

Common Interest

The Official Publication of CAI-Connecticut

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Inside:

**Association Boards
are Rarely
RARELY BORED**

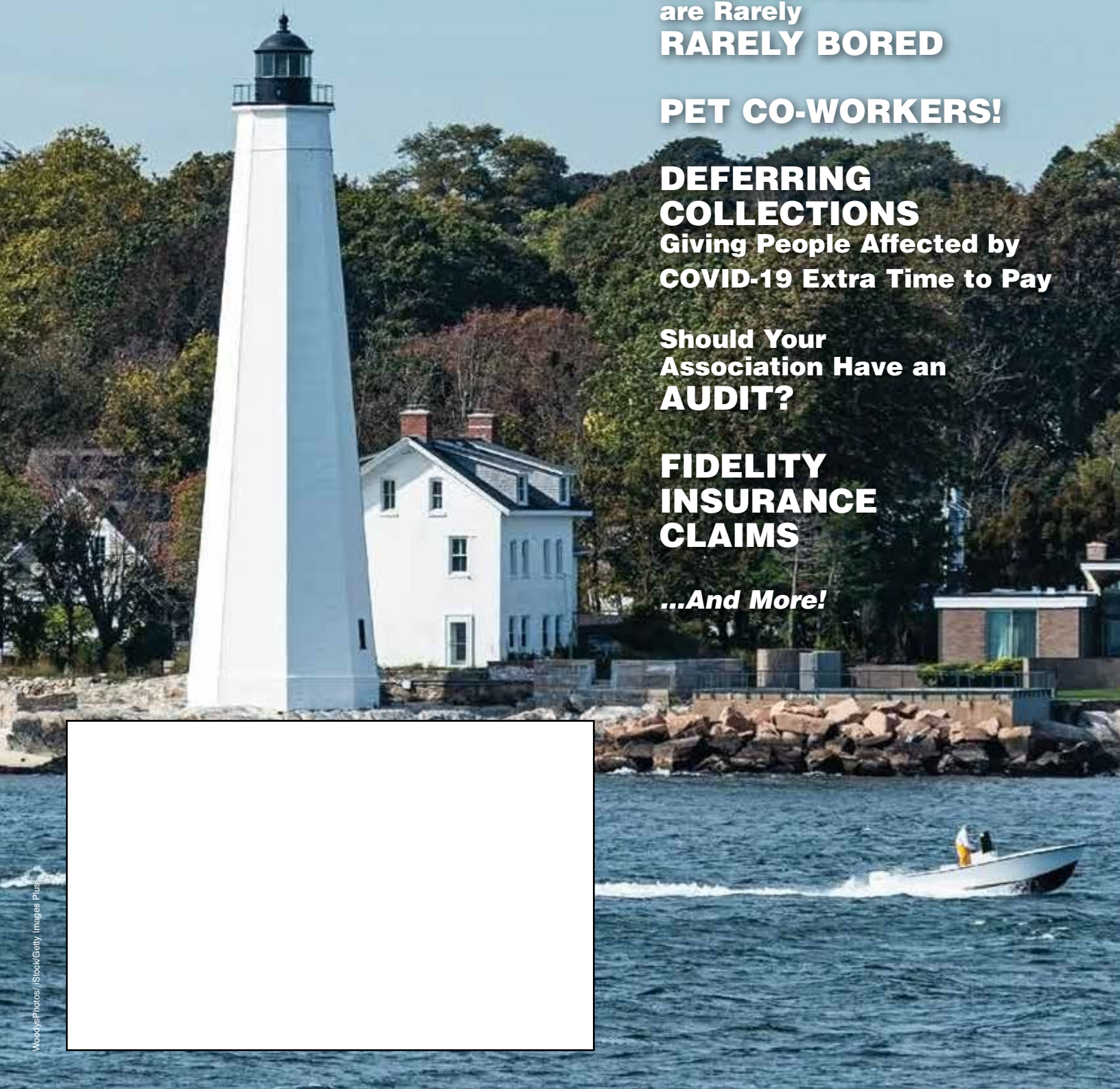
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COVID-19 Extra Time to Pay**

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Who Is CAI?

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

“Your CAI-CT staff is stunningly adept at exploiting the available technology.”

Greetings — Attempting to be thoughtful and insightful in our current environment is humbling. My Message in the last issue was to the effect that none of us honestly know what our future looks like, and I consider all predictions — as to the pandemic, economics, race relations and our daily lives — hazardous at best.

Observations are a little safer. I am thankful every day to be working in this property management industry in Connecticut. Maintenance and construction have continued mostly as before. Our business partners have been sustained by demand for their services. Owners are continuing to pay their fees and assessments, to the initial surprise of many of us. Boards have come to depend more than ever on their managers for counsel and advice on both the usual topics and novel ones such as swimming pools. Knock wood, we seem to be surviving.

In every Message I've written I have acknowledged the tireless, outstanding contributions of Kim and Ellen that have allowed CAI-CT to not just survive but actually to thrive. We have hosted countless webinars and meetings via Zoom. Your CAI-CT staff is stunningly adept at exploiting the available technology. We don't know today which of our usual events will be conducted in the months ahead, but almost certainly they will depend upon technology to some extent. I am confident we are up to the challenge.

I have participated in meetings with other Chapter presidents. Many — possibly most — are addressing serious financial concerns and implementing lay-offs and other cost reduction measures to remain viable. Fortunately, the prior Boards of CAI-CT and staff have planned for “rainy days” and we are able to soldier on. Lest there be any misunderstanding, we must rethink the principle financial factors and assumptions that govern our operation, but we are in decidedly better shape than many other chapters.

And above all, thank you all for your support and special thanks to our dedicated volunteers. ■

NOTICE TO ALL CAI-CT MEMBERS Annual Meeting September 15, 2020

CAI-CT will hold its Annual Meeting on September 15, 2020 at 9:00 am via ZOOM. Election of officers and board members will be held at this time. If you have any questions, or wish to make a nomination please contact us at 860-633-5692 or www.caict.org.

CONTENTS

- 3 President's Message
- 4 CED Message
- 6 CAI Stands for Equality & Justice
- 5 Upcoming Events
- 6 Statutory Snippet
- 6 Legislative Update
- 6 New & Renewing Members
- 7 Homeowner's Column
- 10 Legally Speaking
- 12 Financially Speaking
- 16 Pet Co-Workers
- 18 Fidelity Insurance Claims: Not as Simple as it Sounds
- 20 Manager's Column
- 23 Aging Infrastructure
- 24 Technical Explanations
- 25 Environmental Tip
- 26 My Daily Routines — a Poem
- 27 Ask Mr. Condo
- 28 Classified Advertising
- 30 Index of Display Advertisers

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From the Chapter Executive Director

“I’ve learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel.”

~ Maya Angelou



Kim McClain

Courtesy CAI-CT

As we all know, the challenges of 2020 keep on coming. We apologize that this issue is a little late because we lost power at our office and at our homes for many days. Like all of you, we adapted and found work arounds to keep things humming at CAI-CT Central.

While in person events are the lifeblood of most organizations, most all organizations have been very nimble about making the education opportunities available in a virtual realm. We know how important it is to have connections and engage in a positive learning environment.

