

# Common Interest

The Official Publication of CAI-Connecticut

Vol. XV: Issue 6 • 2020

*Inside:*

## 8th Annual LEGAL SYMPOSIUM

Community Association  
CLAIMS PROCESS

Association  
Standards/Rules —  
Do Associations Need  
ENFORCERS?

BUDGETING  
in the New Normal

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### Staff

**Kim McClain**  
Chapter Executive Director  
kim@caict.org

**Ellen Felix**  
Director Program Operations  
ellen@caict.org

### 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

*We are at a junction now that requires us to move past a mode of largely reacting to events, to one of taking control and plotting our future.*

I am writing as we enter Month 6 of the pandemic. During this period so much has changed it is challenging to remember how things used to be. Among the many changes is the adoption and universal use of Zoom and the like for meetings and seminars of all sorts, with the corresponding loss of in-person connections. The electronic option is no doubt essential and offers real advantages and efficiencies but sadly, diminishes our personal relationships.

CAI-CT has held up impressively against all of the challenges. We are at a junction now that requires us to move past a mode of largely reacting to events, to one of taking control and plotting our future. Your Board had intended to launch a strategic planning process before the world changed. As we approach planning for the future, we will do so now with a whole new set of assumptions. As an example of how we are taking control and not simply reacting, it appears that we will host a virtual conference and expo next spring rather than try to pull together an in-person event as we have done in prior years. I have experienced the virtual trade show of another chapter, and am confident that with the dependable, incredible efforts of the Committee and our remarkable staff we will put on a rewarding event – not merely a second-best alternative to our traditional event, but an innovative event that stands in its own right.

We seek your input on other initiatives the Board ought to consider. We are focusing on enhancing our membership efforts, for example. We also are intent on tackling the challenge the management company CEOs have identified, that being the difficulty of attracting qualified employees to our industry. We especially seek ideas as to how we forge relationships with institutions that will educate future employees in management, accounting, facilities, law, project management and all the other unique aspects of our industry. Please let us have your ideas, and pitch in if you are so inclined. There is much to do and we need everyone's help. ■

### People in the News...

Congratulations to **Bouvier Insurance** for being among the 48 companies recognized by *The Hartford Courant* as Top Workplaces for 2020! In an online ceremony attended by hundreds, Courant Publisher and Editor Andrew Julien stated that the group was recognized as being “the best of the best,” and that “all share core values that drive success in the workplace.” ■

# CONTENTS

- 3 President's Message
- 3 People in the News
- 4 CED Message
- 5 Upcoming Events
- 6 Statutory Snippet
- 6 New & Renewing Members
- 6 Website Insights
- 7 Legally Speaking
- 8 Financially Speaking
- 10 8th Annual Legal Symposium
- 14 Community Association Insurance Claims Process
- 16 Summer Sizzler Wrap-up & Photos
- 16 Ask Mr. Condo
- 18 Transition: Know What a Declarant Might Not Tell You
- 22 Manager's Column
- 26 Technical Explanations
- 27 Environmental Tip
- 28 Classified Advertising
- 30 Index of Display Advertisers
- 31 The Overlooked Facet of Community Pond Management

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## From the Chapter Executive Director

**“Training is everything. The peach was once a bitter almond; cauliflower is nothing but cabbage with a college education.”**

~ Mark Twain



Kim McClain

Courtesy CAI-CT

From great authors like Mark Twain to our spectacular shoreline, amazing restaurants, phenomenal arts organizations and more, Connecticut has so many aspects to appreciate. The variety of our treasures was reinforced recently during a visit from our daughter. She decided to escape the climate fires around San Francisco where she now lives and worked from our Connecticut home for a few weeks. During her stay, we explored lots of our state's nooks and crannies that I never knew existed. We walked along a lovely little river in the People's Forest in Riverton, CT. (Did you know we had a People's Forest? And that Connecticut has 32 state forests?) Drove through some gorgeous farmland in Litchfield county. Hiked around the abandoned camp property in Moodus — now owned by the State. I got to experience all of this through my daughter's reinvigorated appreciation for her home state. It was fun! While most of us spend way too much time stuck behind a computer screen these days, hopping in the car for a scenic drive provides a nice break and a breath of fresh air — literally! I highly recommend it.

