future loads even when the top layer is installed. In this scenario if this is not done in a reason-



able construction sequence, the original layer really should have been replaced or other remediation techniques undertaken. The final result of this is a new pavement system that looks good for perhaps a year or two or three, but does not provide a long-term roadway or driveway.

The point of this article is that when an association undergoes transition from developer to unit owner control, there are many issues to be considered. Interestingly, when this transition takes many years, there may be both an opportunity to observe more problems but also the scenario where more problems may exist and they may not be the same issue in all parts of the association. ■

*Please address any questions or areas of interest that you would like answered in future columns to Timothy Wentzell, P.E., e-mail: ConnPropEng@cox.net.*

### **PANDEMIC PROOF YOUR POOL...from page 21.**

other issue is bacteria in the pools. Bacteria in pools can form what is called biofilm. This is formed when bacteria embed and colonize in a layer of slime called biofilm. This slime protects the bacteria from sanitizers such as chlorine making it very difficult to eliminate. It is estimated that 65% of human bacterial infections in aquatic environments involve biofilms.

What we are recommending is going to save these pools from costly repairs and algae mitigation down the road. Let's not forget to protect our community's investments, and remain problem free for years to come. We are all in this together, let's work together and stay safe. ■

*Keith Anderson, CPO, CSP, CBP, SPB, SP-1 is the Service Manager at Savol Pools. Keith holds many professional certifications including the CAI designation of EBP – Educated Business Partner.*

### **CLEANING & DISINFECTING...from page 16.**

an established relationship in place with your service providers, where you can rely on them to keep your property in the best possible shape. During a time of need is not the best time to create a business partner relationship. Prepare, Prepare, Prepare! ■

*Steve Weir is the CEO and founder of American Integrity Restoration (AIR). Steve has over 20 years in the construction industry, and nearly 15 years specifically in the disaster restoration industry. Steve can be reached at [sweir@1callair.com](mailto:sweir@1callair.com) with any questions.*

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## Ask Mister Condo!

**Y**ou have questions! Mister Condo has answers! Every issue of *Common Interest* features an "Ask Mister Condo" Question submitted by a reader of the Ask Mister Condo website at <https://askmistercondo.com>. There are often many reasonable suggestions and solutions to condo questions. Mister Condo is asking you to participate and share your wisdom with the world. Review the question and Mister Condo's answer below. Do you have anything else you'd like to add to this question or answer? Comment online at <https://askmistercondo.com>.

### Condo Conflicts?

#### C.C. from Connecticut writes:

Dear Mister Condo,

Are there guidelines in CT regarding active executive board members who sell real estate and any steps that should be taken to avoid conflict of interest concerns?

#### Mister Condo replies:

C.C., conflicts of interest come in two types – apparent and definite. Apparent conflicts of interest are pretty much what you are describing here. A Board member may have some inside access to information that they could use to make money while selling real estate. A definite conflict of interest would be if you could prove that happened, which would take some doing. It is quite possible that this volunteer Board Member has done nothing wrong and has nothing but the best intentions to serve the community. I am not aware of any rules or guidelines that would prohibit this person from serving on the Board and, clearly, as a democratically elected member of the Board, enough unit owners would like this person to serve. I would say that unless there is compelling evidence that this person has abused their position or clearly acted in his/her own best interest over the community, they should be allowed to serve. However, a vigilant eye should be kept on their actions and if anything seems suspicious, the other Board members should be alerted. Unit owners always have the opportunity to recall a Board member or vote them out at the next election cycle. Let's hope this is just an unfortunate coincidence and that the Board member behaves admirably, honorably, and in the best interests of his/her constituents. All the best!

Did you know that you can subscribe to the weekly Ask Mister Condo newsletter? Go to <https://askmistercondo.com/subscribe/> and you'll get Mister Condo's best advice delivered to your Inbox every Monday! Follow Mister Condo on Facebook or Twitter and get daily updates on current questions delivered right to your phone, desktop, or tablet. Since 2012, Mister Condo has been politely offering some of the best HOA and condo advice to readers just like you! Join in the friendly conversation at the website or on Twitter, Facebook, and LinkedIn. Visit us at <https://askmistercondo.com>. There's plenty to talk about! ■

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VP / Regional Account Executive  
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Erin.kremser@cit.com  
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Contact: Karl Kuegler  
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[Continues on page 26.]