CAI-CT has made yeoperson's efforts to ramp up our skills in the virtual world by sharpening our Zoom and video editing abilities and delving into technology areas we have never explored until now. We are attending virtual conferences and learning from those who have hosted these events. These best practices will be implemented to provide the best possible experience for our valued members and business partners. In short, CAI-CT is working in earnest to reinvent ourselves. However, the success of our endeavors depend on all of you. The words of Maya Angelou above convey how we try to treat our members. We hope our efforts and energy make you feel appreciated and valued.

The rest of 2020 and 2021 will continue to test our resilience in many ways. Our experience with the recent storm demonstrated how, even when you think you may have created a “new” normal, things can change again in an instant. Recent reports have indicated that there will be more severe storms coming our way in the next few months. We need to constantly plan for what may lie ahead.

Our magazine and website are both filled with information and resources related to COVID-19 issues and more. In this issue, we thought we would try to go a little lighter and find some humor and fun. Keep reading. We hope you can find a reason to smile!

We've got many events scheduled in the next few months. Please be sure to check our website for updates: www.caict.org. We hope to see you soon!

Stay cool! ■

CAI Stands for Equality and Justice

A Statement from Thomas M. Skiba, CAE, CAI's Chief Executive Officer and Ursula K. Burgess, Esq., President, CAI Board of Trustees

Community Associations Institute (CAI) is unique in that we touch the lives of more than 73 million Americans living in condominiums, housing cooperatives, and homeowners associations. Our mission has always been about building better communities. We believe that the purpose of community associations everywhere is to bring people together, strengthen neighborly bonds, promote a sense of belonging, and build a place where we can connect.

CAI stands peacefully, for equality and justice in America and throughout the world. We continue our unwavering support of the Fair Housing Act of 1968, giving the right of all individuals to be free from illegal discrimination in housing on the basis of race, color, religion, sex, familial status, national origin or disability. Racism, violence, and the destruction of property have no place in our communities or anywhere in the world.

To members of the CAI staff, to CAI members, and to Americans everywhere who are afraid in your daily life for yourselves, your family, and your children because of the color of your skin, CAI stands with you. We will do our part to help all achieve the promise of America: life, liberty, and the pursuit of happiness. And we will do our part to ensure our communities realize their purpose of togetherness, neighborliness, and belonging. ■

UPCOMING CAI-CT EVENTS

COVID-19 and a Community Association's Insurance

September 15, 2020 • 12:30 pm - 2:30 pm



This webinar will help provide you and your clients with some direction with regard to the potential implications of COVID-19 in your community and how insurance may or may not respond. Our panel will share their perspective on what communities are experiencing from their residents as the state begins to open up and where insurance carriers and coverage parts fall in determining if coverage exists.

Pricing: \$25 (CAI Members who sign into their account prior to registering will receive a \$10 discount)

(Approval pending for 2 continuing ed credits)

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LIVE! IN PERSON CAI-CT Golf Tournament

Thursday, September 24, 2020 • Shot Gun start at 9:00 am
Lyman Orchards Golf Club - Jones Course
70 Lyman Road, Middlefield

Enjoy a day on the links with CAI-CT!

The 21st Annual Golf outing will be held on Thursday, September 24, 2020 at the Lyman Orchards Golf Club. This event brings the membership together and provides a networking opportunity for managers and business partners. This is a must-attend experience with exciting sponsorships, awards, gifts and games! Increase your fun! Please be sure to bring cash/checkbook to purchase mulligans, putting contest and raffle prizes!

Visit www.caict.org for more information.

SPONSORED BY:



LIVE! IN PERSON Fall Fun - Fresh Air & Fresh Beer - Perfect Together!

Wednesday, September 30, 2020 • 3:00 pm - 5:00 pm

Hops on the Hill • 275 Dug Road, South Glastonbury

Wouldn't it be great to actually see some of your great CAI-CT connections — for real?!?! Fall Fun at Hops on the Hill in South Glastonbury, CT might be just that opportunity! The program will give you an opportunity to have legal and insurance experts answer your questions.

Pricing: \$25 (CAI Members who sign into their account prior to registering will receive a \$10 discount)

(Approval for 1 continuing ed credit)

SPONSORED BY:



CONDO INC.

Saturday, October 3, 2020
8:30 am - 3:00 pm



Do you serve on the board of your association? Are you considering serving? Whether you are a seasoned board member, a recently elected board member or unit owner seeking to understand more about how an association runs, this course is for you!
Pricing: \$75 (CAI Members who sign into their account prior to registering will receive a \$25 discount.)

Sponsorships Available for this event. Contact ellen@caict.org.



Fairfield County Town Hall Meeting

Thursday, October 15, 2020 • 12:30 pm - 2:30 pm

Planning Ahead: Irrigation & Landscaping – Quick talk breakout

Pricing: \$25 (CAI Members who sign into their account prior to registering will receive a \$10 discount.)

(Approval pending for 2 continuing ed credits)

Sponsorships Available for this event. Contact ellen@caict.org.



Legal Symposium

Wednesday & Thursday- October 28 & 29, 2020

Our panel of legal experts will cover topics important to your community. (All proceeds to benefit legislative advocacy for Connecticut Community Associations.) Bring your questions!

Pricing: \$75 (CAI Members who sign into their account prior to registering will receive a \$25 discount.)

(Approval pending for 4-6 continuing ed credits)

Sponsorships Available for this event. Contact ellen@caict.org.



Visit www.caict.org to register and for updated information.

MOVING TO A THURSDAY...



Register at www.caict.org.

NEW & RENEWING MEMBERS

Welcome New Members

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Balbrae Condominium Assn., Inc.
Cornerstone Condominium Association, Inc.
Country Club Estates
Founders Village Homeowners Association, Inc.
Hickory Hill Condominium Assn.
Longmeadow Association, Inc.
Main Street Homeowners Association
North Lake Condominium Association
Ridgewood @ Middlebury
Roton Point Association, Inc.
Tumblebrook Estates Association Inc.

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Crest Condominium Association, Inc.
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Eastwood Condominium Association
Edgewater Association, Inc.
Farmington Edge One Condominium Association, Inc.
Henley Woods Association, Inc.
High Ridge Estates Condominium Association
Mountain View Condominium Association of Meriden, Inc.
North Woods of Colchester
Oldefield Farms Homeowners Association, Inc.
Prosperity Park Condo Association
Riverview Commons Association
Royal Villas Condominium Assn., Inc.
Snowberry Cobble Village Assn., Inc.

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Statutory Snippet...

Rules Enforcement

Due Process. A unit owner must be given notice and the opportunity to be heard prior to the imposition of a fine or other enforcement action. Notice must be given containing the requirements set forth in CIOA. Notice must be sent to the unit owner via regular and certified mail ten (10) business days prior to the hearing. At the hearing, the unit owners must be given the opportunity to give an oral or written statement. The board must issue a decision in writing within thirty (30) days of the hearing and send that decision to the unit owner via regular and certified mail.