At CAI-CT we could not agree more with Mark Twain — training is indeed everything! As we entered the Fall season, we experienced an uptick in the number of calls we get and most seem to be about how to deal with a “problem” board. Ironically, in each any every situation thus far, none of those boards have sent members to attend our training programs. The importance of having a well-informed board seems to be fundamental to ensure the association is in a better position to be well-managed. Our main mission is to provide education. The realization of that mission is evident by the multitude of education programs we offer — even during the pandemic. As an example, our highly touted Annual Legal Symposium is right around the corner on October 29. Be sure to register ASAP!

Be well! ■



Photos by Celeste J. Smith



Clockwise from left: Manchester; Moodus; Bolton; and Glastonbury.

# UPCOMING CAI-CT EVENTS

## Fairfield County Town Hall Meeting

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



Homeowner Leaders, Committee Members and Community Association Managers, this is for you!

Join us for our first ever Fairfield County Town Hall and get to meet other homeowner leaders and managers. Network with them, hear how they are leading in the time of COVID-19 and get to ask a couple of trade industry experts some questions too.

Let's think about planning for 2021! How do you want your landscaping to look in the future? Our experts will discuss ideas for irrigation, water usage and also delve into using plants that require less water too. Imagine how a few changes might enhance the overall look of your community.

Then, we hope you will bring some questions for a legal and an insurance expert. This is your opportunity to have our experts help you navigate some of the issues you are facing.

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

(Approval pending for 1 continuing ed credit)

Sponsorships Available for this event. Contact [ellen@caict.org](mailto:ellen@caict.org).

## M-390: Leadership Practices in Customer Service

October 23, 2020 • 9:00 am - 5:00 pm

Southbridge/Sturbridge, Massachusetts

Acquire necessary customer service skills to communicate confidently with your clients and find solutions to common issues. Whether you lead a community association board, manage volunteers, collaborate with colleagues, or strive to meet the needs of your clients, this course is specifically designed to teach you how to effectively and confidently communicate and use the soft skills needed for providing the best experience for homeowners, clients, and colleagues.

Pricing: CAI manager member: \$479 / nonmember: \$579

(Approved for 8 continuing ed credits - Students have 30 days from the live course to complete an online evaluation to receive credit for the course.)

## Legal Symposium

Thursday - October 29, 2020 • 1:00-5:00pm



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!

(See details on pages 10-13 of this issue!)

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

(Approval pending for 4-8 continuing ed credits)

Sponsorships Available for this event. Contact [ellen@caict.org](mailto:ellen@caict.org).

## Minding Your Mind & Mental Health

December 8, 2020 • 12:30-1:30 pm



Join us for an interactive session where we will discuss the current challenges our industry has faced as managers/leaders. We will discuss coping skills/tactics individuals have used during the past nine months that have helped to build resiliency in their personal and professional lives. In addition, this program will discuss: promoting resiliency and self-care in the workplace, how to continue providing support to homeowners while taking care of our families and ourselves

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

(Approval pending for 1 continuing ed credits)

Sponsorships Available for this event. Contact [ellen@caict.org](mailto:ellen@caict.org).



Visit [www.caict.org](http://www.caict.org) to register and for updated information.

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## NEW & RENEWING MEMBERS

### Welcome New Members

#### Individual Managers

Paul Dupervil

### Thank You Renewing Members

#### Associations

Dorion Terrace Association, Inc.  
Meadowview-on-the-River Association  
Silver Ridge Owners Association  
Spring Lake Condominium Number Nine Association  
Springhill Terrace Condominium Association  
Wooster Brook Condominium Association, Inc.

#### Management Companies

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#### Individual Managers

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## Statutory Snippet...

**Budget Ratification.** (a) **Annual Budget.** The board prepares the annual budget, which, in turn, sets the common charges for the following year. The budget must be put to a vote — and is sustained unless a majority of all unit owners vote to reject the budget (in which case the prior year’s budget remains in effect). C.G.S. 47- 261e

*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.*

## Website & Virtual Insights — Zoom and Hopin

We love Zoom, it has helped us stay connected in new and surprising ways! If you’ve attended a live webinar, an on-demand webinar, a committee meeting or a social event with CAI-CT in the past 6 months, it has been on Zoom.

Hopin is a virtual venue platform with multiple interactive areas, including chat, group video conferencing and private video conferencing. We are so excited to add this software to our virtual toolbox. Using this platform will allow the CAI-CT community to create a personal interactive event experience. Attendees will be able to hop into an education session, hop over to a commercial break, hop into a private video conference chat with a speaker, sponsor or peer. Need a private face-to-face with someone? Invite them to a private video call! We really think you will be blown away! ■



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Approval pending for 1 CEU.