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## ENVIRONMENTAL TIP

While we are all mostly stuck inside, growing plants is a great way to bring the outdoors indoors. Gardening can be a great stress reliever!

Maybe you have a small deck or a patio, but regardless you can bring in the green by cultivating an indoor garden. You can be really creative using what you have around your dwelling.

Yogurt cups, salad containers, folded up newspapers or anything else you have around can be used as a pot, or even a roasted chicken container makes a great starter greenhouse in a sunny window.

For beginner gardeners, start with lettuce, arugula, peas or bush beans, which grow fast and do well in lower light conditions if you're starting them indoors. Seeds are still available at local hardware stores and online from Johnny's, Seed Savers, Bakers Creek and others.

*Happy planting!*



Geshas/Stock/Getty Images Plus

**CORONAVIRUS AND INSURANCE...from page 5.**

The coronavirus issue in community associations is the closing of non-essential common elements to prevent social gathering and the spread of the virus. An association not heeding governmental orders or the recommendation of virtually all health care providers what the association should be concerned with.

The coronavirus as is discussed each night in the news has an extremely short life. By the time that the property can be tested for any contamination by coronavirus would be moot in virtually all situations since the coronavirus would no longer exist. This is different than asbestos and mold where there are much stronger arguments that they are actual property damage and will not go away without remedial measures.

**Issue No. 2:** Is there coverage for testing and or remediating costs?

**Answer No. 2: Probably Not.**

There is no coverage for testing or remediation costs, again if there is no direct physical damage or loss. The discussion to this response is the same as Response No. 1.

**Issue No. 3:** In the unlikely event that the coronavirus is considered "property damage" will there be any other impediment to coverage?

**Response No. 3:**

**A. Yes.** Even if the property damage was established, there are numerous exclusions that would apply. These exclusions further support that insurers had no intent to provide coverage.

**B. No.** Coverage may exist where a policy may have a specific endorsement. This is not likely for community associations, however. This is more probably in industry such as Restaurants and the Hospitality industry where the significant cost can be included in the cost of doing business. These supplemental coverages in the normal course will not include the direct physical loss of damage requirement. Accordingly, the mental gymnastics of whether there is property damage or not is avoided.

**Issue No. 4:** Is there coverage for consequential damages such as Business Interruption, Loss of Income or Loss of Use?

**Answer No. 4: No.**


For these coverages for consequential damages, the damage must again result from Direct Physical damage or loss to The Insured(s) property. Accordingly, the same discussion in Response No. 1 above will apply here.

Keep in mind that Business Interruption insurance is intended to protect businesses against income losses sustained as a result of disruptions to their operations.

Contingent business interruption coverage similarly provides insurance for financial losses resulting from disruptions to a business's customers or suppliers, usually requiring that the underlying cause of damage to the customer or supplier be of a type covered with respect to the business's own property.

In the community association context, the interruption of operations may be argued to be the unit owner members' inability to pay fees and assessments. This is not the result of coronavirus in the community association, but the result of the impact on their business or employment. This is too attenuated from the community association. With respect to the association's inability to pay business partners such as landscapers, pool services or the like, the potential issue would not be a property policy issue. The potential risk will a claim or suit against the association for breach of contract. As a breach of contract issue, there may be a defense pursuant to a Force Majeure provision in the policy (unforeseeable circumstances that prevent someone from fulfilling a contract.) ■

*Joel W. Meskin, Esq., CIRMS, CCAL Fellow, MLIS, EBP is Managing Director, Community Association Products, McGowan Program Administrators. He is a Fellow of the College of Community Association Lawyers (CCAL), Community Insurance and Risk Management Specialist (CIRMS), Management Liability Insurance Specialist (MLIS), holds a National Community Association Institute Educated Business Partner Distinction (EBP), is a Founding Member of the Foundation for Community Association Research (FCAR) Think Tank, Member National Community Association Institute Board of Trustees (2017-18); (2019-20), Chair National Community Association Institute Business Partner Council (2018) and CAI National Corporate Member.*



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