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

Legislative Update

The Connecticut General Assembly's Special Session in late July had a very limited scope for their agenda. There was no ability to include any issues concerning COVID liability related issues. However, looking towards the future, our LAC delegates met with our lobbyists recently to determine the viability of a bill offering limited liability to boards regarding COVID claims. We are working on a proposal that would offer protection with waivers for more than just pools use, as it would include other common elements such as mailrooms, elevators, etc. We are also hoping to gain support from some insurance companies to offer a product that would offer a sublimit for defense costs for COVID related claims. We have begun an alliance with the CT Apartment Association regarding these two issues. We will continue to work with our lobbyists to refine our requests and to have initial discussions with key legislators in the Fall.

It is reasonable to predict that the 2021 Legislative Session will be especially active. This is where YOU come in! It will be more vital than ever for our CAI-CT members to reach out to their representatives to voice support for the bills that we hope to raise next year. We can't do it without you. Not a CAI-CT member? Go to our website and join today! www.caict.org. Be sure to sign up to receive our Legislative Alerts which can also be found on our website. ■

Recruiter of the Month!

Congratulations to Bill Ward, Esq. of Ackerly & Ward who was recently named Recruiter of the Month by CAI National. Bill recruited 15 members which was the largest number recruited for that month. Thank you for helping us grow CAI-CT! ■



Bill Ward, Esq.



To Join CAI-CT
Visit www.caionline.org

Homeowner's Column...

Association Boards are rarely...well, bored.

In fact, they are usually anything but, and that's because ensuring that a large residential community remains attractive, comfortable, safe, and financially sound for owners and tenants alike — as well as sought after by potential buyers — is a major challenge. Moreover, as times change, the challenges change, making no two years alike and every solution to every new problem something of an adventure. Just ask Luke Lemmo, President of the Board at Hale Farms in Glastonbury, Connecticut, and his Directors, including Paul Danese, Grace Gaillard, Rebecca Hartley, Leslie Pratt, and Stewart Silvia.

Set on 30 private acres of beautifully landscaped lawns and gardens in Glastonbury, Connecticut, Hales Farms comprises a Club House, 203 ranch-style one- and two-bedroom units (each with a deck or patio) in ten substantial buildings with ample parking areas. Amenities include two pools, two lighted tennis courts, a basketball court, and two access roads. Built in 1973, the community's routine maintenance demands are constant and wide-ranging, while landscaping, overseen by an E. A. Landscape Manager, and snow removal needs can vary dramatically, depending on the season — and the vagaries of Mother Nature. Fortunately, Hale Farms has all of that under control, thanks to an active Board, Westford Property Management, an assistant property manager located on site in the Association Office (open weekdays from 9 a.m. to 1 p.m.), and a team of three full-time maintenance personnel, who provide the expert oversight and upkeep that day-to-day issues, both simple and complex, require. In addition, specialty service companies help keep the pools, the tennis and basketball courts, as well as the streets and parking areas in optimal condition.

Of course, not all maintenance issues are day-to-day, so a significant and daunting list of major projects is prioritized and scheduled over several years in order to control the financial demands on reserves and fees. One such project completed not long ago was Hale Farms' boiler replacement effort, which was a massive undertaking that turned out to be as much of a success strategically as it was tactically.

According to Lemmo — an engineer himself, “All of the residential buildings at Hale Farms were built with two gas boilers, each of which could operate normally at optimal output. That has paid off in terms of the redundancy it affords should one of the two boilers experience a failure, for if one goes down, there is always the second to pick up the slack. But when the old, inefficient boilers needed replacing, having two also made it possible to shut down one, replace it, start up the new one, then do the same with the second — all without interrupting heat and hot water production. That not only made the work less stressful for the crew from C&N Mechanical, whose ability to focus and troubleshoot was critical to a successful installation. It also made the experience virtually seamless for the residents, which was a key goal.”

Since then, the new boilers, which are far more efficient than the old models and far faster at achieving desired heat levels, are saving



“Set on 30 private acres of beautifully landscaped lawns and gardens in Glastonbury, Connecticut...”

Hale Farms money on the amount of gas that is used, as well as on the amount spent on maintenance. Notes Lemmo, “The old boilers used to require about \$35,000 a year in maintenance. Now, we have a maintenance contract that



reduces that figure to around \$5,000. More importantly, we are saving at least 15% in gas usage for heat and hot water annually.”

But that's not all Hale Farms' Board has been busy with.

Hale Farms is benefiting greatly from an extensive infrastructure renewal effort, with the timing and scope of improvements determined by triaging needs, dividing them up accordingly, and then scheduling them over time to avoid onerous assessments.

Two of the more costly efforts currently underway include the road/parking lot repaving project, which is being done in segments, and interior common area renovations in all ten residential buildings, which are also being done in segments and involve such updates as new doors and hardware, railings, rugs, and LED lighting, as well as

[Continues on page 8.]

Calling all Fairfield County Condo Board Leaders and Managers!



Let's talk! CAI-CT is hosting a Town Hall meeting for all Condo/HOA board members and community association managers in Fairfield County.

When: **October 15, 2020 • 12:30-2:00pm**

Where: **ZOOM**

Part 1: Planning ahead for 2021? Let's talk about landscaping and how you can either best irrigate or use plants that require less water. Our experienced professionals will help guide your decision-making process. **(1 CEU available.)**

Part II: Ask the Experts: Our legal and insurance professionals will answer your questions. Talk to your peers as well. Find out what's going on in communities in your area.

Register at www.caict.org

HOMEOWNER'S COLUMN...from page 7.

fresh paint. Future plans include updating the Club House, which will include the addition of a small gym for fitness buffs.

However, some of the updating has been worked into the regular maintenance budget, and in that category are a number of popular community enhancements. For instance, the tennis courts have been resurfaced, the basketball court is being upgraded, and all the decks and patios are being refurbished. And many residents are utilizing the community garden, which is located in a quiet and sunny area, fertilized each season, fenced and gated, and which features new water outlets at individually cordoned-off plots. Indeed, a very active group of gentleman — and gentlelady — farmers are growing vegetables and flowers of all sorts and enjoying every harvest!



Just how active is the Hale Farms Board of Directors in all of this? Very. And just how astute has their to-do list turned out to be? Equally so — the proof being the fact that the changes and enhancements completed, as well as those still underway and those planned for the future, have ensured that Hale Farms continues to be not only attractive, comfortable, safe, and financially sound, but sought after, which is a significant advantage when it comes to market prices and equity building.

And since those are the primary goals of any diligent condominium Board, that's quite an accomplishment. ■



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Legally Speaking...



Adam Cohen, Esq.

Deferring Collections

Giving People Affected by COVID-19 Extra Time to Pay

By Adam J. Cohen, Esq.

Many associations have been asked to give unit owners extra time to pay their common charges due to illness or lost income caused by the COVID-19 crisis, or have proactively decided to offer this kind of relief. Although there is nothing wrong with deferring collections, there are considerations a board must keep in mind.

Nothing in the state statutes or most association bylaws specifically addresses delaying payment of a common charge based on hardship. As a general matter, deferrals should never be granted except in the most extreme circumstances, since the community's operations and perceived fairness depend on the equal expectation of prompt payment from everyone. That said, we are not exactly living in normal times. If the association is financially able to support a small number of people during an especially difficult period, the board can legally choose to do so.