### Minding Your Mind & Mental Health

December 8, 2020 • 12:30 - 1:30 pm



Pricing: \$25\*

Join us for an interactive session where we will discuss the current challenges our industry has faced as managers/leaders. We will discuss coping skills/tactics individuals have used during the past nine months that have helped to build resiliency in their personal and professional lives.

In addition, this program will discuss:

- Promoting resiliency and self-care in the workplace.
- How to continue providing support to homeowners while taking care of our families and ourselves.

\*CAI Members who sign into their account prior to registering will receive a \$10 discount.

**Register today at [www.caict.org](http://www.caict.org).**

## Legally Speaking...



Adam Cohen, Esq.

# Courthouses and COVID-19

## HOA Lawsuits Slowed by the Pandemic

By Adam J. Cohen, Esq.

The pandemic has dramatically curtailed most of Connecticut's court operations. In addition to safety concerns, reduced staffing levels and the limitations of working remotely have forced the state's judicial branch to triage what it can and can't do, or at least can't do quickly, for the foreseeable future.

Jury trials and most live hearings have been suspended until further notice. Only people involved in criminal proceedings, important family matters, or civil restraining orders and other emergency applications are allowed to enter courthouses. The number of people allowed in each courtroom, office, lobby, and hallway is restricted. Even media attendance is strictly limited. When hearings are necessary, they are conducted with the judge and parties remotely by telephone or online video. To ease the caseload, the Governor has indefinitely extended most statutes of limitation, deadlines for issuing rulings, and other legal deadlines. Still, the Superior Courts' Rules Committee has warned that most of its internal timelines and requirements will be unlikely or impossible to meet.

Cases involving homeowners' associations are, to be frank, low priority at this time. Foreclosures have moved slowly and auctions have been postponed until October at the soonest. As of this writing, evictions have been suspended but may resume shortly. Although some motions are being decided, many are languishing. The same conditions which are slowing the courts are also impacting law offices, title searchers, appraisers, town halls, witnesses, and others who are involved in moving litigation through the system. If your associa-



AndreyPopov/Stock/Getty Images Plus

*“Cases involving homeowners’ associations are, to be frank, low priority at this time.”*

tion is suing someone for unpaid common charges, or is being sued by someone for a personal injury, or otherwise in litigation that does not concern a real emergency, you should assume that it will proceed very, very slowly.

The most recent developments have, nevertheless, been more promising. Most of the courthouses which had been fully closed in March are now open and have resumed full 9-to-5 hours. The judicial branch has reported that the backlog of civil cases between March and June 2020 was much smaller than anticipated at 4.8%. Most attorneys who have participated in online hearings have found them to be productive, at least under the circumstances. The courts have also indicated their intention to make several of their recent changes, such as expanded use of online hearings, permanent and more frequent after the pandemic subsides. It is possible that these changes could even help reduce the legal fees parties incur during litigation by shortening travel and wait times associated with live hearings. ■

*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

# Budgeting in the New Normal

By Daniel Levine, MBA, CPA

For the time being, we have entered a new normal. But the impact of current events will ripple through all industries impacting all budgets and this includes common interest communities. As we start to approach year end and entering 2021, many associations who budget on the calendar year will have a new set of challenges creating their upcoming budget. What to budget for? How does this impact long-term goals? How to manage finances going forward? These are all questions that the board will have to face. This article will look at highlight items for consideration that may be more relevant in this year's budget process.

### Collections and Write Offs

During a crisis that affects employment such as this, a community's concern will turn to the ability to collect on its billed common charges and other fees. When an association bills a unit for a fee, it creates what is known as an accounts receivable. When the receivable becomes uncollectible and must be removed (also known as written off), it becomes an expense for the association. This expense is known as bad debt.

If the association employs a very lean budget (trying to charge as little fees as possible) the impact of a unit owner that becomes delinquent can have a large impact on the cash flow. In situations such as these, if there are multiple unit owners that can't pay their bills then the problem becomes compounded. Despite the fact that including this budget item may increase fees, budgeting for bad debt via a contingency budget line the association creates a reserve for when receivables may be written off in the future.

The association should look at their history of receivables, review their collection policy and look at the demographics of their community when developing this budget line. Does the association have a collection policy? Does the association have multiple units owned by a single entity that if they decide not to pay could generate a cash flow problem? Does the association have a large accounts receivable balance already?

These factors can influence the size of a bad debt budget provision to make sure it is not excessive and does not burden the entire community. If there are no write-offs the board can look at whether to keep budgeting for this line going forward or perhaps contribute the excess liquidity into the long-term capital reserves.

### Look at Comparable Years

While managing cash flow and developing a budget for 2021 the association may want to turn to prior budgets in the association's

*"If the association employs a very lean budget (trying to charge as little fees as possible) the impact of a unit owner that becomes delinquent can have a large impact on the cash flow."*



sorbeto/Digital Vision Vectors/ Getty Images

history to see how cash flow was managed. Reviewing budgets from the economic crisis of 2008 may shed some light on the types of services the association kept budgeting for, what the cash position of the association was then compared to now, and how the community was impacted by large scale unemployment/economic down turn. Reviewing the past can be helpful to implementing a good budget going forward. Seeing if the association has higher or lower accounts receivable than in the past, more or less cash, or more or less outstanding bills than the previous crisis can be helpful in seeing what type of footing an association is on and help determine what types of steps need to be taken when developing a future budget.

### Project Postponement

Another consideration for the budget available to associations is deferring upcoming projects. Looking at the budget an association may elect to defer larger capital projects for the year. Of course, if it is a safety issue and the work must be done that is a different issue, but deferring larger capital work will allow the association to control expenses and keep adequate working capital for day to day maintenance. The additional working capital can help absorb any potential impact to incoming cash flow.

## Converting the budget into a cash flow statement

This is a more advanced accounting technique but taking the associations overall budget and adjusting it to become a cash flow statement is a useful predictive tool. The easiest method for this is to take the overall budget by month and adjust income for what an association thinks will be deposited into the bank instead of what will be charged. For expenses changing them to reflect what the actual payments are & when they will incur (for example insurance down payment) will allow the board to see potential shortfalls and determine how to address them, whether it's absorbed by past surpluses or requires a budgetary change.

## Determine critical focus points

Once the budget is developed and put into place, the association may want to create key performance indicators (KPI's) to manage its cash flow. KPI's are specific metrics created to break down the overall financial statements to allow for tracking specific financial data relative to a specific goal. KPI's can make managing specific aspects of an association easier by making the data more digestible and presentable. This process can be thought of as a refined budget to actual analysis.

Specific KPI's an association may want to look at monthly are overall accounts receivable balance, accounts receivable aging, total cash on hand for the operating, total cash on hand in the reserves. These items will help an association understand its current position and if collections are starting to become a problem if these areas are not in

line with expectations. That data will allow the board to make policy changes as needed to protect the overall fiscal health of the association.

## Ripple Effect

The final important consideration may be that while the association tightens its belt and budgets appropriately in 2021, there might not be an instant impact to association operations. With the federal and local governments providing stimulus to help individuals during this time, there may be a lag in when the association will be impacted by current conditions. The association may need to look just beyond the next fiscal year with its planning procedures to ensure it adequately forecasts around the current crisis to remain on sound financial footing.

## Conclusion

These are uncertain times with no concrete end in sight. While this will create challenges for communities in the state, by implementing a plan that is based on sound reasoning from past experience, contains budget items that will help working capital, and contains ways to measure and track if there are problems developing will help associations manage the crisis and keep the community financially healthy in 2021 and beyond. ■

*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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# 8th Annual Legal Symposium

Thursday  
October 29, 2020  
1:00 - 5:00 pm

Virtual location:  
**HOPIN**  
No driving, no traffic!



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\$50 - CAI Members  
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## Our speakers will cover the following topics:

- Who pays for repairs?
- Fair Housing pitfalls for the unwary association: Beyond reasonable
- The importance of following formalities in foreclosure actions
- Insurance claim denial and litigation – COVID 19 and beyond
- Strategies for reducing/eliminating litigation expenses with vendors
- What you should know about enforcing HOA liens and foreclosures
- Bankruptcy considerations in assessment collections and governance.
- Amenities Liability Insurance: What about Bingo?
- General Legal Q&A – Back by popular demand!

**All proceeds to benefit legislative advocacy for Connecticut Community Associations.**

### Bring your questions!

You will have an opportunity to ask the speakers questions during and at the end of their presentation. There's lots to learn!