Boards can handle these situations on a case-by-case basis or, preferably, adopt a set of simple criteria to apply when an owner asks that a payment deadline be temporarily extended. The Common Interest Ownership Act (CIOA) says that a board can decide whether to delay or forego enforcement of any provision of its governing documents, including those relating to unpaid assessments, whenever the board believes that doing so is in the association's best interests. The law continues with a caveat, though: "the executive board may not be arbitrary or capricious in taking enforcement action." This means that the key is consistency, for the sake of people who are not given extra time. The board should treat similar situations alike and clearly distinguish the differences which result in different outcomes.

For example, a board could reasonably grant an extra month or two for an owner with a good previous payment history due to a significant hospitalization causing lost income, and yet deny the same extension for someone with a poor payment history and only minor health problems and unrelated money problems. On the other hand, a board could never base its decision on things like the owner's race or religion, friendship with a board member, or other irrelevant factors. The reasons for the decision should be listed in meeting minutes or other association records to resolve any doubt about the rationale, although care should be taken to protect an owner's private information like medical records. The board's decision should also clearly identify when payment in full is required and whether late fees will be compromised in the meantime.



solanseven/Stock/Getty Images Plus

“When making these decisions, the board must also consider the fiscal effect on the community of deferring its income.”

When making these decisions, the board must also consider the fiscal effect on the community of deferring its income. The association's manager, insurers, advisors, contractors, and other vendors will still expect to be paid on time, and any number of unbudgeted expenditures could pop up as well which affect cashflow and ability to pay bills. If the community has an outstanding capital improvement loan or considering applying for one, the contracts with the bank may restrict the number, age, or size of the association's receivable accounts. Before granting any requests, the board should calculate the cumulative impact if every unit owner in the same situation throughout the community were to take advantage of the same extension.

Any deferral the board does choose to grant will not change the association's lien rights and procedural obligations. State law limits the existence of a lien for common charges to three years and its super-priority over mortgages to nine months, regardless of any deferral granted by the board or the unit owner's illness or unemployment. Before foreclosing within those deadlines, the board must still either adopt a uniform foreclosure rule or vote to refer a particular unit owner to foreclosure (the Connecticut Appellate Court ruled in May 2020 that a vote to send an account to "collections" is not enough

to authorize foreclosing the unit). The association's attorney must also still send a demand letter at least 60 days before filing the lawsuit following a title search. So in practice, a deferral of more than about five months' worth of common charges could make it difficult or impossible for the association to recover the full balance should the unit owner fail to get caught up. A board granting an extension would need to insist on either a zero balance by a fixed date comfortably within that time period or monthly payments of at least double the monthly common charge to avoid an arrearage that becomes too old to collect. Keeping these considerations in mind is critical to prevent a temporary deferment from becoming a permanent loss. ■

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

Should Your Association have an Audit?

By Daniel Levine, MBA, CPA

Connecticut is home to a wide variety of common interest communities. Some are only a handful of units; others are sprawling complexes with multiple phases of development. Whatever the size of the association, a question that may come up from time to time is whether an association should be audited or not.

This article will focus on that question and highlight what an audit is, what are common reasons audits occur, and are there other services an association can engage in besides an audit.

What is an Audit?

One large barrier to determining if your association should have an audit is understanding just what you are receiving at the completion of an engagement. When hiring an outside CPA for an audit engagement, what the association is obtaining is an opinion from that outside CPA on whether the association's financial statements present fairly in all material respects the association's financial position. In other words, an auditor is providing assurance to the outside world on if your association's statements are presenting transactions correctly and that the statements can be relied upon.

An important thing to notice with the above explanation is the words fraud or absolute assurance are never mentioned. An audit is not specifically looking to determine if there is fraud (although it may find fraud), nor are the procedures designed to provide absolute assurance that every transaction is stated fairly. The reason for this relates to the time involved in conducting an audit and how that relates to cost. If the scope were to encompass all transactions, the cost would be out of bounds for most communities.

As part of the engagement, an audit may include what are known as "non-attest service." These are services such as having the CPA prepare the tax return or the financial statements. These are not related to providing the audit opinion and a CPA must make sure any non-attest service that is performed does not impact their ability to conduct an audit as an unbiased third party.

The purpose of audits is to give a third-party reader of the financial statements a way to be comfortable that the numbers in those statements present a fair picture. For normal businesses audits are typically done for several reasons including to help spur investors into investing into the company, as part of selling the company, or to acquire financ-



"The purpose of audits is to give a third-party reader of the financial statements a way to be comfortable that the numbers in those statements present a fair picture."

ing from a financial institution. But if a common interest community does not have these considerations, should they have an audit?

Why Have an Audit?

Now that we have covered what an audit is, let us look at some reasons to conduct an audit from a common interest community perspective:

- 1) The association documents stipulate an audit is to be done.
 - a. As the documents govern how the association operates, if this requirement is in there then it must be followed. However, not every association will have this provision in their documents.
- 2) The association has borrowed from a bank.
 - a. As part of the requirements in borrowing, an association may be required to report their financial statements to the bank for loan compliance. The bank may want comfort that the numbers they receive are accurate and could require an audit.

[Continues on page 14.]



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AUDIT...from page 12.

- 3) The association is a large and complex entity.
 - a. Associations that have many units, different operations, or related entities may consider the need for an audit. Having a third party come in to prepare the financial statements and audit activity of related entities can help identify discrepancies or confirm that the operations budgeted for occurred.
- 4) There are unique or complex transactions occurring during the year.
 - a. An association may have a special assessment levied during the year or a large capital project was conducted. Depending on the size of the transaction the board or community may want to have an audit to ensure the presentation of these transactions follows accounting theory. Other complex transitions can occur for professionally managed associations that switch to a new management company. For those cases, an association may want an audit during the year to account for the complexity of the transition.
- 5) It has been many years since the previous audit.
 - a. Some associations do not engage in an audit every year, but still make sure to have this level of service every so often. After checking the last time an audit was conducted, a board may decide it is time for an audit to be conducted again and engage with an outside CPA to provide this service.

[Continues on page 31.]