### 1:00 PM - WELCOME

Scott J. Sandler, Esq., CCAL Chair, CT Legislative Action Committee

Presentation from National CAI – Federal Legislative Update and Overview of Legislative Advocacy – Dawn Bauman, CAE Senior Vice President, Government & Public Affairs CAI and Scott Canady – Federal Lobbyist CAI.

### 1:20 PM - SESSION A

#### 1. To Pay or Not to Pay, That is the Question

**Speaker:** Bill Ward, Esq. - *Ackerly & Ward*

**Moderator:** Rich Wechter, CMCA -  
*Westford Real Estate Management, LLC, AAMC*

Unsure about who pays for repairs – unit owner or association? Not certain about whether to file an insurance claim to pay for the repairs? Be sure the next time! Attend this step-by-step seminar to guide you through your decision making.

#### 2. Enforcing Association Liens and Foreclosures – What You Should Know

**Speaker:** Jared Alfin, Esq., EBP - *Hasset & George, P.C.*

**Moderator:** Mark Sperry - *Board Member - Fernwood Estates*

Condo/HOA liens and the enforcement process have a myriad of details. Topics will include: member's obligation to pay association fees; lien notice requirements; lien priority; impact of an association's lien; power to enforce a lien through foreclosure; requirements before foreclosure; and foreclosure defenses and removal of a lien. In the context of COVID, there is a need to be creative about resolving debts owed by unit owners, including payment plans and evaluating the types of plans to ensure the financial well-being of the association especially in light of the current limited access to the courts.

### 3. Insurance Coverage Denied — What Happens Next?

**Speaker:** Kristen Greene, Esq. - *Feldman, Perlstein & Greene, LLC*

**Moderator:** Andrea Dunn, Esq. - *Bender, Anderson & Barba, PC*

What happens when an association or property manager is sued and insurance denies coverage (including COVID 19 claims and beyond). We will discuss the options available to try and avoid the endless abyss of litigation. We will also delve into the role of general liability and D & O coverage.

#### 2:15 PM - BREAK

Hop over to the Expo Area and talk to our Conference Committee members to find out more about our March 20, 2021 Conference & Expo!

#### 2:20 PM - SESSION B

### 1. Fair Housing Pitfalls for the Unwary Association: Beyond Reasonable Accommodations

**Speaker:** Steven Berg, Esq. - *Frankel & Berg*

**Moderator:** Rich Wechter, CMCA -  
*Westford Real Estate Management, LLC, AAMC*

Do you recognize any of these pitfalls? Refusal to accept a Section 8 tenants. An association a rule which provides that resident unit owners can have pets but tenants may not have pets. Do board members need to intervene when they are made aware that one resident is bullying another? A noisy toddler disturbs the unit owner below and the association board sends a violation notice to the parents. Is their language in the declaration that limits the number of adults occupying each bedroom, but it has never been enforced? Children play in the parking lot, but the board wants to require adult supervision, is that okay? The wrong approach can create a legal nightmare for an association. Attend this session to avoid the pitfalls.

### 2. Reducing or Eliminating Litigation Expenses with Vendors

**Speakers:** Charles Ryan, Esq., EBP & Jeffrey George, Esq. -  
*Pilicy & Ryan, PC*

**Moderator:** Mark Sperry - *Board Member - Fernwood Estates*

This seminar will address simple steps Boards can take to reduce litigation expenses and in many cases avoid litigation altogether. From contract provisions to maintaining evidence, Associations can save thousands of dollars should a dispute arise.

### 3. Clubhouses, Pools, Tennis Courts — Oh My! Are your Amenities Covered?

**Speaker:** Robert Pacelli, Jr., Esq. - *Zeldes, Needle & Cooper, PC*

**Moderator:** Andrea Dunn, Esq. - *Bender, Anderson & Barba, PC*

Your pool may have a cover, but is it covered insurance wise? Many associations have amenities but may not be aware of the limitations of liability insurance coverage, especially when it concerns COVID 19. This seminar will offer insights into understanding how insurance for amenities works and how to avoid greater exposure for your community.

#### 3:15 PM - BREAK

Visit the Expo area and talk to our Legislative Action Committee! Find out how you can get involved.

#### 3:20 PM - SESSION C

### 1. Why the Formalities Matter in Foreclosure Actions

**Speaker:** Scott J. Sandler, Esq., CCAL - *Sandler & Hansen, LLC*

**Moderator:** Rich Wechter, CMCA -  
*Westford Real Estate Management, LLC, AAMC*

Historically, the courts have afforded associations broad latitude in the operation of their communities. However, when it comes to foreclosure actions, the courts are now taking a much more skeptical and conservative view of the internal procedures that associations must follow. Learn more about the formal procedures your association must follow in order to protect its ability to enforce its lien for unpaid common charges.

### 2. Bankruptcy — What You Should Know

**Speaker:** Ron Barba, Esq. - *Bender, Anderson and Barba, PC*

**Moderator:** Mark Sperry - *Board Member - Fernwood Estates*

Bankruptcy can be very complicated. This session will cover the basics about the automatic stay and its impact on collection efforts. The differences between Chapter 7 and Chapter 13 bankruptcies will be explained as well as the problems created by unit owners who file bankruptcy outside Connecticut. And there will also be a discussion about the limitations on certain governance efforts against unit owners in bankruptcy.

#### 4:20 PM - LEGAL Q&A

Back by popular demand! We have created two separate panels of our best legal minds to answer your questions.

##### Group 1:

Scott J. Sandler, Esq., CCAL

Bill Ward, Esq.

Jared Alfin, Esq., EBP

Steve Berg, Esq.

##### Group 2:

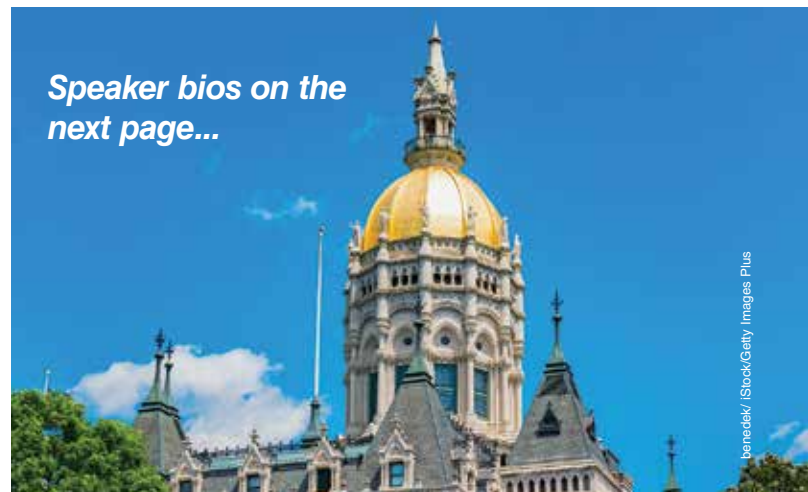
Ron Barba, Esq.

Chas Ryan, Esq., EBP

Kristin Greene, Esq.

Bob Pacelli, Jr., Esq.

Speaker bios on the  
next page...



## LEGAL SYMPOSIUM SPEAKERS



**Jared Alfin, Esq. — Hassett & George, P.C.** Jared Alfin's broad-based business litigation practice includes counseling clients on a range of issues involving commercial contract disputes, collections, real estate litigation (including evictions), white-collar fraud, unfair trade practices, construction litigation, civil rights violations, condominium law, partnership disputes, and litigation involving shareholders and members. Mr. Alfin graduated Roger Williams University School of Law, Bristol, Rhode Island, J.D. – 2004 and Quinnipiac University, Hamden, Connecticut B.S. – 2001.



**Ron Barba, Esq. — Bender, Anderson and Barba, P.C.** Ron Barba, Esq. is the managing partner at Bender, Anderson and Barba, PC. He graduated from the University of Connecticut in 1991 with a Bachelor of Science in Economics. He obtained his law degree from the Quinnipiac University School of Law in 1994. Attorney Barba's practice has focused on common interest ownership law, construction and commercial litigation, commercial real estate law and corporate law. He is a member of the Connecticut, Federal and Supreme Court Bars, and is also a member of the Real Estate Section, Litigation Section and Insurance Section of the Connecticut Bar Association. He is member of the CAI Legislative Action Committee. Ronald Barba has presented countless seminars for continuing legal education providers as well as clients.