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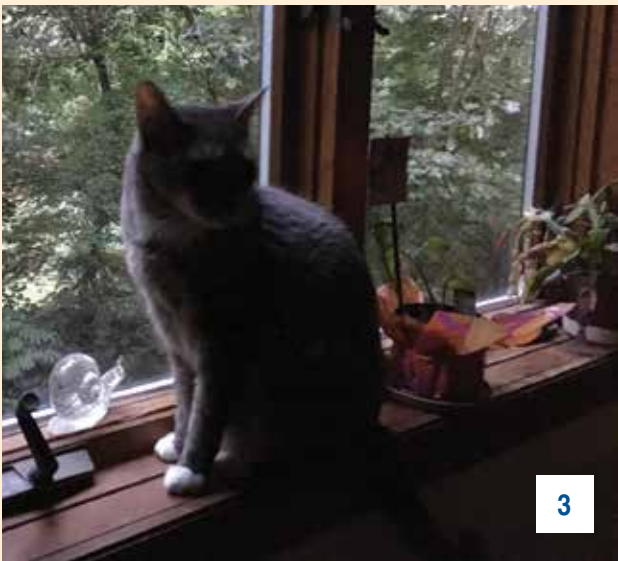
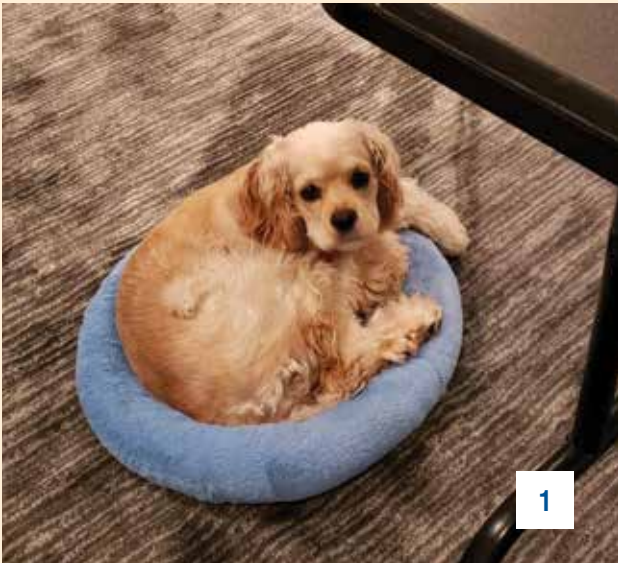


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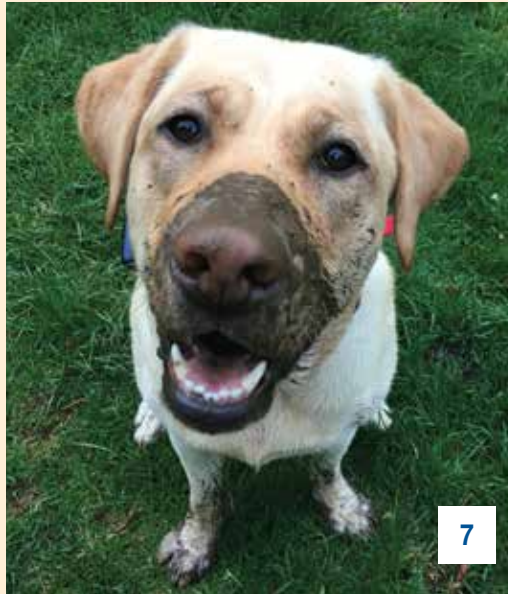
CAI-CT staff and some of our Board of Directors and Committee members shared pictures of their work companions with us.

- 1) Lulu Burchman — She was adopted during the early weeks of COVID-19 and likes to listen in on meetings.
- 2) Jessie Mott — He works as a supervisor to make sure that things are going smoothly.
- 3) Monty McClain — Did the mail come yet?
- 4) Patty Felix — She likes to catch up on the news during work breaks.
- 5) Bisquick McCracken— Reading legal documents all day long can be so exhausting.





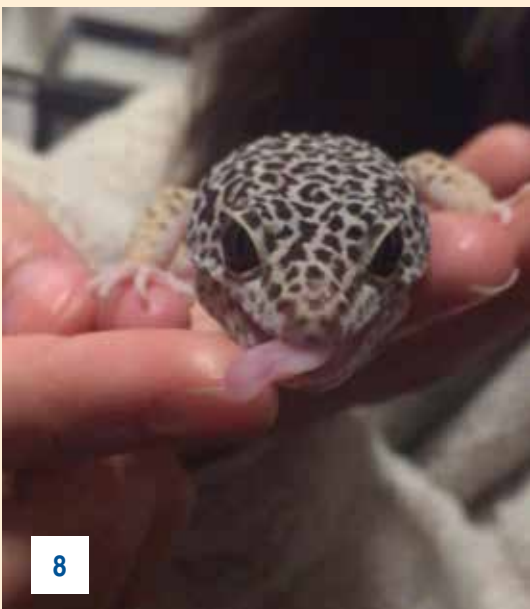
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7

6) Rocky McClain — Is the lighting okay for my Zoom meeting?

7) Marcy Felix — I know you have to wash your hands all the time, but I like mud!



8



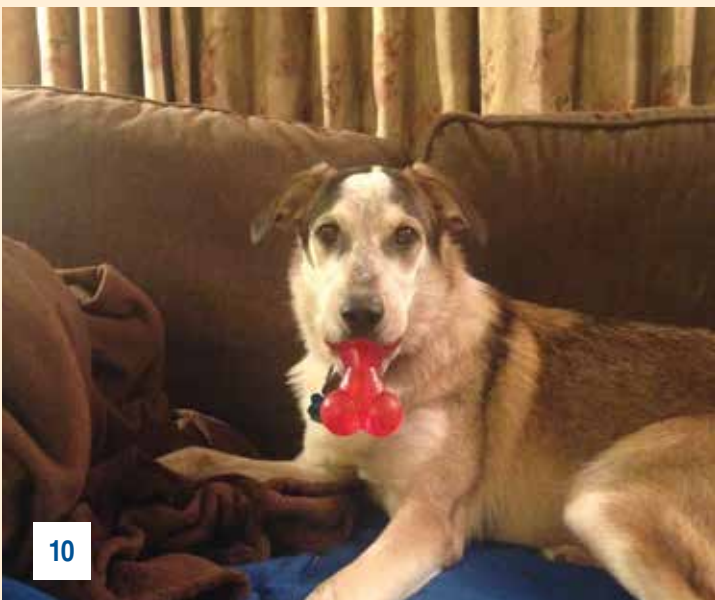
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8) Flo McClain — I'm hungry. Is it lunchtime yet?

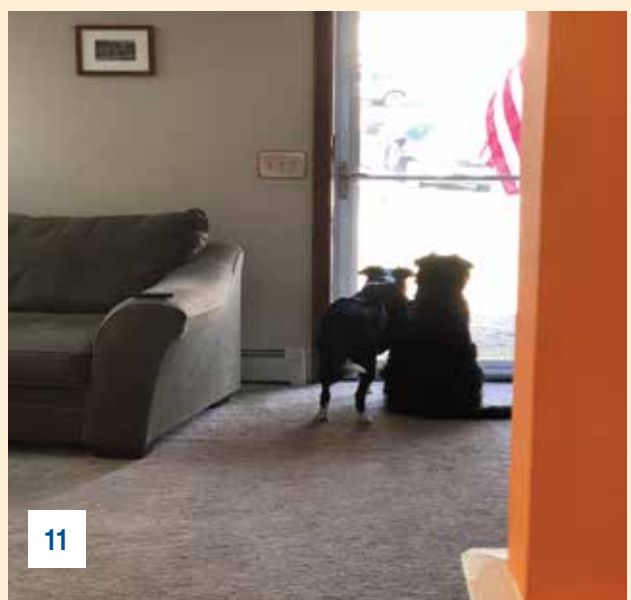
9) Waffle Levine — Just getting ready for the office Holiday party a little early.

10) Gadget Levine — I've seen people chew on pens, what's wrong with a bone?

11) Quinn & Gracie Rathbun — Looks like the delivery person is coming our way! If it's office supplies again this will be a sad day.



10



11



Ronald Barba, Esq.