**Dawn M. Bauman, CAE — Community Associations Institute** Sr. Vice President, Government & Public Affairs. As CAI's lead advocate for federal and state legislative and regulatory affairs, Dawn works with hundreds of volunteer leaders throughout the country serving on CAI legislative action committees and CAI government affairs committees to advocate for strong and sensible public policy for America's community associations. Dawn holds a bachelor's degree in Business Administration and has earned the prestigious Certified Association Executive (CAE) designation.



**Steve Berg, Esq. — Frankel & Berg** Steven G. Berg, Esq. earned his B.A., cum laude, from New College of Hofstra University in 1974 and graduated from Syracuse University College of Law in 1977. He is a member of the Connecticut and Greater Bridgeport Bar Associations and the Community Associations Institute. Mr. Berg served on the Milford Conservation Commission (1983-85) and was subsequently elected to the city's Board of Alderman (1985-87). He served on the Zoning Board of Appeals of the town of Newtown from 1989 to 2007. Steven Berg has spoken on condominium law issues at seminars sponsored by the Connecticut Chapter of the Community Associations Institute, the Connecticut Bar Association and other organizations.



**C. Scott Canady, Principal — Tambala Strategy** Canady's 13 year record of public service includes experience gained in the U.S. House of Representatives and in the U.S. Department of Housing and Urban Development. Scott began his partnership with Community Associations Institute by launching Tambala Strategy. Through this partnership, Scott has worked with CAI's members and leadership team to advance the views of common interest communities on a variety of issues including federal condominium standards, federal disaster assistance for community associations, and community association lien priority. Canady is a graduate Louisiana State University where he earned a Bachelor of Arts in Political Science and History.



**Jeffrey George, Esq. — Pilicy & Ryan, PC** Jeffrey George, Esq. is an attorney with the firm of Pilicy & Ryan, PC. He is licensed in Connecticut and Rhode Island. Attorney George has an extensive background in Social Security Disability ("SSDI") law. He joined the firm in early 2015 and focuses his practice on SSDI, housing matters, employment law, civil litigation and criminal defense. Attorney George is a member of the Connecticut Bar Association and the Waterbury Bar Association.



**Kristen Greene, Esq. — Feldman, Perlstein & Greene, PC** Kristen has been practicing in the area of civil litigation since joining the firm in 1998. Kristen has successfully handled numerous trials, including jury and courtside, as well as appeals to the Connecticut Appellate Court and Connecticut Supreme Court. Areas of Practice: Representation of condominium associations in all aspects of litigation, including insurance coverage, unit owner and contractor disputes, interpretation of documents, property damage, personal injury and CHRO claims; Business, fiduciary and commercial litigation; Insurance coverage and defense on behalf of insurance companies and insureds; Defending discrimination claims filed with the Connecticut Commission on Human Rights and Opportunities (“CHRO”); Litigation and negotiation of settlements on behalf of personal injury clients; and Litigation of premises liability disputes. Education: University of New Hampshire B.A., cum laude in Psychology; Western New England College School of Law, J.D., cum laude. Awards: CALI Award for Excellence. Personal: Ms. Greene currently resides with her family in West Hartford, Connecticut



**Robert Pacelli, Jr., Esq. — Zeldes, Needle & Cooper, P.C** Robert Pacelli, Jr., Esq. is chair of the Condominium and Community Association practice group, is well known for his responsiveness as well as his cost effective and creative approach to obtaining results for his clients. In representing his association clients, Mr. Pacelli focuses on addressing issues such as rules enforcement matters, document amendments and updates, collection of common charges, developer turnover issues, contract negotiations, loan closings, FHA approval and recertification applications, defending discrimination claims and many other matters unique to associations. Mr. Pacelli is a graduate of Brandeis University (1994) and Boston University School of Law (1997).



**Charles Ryan, Esq. — Pilicy & Ryan, PC** Chas Ryan, Esq. represents Common Interest Communities throughout Connecticut. He is an active member of the Connecticut Chapter of CAI and presently serves on the Board of Directors, Education Program Committee, the Conference Committee, and the Legislative Action Committee. Attorney Ryan often educates Managers, Board Members and Unit Owners regarding the CIOA and other areas of law affecting Common Interest Communities.