Fidelity Insurance Claims: Not as Simple as it Sounds

By Ronald Barba, Esq.

Fidelity insurance coverage is one of the insurance coverages that any Connecticut association is required to purchase under the Common Interest Ownership Act (CIOA). Boards need to understand the association's rights and obligations in the effort to reclaim unit owner funds. The purpose of this article is to provide some basic information designed to better prepare should a theft occur. Marshalling IT professionals, notifying the carrier of a loss and filing proof of loss often determines the success or failure of the claim.

What to do if theft is suspected

Once facts raise concerns that money may be missing, the carrier must be notified. Prior to notification, the association should involve its counsel to assist. The board must establish that a "loss" has been sustained. "Loss" is typically defined in these policies as a "theft" or "dishonest act" by an "employee." A "loss" is discovered once an insured has obtained facts that would cause a reasonable person to recognize that there had been dishonesty or fraud resulting in loss. Most, if not all fidelity policies require the association to notify the carrier immediately upon the discovery of a loss. Although the reporting deadlines may vary, they typically range between thirty (30) to sixty (60) days from the date of discovery. Do not wait to confirm a loss or delay for fear of excessive claims.

Proof of Loss:

The association must prove the existence and amount of the loss. Like loss notification requirements, deadlines are typically applied to submission of the "proof of loss." The deadline is usually tied to the date assigned to the "discovery of loss and can be ninety (90) days or up to one-hundred twenty (120) days. It is critical that the association and its professionals obtain reliable information on the amount of the theft. Gathering documents and other supporting data can be time consuming. If the board concludes that it requires more time than the policy provides, the association may request an extension of time from the insurer to complete its investigation. Alternatively, the association can supplement the proof of loss later.

Most carriers have a standardized form that should be completed as fully as possible when submitting the proof of loss. The proof of loss is a sworn document which sets forth the narrative of the discovery of the loss, and the steps taken by the association in response. The carrier will want a police report to be filed. Other documentation, such as bank statements, check copies, software printouts, deposit slips and the like will be attached to the proof of loss form.

Investigating the theft of funds can be frustrated by the need for a forensic audit of the financial records. Forensic audits can be expensive, but you may find that some fidelity policies contain coverage



terms that will pay for the investigation. The association can save itself precious time by anticipating the documentary needs of the forensic accountant. The Board should begin compiling and requesting bank records for the period of time the theft is suspected. The forensic accountant's report will form the backbone of the association's claim. The narrative mentioned above will also provide critical support to the claim for stolen funds.

In most claims the fidelity insurer will require a designated member of the association's board (usually the president) to execute written narrative setting forth the basis for the claim. The information most important to include in the narrative is, once again, the discovery of loss date. The sworn narrative should also describe the manner in which the theft was identified, and method used by the embezzler. Attention should be given to articulating how the embezzler intended to take and keep the funds. Any part of the narrative can be used by the carrier as the basis for excluding the claim. It is important therefore, to work with association counsel to ensure accuracy and the omission of statements that would provide the carrier with a policy defense.

Conclusion

Discovering the theft of funds by someone who the association trusted, can be a devastating and difficult time for any board. The goal of a good board is to address the problem as directly as possible. It is not a task it should undertake on its own. Hopefully, association boards, armed with the knowledge gained by this article and with the assistance of professional insurance brokers, will be better prepared to recoup stolen funds. ■

Ronald Barba is the Managing Partner at Bender, Anderson and Barba, P.C. located in North Haven, Connecticut. He is a member of the Connecticut CAI LAC, Golf Committee and National CAI. Ron has been a returning host of "Ask the Experts" on radio stations in Connecticut and frequent speaker at CAI-CT events throughout the state.



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Manager's Column...



Rich Wechter, CMCA

Being Practical, Part LXIV The Road Ahead for Community Associations

By Rich Wechter, CMCA

In this column, we tackle various topics of interest with the intent of imparting practical advice. This issue's column looks at the road ahead for community associations beyond COVID-19. While we assume that community associations will continue to be impacted by the COVID-19 virus and all that comes with it, we can hope for light at the end of the tunnel with recent news on potential vaccines. Since we have already addressed the "New Normalcy" in our most recent article, it is time to turn to matters that community associations will need to address for the rest of this dreadful year and for the next few years.

A. Setting the Table on this Topic

It is expected that this article will be out close to the end of this summer. It will be time to look at budgets for all community associations on fiscal-calendar years. It will be time to look at deferred capital improvement projects and deferred special assessments needed to fund those projects. It will be time to look toward the holding of annual meetings and the election of board members. Finally, it will be time for management companies to take a hard look at their methods and costs of operation going forward.

It is within this context that we begin our discussion of this matter. Before doing so, however, we would again 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 space does not allow to mention) who are out on the front line during this health crisis. **We are grateful to All of You for what you do for all of us.**

B. Fiscal Year-Calendar Year Budgets

If it were not already difficult to prepare for the traditional fall budget season for most associations which are on a fiscal year/calendar year budget, the last few months with many added safety expenses and some lower expenses such as pools and clubhouses have complicated the anticipated budget preparation that is fast approaching. Boards will have to weigh the uncertainty of the economy and the health crisis with needed increases in operating budgets and outdated and crumbling infrastructures at many community associations. There will likely be more pressure than usual to minimize common fee increases or forego increases altogether. You may not be able to get blood from a stone, but you still have to make sure that the stone does not crumble into dust. Roofs, roadways, building envelopes, walkways, etc. know of no virus and will not sit back patiently while the world figures out how to end this health crisis. Life continues



Ralf Liebholt/Stock/Getty Images Plus

"...we would again like to thank all of the people in our world of community associations and outside our little world...who are out on the front line during this health crisis."

and Boards and property managers must look toward the development of budgets that balance the economic and structural realities facing their associations. This is a high-wire act to say the least, but a necessary analysis to develop and implement. Accordingly, while drafting the next fiscal year budgets, Boards and property managers must look at not just what is politically expedient, but what is needed for the proper discharge of the fiduciary obligations of Board members in protecting their respective associations. There is no one-size-fits-all answer to how Boards can balance these competing interests. Each association will need to arrive at this balance based upon factors relevant to their association. We wish we could provide a formula for this analysis but there is none currently available. We do, however, suggest that short-term and long-term needs be looked at carefully and dispassionately.

C. Deferred Capital Improvement Projects and Deferred Special Assessments

There are associations who have deferred Capital Improvement Projects and Special Assessments either prior to or because of the Covid-19 health crisis. In light of the uncertainty of the duration of the current health crisis and the need to protect the infrastructure of associations, Boards must work on the timing of these projects and the funding for

same. Some Boards have already announced their intention to defer Capital Improvement Projects in 2021 while other Boards are keeping their options open at the present time. It would be over-reaching to suggest that all Capital Improvement Projects should proceed in 2021 at all associations. Each association must weigh many considerations in reaching a conclusion on such projects. The key point here is that a serious discussion must be engaged in before Boards reach a decision. Looking at both the short game and long game is critical in reaching the best decision for a community association.

D. Preparing for Annual Meetings and the Election of Board Members

While some associations have already held virtual annual meetings or votes by ballots, many other associations will have to decide whether to hold a virtual annual meeting or to conduct board elections and ratification of budgets by a vote by ballot. Once again, there is no universal approach that all associations should follow. Boards, with the help of the property manager and Association Counsel should work together to reach a decision that best suits that association. For the long term, Boards will also be establishing procedures for the conduct of all of its meetings and specifically, the extent to which business will not be conducted by usual means of in-person meetings. It is also hoped that unit owners will not shy away from serving on Boards, but, rather, will be encouraged to do so in these difficult times.

[Continues on page 22.]

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MANAGERS COLUMN...from page 21.

E. Management Company Fees

It is safe to say that no property management company was expecting to operate under self-quarantine measures or anticipated the increased operating costs in keeping their employees and offices safe from the Coronavirus. These measures are likely going to be with us for the foreseeable future. While no one association would be asked to cover these additional costs, it is highly likely that future management agreement addendums will reflect higher property management operating expenses. Property management companies must be cognizant of these expenses and provide for additional compensation to cover these expenses going forward. We are unlikely to abandon these safety measures even with the possibility of vaccines becoming available.

F. Conclusion

As difficult as it is to see past the current health crisis, we will move forward and need to address all of the matters set forth in this article. We expect that Boards will address these matters with professionalism and integrity and make informed decisions, in the same manner as made both prior to and during the Coronavirus health crisis. Life will move on. 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 and serves on the CAI Chapter LAC.

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Aging Infrastructure

Over many conversations in recent years, members of the Foundation for Community Association Research have identified aging infrastructures—the physical structures and the components within them that community associations rely on for residents’ safety and well-being—as a critical concern for association managers, boards, homeowners, and residents.

Too often, according to Foundation members—and despite occasional inspections and regularly scheduled reserve studies—associations fail to recognize serious structural and system failures. When damage becomes so obvious that it cannot be ignored, the tendency is to make superficial or temporary repairs and postpone comprehensive, in-depth restoration.

To address this growing problem, the Foundation convened a task force comprising attorneys, reserve specialists, engineers, insurance providers, managers, and bankers, to determine what issues are the most prevalent in failing physical components, and—especially—how associations can prepare themselves to address and resolve these issues when they inevitably arise.

Community Associations Institute managers, board members, and contractors in community associations across the U.S. responded in a survey to share their recent major capital projects with the task force. More than three-quarters (81%) of survey respondents reported

“Too often...and despite occasional inspections and regularly scheduled reserve studies — associations fail to recognize serious structural and system failures.”



encountering unanticipated and unplanned-for infrastructure issues over a recent three-year period.

The aggregated information and observations of these respondents revealed empirical data that can enlighten thoughtful association boards and committees, community managers, business partners and contractors, homeowners—anyone who is responsible for the investment of community assets.

This project represents several years of discussion and countless hours contributed from CAI’s volunteer leadership. ■



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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.

The Complexities of Energy Efficiency

By Timothy Wentzell, P.E.

I have recently been noticing advertisements and literature for hybrid heat pump hot water heaters which advertise between 65 and 70 percent greater efficiency than a standard electric hot water heater. This would appear to be a very significant breakthrough as that kind of efficiency improvements would make one notice. Perhaps it struck my fancy as years ago I had applied for a patent on a refrigerator system, which also would heat your domestic hot water. In having taught college physics for many years, I often discussed the principles of installing your refrigerator in a cutout in an outside wall and then being able to reverse it seasonally in order to heat and cool your home. Obviously, the idea was that it may help one understand the efficiencies of different cycles, albeit not necessarily practical.

The efficiency of energy systems are often advertised in a certain setting and that setting doesn't necessarily translate to all applications. For example, the new heat pump water heaters are basically a heat pump system which while putting heat into the hot water, puts a significant amount of cold air into the environment around them. Hence, if you use one of these systems in your living space, while it is putting heat into the hot water it is cooling the space around it. So let's look at a scenario where you put one of these systems into a home with, let's assume for the moment, electric heat. The cold air that is put out during the heating season then needs to be compensated by the heating system resulting in an interesting scenario where the amount of heat gained by the hot water will approximately equal the amount of cooling put into the space. The heating system would then need to offset that amount of heat, resulting in a situation where the savings would be nonexistent and in fact, on a theoretical basis would exactly even out.


There would therefore not be any savings in this system over a regular resistance heated electric hot water heater. The opposite scenario of this would be of course during the air conditioning season. During this season the heat pump hot water heating system would add cooling to the structure reducing the air conditioning bills. This results in a scenario where there is an annualized savings in a temperate climate such as Connecticut, albeit never in the 65-70 percent range, because this savings is only realized during half of the season. However if the seasons were closer to an exact balance, the savings could in some scenarios approach this range. This leads us to a conclusion that these systems may not be very advantageous in Alaska or Vermont whereas in Georgia and Louisiana, they may have very significant

savings. Ironically the scenarios where this might be put into a semi-conditioned situation like a garage may be problematic during parts of the year as they also have prohibitions where they cannot function below

approximately 40 degrees, and in fact it should be understood that their efficiency drops off drastically like a conventional heat pump system as the receiving medium drops in temperature. This is not to imply that these systems are not very intriguing and they have some applications where they are ideally suited. One simply needs to understand these different conditions when specifying a system such as these.

I have previously written in this column about the new condensing boilers which certainly can offer a very significant increase in efficiency. However, like these hybrid hot water heaters the savings may not be as much as expected in many retro fit applications. Without repeating prior articles, a condensing boiler where sufficient convective area is not available often can not operate in the condensing mode during cold winter months rendering it far more like a conventional boiler, or conversely in many existing situations where domestic hot water is being heated similar limitations apply. However, like the hybrid hot water heater systems condensing boilers can offer some very significant savings under certain scenarios, albeit not all. Therefore, it is important to understand these aspects when one is considering many of the new technologies. This makes many of these applications much more complicated than one might suspect on the surface. This may be especially true in the current environment where so much emphasis is being placed on converting from oil to gas, especially as the price of oil is dropping while because of supply restrictions gas prices are increasing, further complicating these decisions. All of these factors and many more make energy efficiency decisions difficult as significant savings can be realized, but not always as advertised. ■

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.



“One simply needs to understand these different conditions when specifying a system such as these.”

3dads/Stock/Getty Images Plus

ENVIRONMENTAL TIP

“A human being has a natural desire to have more of a good thing than he needs”

~ Mark Twain (1835-1910) *Following the Equator*

Connecticut residents generate an estimated 5 pounds of garbage everyday!

~ CT DEEP

More time at home these days likely means more people are generating garbage. But how can we find ways to keep our garbage cans from overflowing?

Waste reduction: Anything that reduces waste by using less of anything. Simple steps to reduce waste can include: using both sides of a sheet of paper, using your own ceramic mugs instead of disposable cups, etc. Less waste translates into money saved, resources conserved, pollution reduced, and landfill space saved.

The concept is not to generate waste, but to reduce waste at or near the source of generation (in our homes, businesses, and institutions). Practicing waste reduction and reuse are the best ways to divert the growing volume of waste. ■



The less waste we generate, the less waste there is to dispose.

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My Daily Routines

To the tune of “My Favorite Things”



Turn off the alarm clock and put on my glasses,
Check on the weather and other disasters,
Try not to think about Covid-19,
These are a few of my daily routines.

Sharing the bathroom at 7:15,
Skipping the shower, who cares if I’m clean,
What should I wear today, sweatpants or jeans?
These are a few of my daily routines.



Husband in headphones working on Zoom,
Making some tea, then I head to my room,
Joining a call with the entire team,
These are a few of my daily routines.

When the virus, tries to strike us, when we’re feeling sad,
We simply return to our daily routines and then we don’t feel so bad.

Checking the calendar, everything’s cancelled,
All future plans are now put down in pencil,
Look out the window as things start to green,
These are a few of my daily routines.



What is for dinner, let’s check Smitten Kitchen,
Being quite thankful there’s no prohibition,
Distracti-baking, it’s really a thing,
These are a few of my daily routines.



Doing pilates in front of a screen,
Trying not to gain the Covid 15,
Tonight it’s Hulu or Netflix or Prime,
These are a few of my daily routines.



When the virus, tries to strike us, when we’re feeling sad,
We simply return to our daily routines and then we don’t feel so bad.

Staying at home to help flatten the curve,
May take a drive if I work up the nerve,
Imagining futures after quarantine,
These are a few of my daily routines.



Thanking the heroes that we call the helpers,
Risking their lives as we stay in our shelters,
Finding the good in this historic scene,
These are a few of my daily routines.



When the virus, tries to strike us, when we’re feeling sad,
We simply return to our daily routines and then we don’t feel so bad.

Thanks to Gayle Amato who generously shared her creativity and talents by writing this clever ditty.



Ask Mister Condo!

You 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>.

Can the Condo Board Condemn Association Building?

**I.B. from New London
County, Connecticut writes:**

Dear Mister Condo,

We have a 24-unit townhouse style condo complex, divided into 3 buildings. One building has been sinking badly over the years. We have several engineering reports to that effect. The inside and outside of the building have widening cracks and the windows and doors will not open properly anymore. Our insur-

ance got canceled because of this. I am a member of the board. We would like to have the building condemned. The building and fire officials in town refuse to do so. We looked into lifting and stabilizing the building but it is too costly and questionable if and how long it would work if at all (no guarantees). Can we, as the board of directors, condemn the building and if so, how much of a majority would we need? Can a majority of the condo owners condemn the building?

Mister Condo replies:

I.B., I am truly sorry for the problems of you and your fellow homeowners. I am not an attorney so I cannot offer any legal advice here. I am not familiar with any condemnation procedures that are not carried out by municipalities. In other words, I am not sure if the Board has the ability to “condemn” the property unless your municipality allows such drastic measures. Since you have said that the local authorities refuse to condemn the building, I think I would look elsewhere for a solution to your problem. You have touched upon the proper remedy which looks to be lifting and stabilizing the building. That sounds reasonable to me although I share your concern over the expense and long-term solution to the problem. If you haven’t already done so, now would be a great time to involve a civil engineer, preferably someone with experience with this type of building rescue. Of course, you should also have an attorney looking out for the best interests of the association and to see if the developer has any responsibility for this type of problem. It is not a traditional construction defect but you might find out proper land studies were not conducted before construction began. At the end of the day, it is the association’s responsibility to maintain itself. If that is determined impossible, you will need the attorney to assist in whatever other legal wrangling will be needed to get through this challenge. Good luck!

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[Continues on page 30.]

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AUDIT...from page 14.

While the above highlights some common reasons for having an audit done, it is by no means all inclusive and there could be other reasons to have an audit for your association's year. However, there are times where an audit's cost is prohibitive for an association to budget for and an alternative service may be a better option.

Services Other Than Audit

Review: This service is a step down from an audit. While this typically means the cost will be less, it does mean that less work is done by the firm hired to conduct the engagement. A Review level service still provides assurance; however, it is only limited assurance vs. the opinion provided in an audit engagement. Reviews focus on analytical predictions and internal inquiry as compared to an audit which relies on third party confirmation.

Compilation: This level of service is a step down from a Review. Very few procedures are applied by the outside CPA, and no assurance is provided by the CPA that the numbers present fairly. However, an accountant's report will accompany the financial statements and by engaging in a compilation other non-attest services such as tax

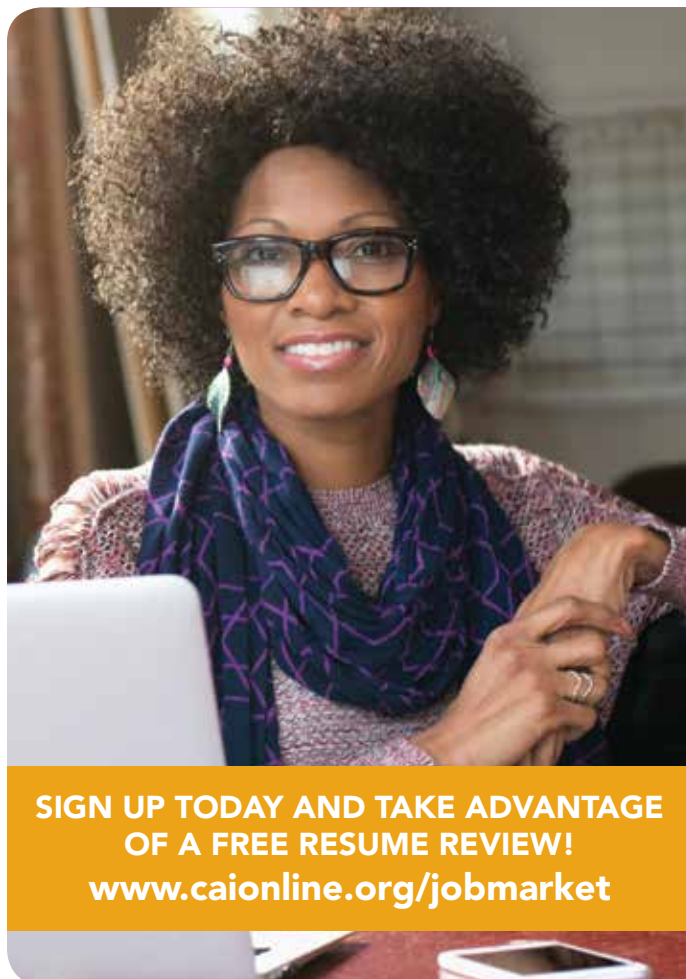
preparation or financial statement preparation may also be engaged in.

Agreed Upon Procedures: In this service an outside CPA is hired to apply procedures for a specific purpose. These procedures are agreed upon in advance, but at the end of the engagement the outside CPA prepares a report on the results of the procedures. This can help focus on a specific need of an association while maintaining a lower cost. There is no assurance expressed because of the procedures as compared to an audit.

Conclusion

As can be seen by the above there are quite a few reasons that an audit becomes a service that an association may look to partake in. However, it is not the only service available that a third-party CPA can provide and there may be other cost-effective options available to an association. So, whether an audit is done every year, or it has been a few years since the last engagement, it is always a good time to evaluate and determine if an audit is the right fit for your community. ■

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 Committee.



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