**Scott J. Sandler, Esq., CCAL — Sandler, Hansen & Alexander, LLC** Scott J. Sandler, Esq., CCAL, is the managing partner of Sandler, Hansen & Alexander, LLC, located in Middletown, Connecticut. His firm provides high quality legal services to condominium and homeowner associations throughout Connecticut. Mr. Sandler is a fellow of the Community Associations Institute’s College of Community Association Lawyers. Since 2010, he has served as the chairman of the Legislative Action Committee of the Connecticut Chapter of the Community Associations Institute. He is also a member of the Institute’s Government & Public Affairs Committee. Mr. Sandler served the Institute as president of its Connecticut Chapter from 2008 through 2009. Mr. Sandler also represented the Chapter when he served on the Connecticut Law Revision Commission Study Committee, which adapted the 2008 revisions of the Uniform Common Interest Ownership Act for use in Connecticut.



**Bill Ward, Esq. — Ackerly & Ward** William W. Ward, Esq. is a graduate of Fairfield University (B.A. 1978 – cum laude) and the Columbus School of Law at The Catholic University (J.D. 1981), where he was a member of the Law Review. He clerked for the Honorable C. Murray Bernhardt in the United States Court of Claims (1981 – 1983). He serves as a Special Master for the Connecticut Superior Court, was a member of the Board of Directors and currently serves on the Legislative Action Committee for CAI-CT, and was a member of the Connecticut Bar Association’s committee, which drafted the Connecticut Common Interest Ownership Manual – Second Edition. Mr. Ward is a principal in Ackerly & Ward in Stamford, CT. and has provided legal services to community associations for over 30 years. His practice concentrates on common interest communities, common interest community developments, real estate, probate, and civil litigation.



Joel Meskin, Esq., CCAL

# Community Association Insurance Claim Process

By Joel Meskin, Esq., CCAL

## I. The Claim Process begins ***before*** insurance is purchased!

- a. Shop for a Community Association Insurance Professional not the Policy.
- b. Purchase the best Coverage; avoid the seduction of the cheapest price.
- c. Beware of the Insurance professional selling price and not coverage.
- d. Require the Insurance Professional to explain their claim role.
- e. Insist that you receive complete copies of every policy and a schedule of Insurance.

## II. When do you tender (submit) a matter to an Insurer(s) for defense and indemnity?

- a. **Tip:** If you are asking the question, you have answered the question.
- b. The Community Association Manager “CAM” or the Insured(s) should submit it to the Association’s insurance professional. If you have no CAM, designate a single board member to be the contact with the Insurance Professional?
- c. The Insurance Professional should advise if a matter should be submitted to the insurer, and if so, which insurer(s).
- d. The insurance Professional or Attorney advice received **MUST** be confirmed in “writing!”

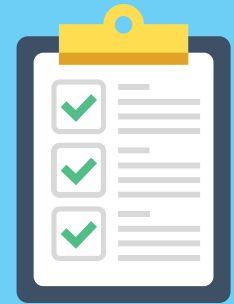
## III. If the claim is a “***liability claim***” also contact the association’s attorney.

- a. Is there an insurance policy that should pay for the defense and or indemnity of the association, board, employee, volunteer or CAM (collectively “Insured(s)”)?
- b. Is there a third party that is responsible for the association’s defense and or indemnity notwithstanding the insurance (i.e. contractor, professional, or another entity agreeing to indemnify in a contract)?
- c. Make sure all the association’s insurance policies, contracts and governing documents, minutes and rules ***are in order*** to give expeditious access to your association counsel, or the insurer appointed attorney.
- d. **Caution:** as a general rule, no insurer is required to provide coverage, including defense fees, until it has given written consent to the Insured(s). Accordingly, do not assume corporate counsel will be reimbursed for any pre-tender fees.

## IV. When a Claim is received, the Insured(s) **MUST** protects the association’s interest.

- a. Insured(s) should not discuss **ANYTHING** about the Claim between and amongst themselves, or anyone else (including a spouse) other than the timing of an attorney meeting! If you do, there will be no privilege to protect those communications. These

*“Insured(s) should not discuss ANYTHING about the Claim between and amongst themselves, or anyone else (including a spouse) other than the timing of an attorney meeting!”*



Jane\_Kelly/Stock/Getty Images Plus

discussions **MUST** only be discussed with counsel in preparation of litigation or defense of a Claim. Otherwise, these discussions are discoverable.

- b. There is **NO** “board member privilege.” There is **NO** “pillow talk” privilege.
- c. Board members **MUST NOT** communicate between and amongst one another by e-mail or any other form of electronic communication. This type of board communication should never occur, especially in light of litigation. These are all discoverable, and may constitute an unauthorized board meeting.
- d. Do not edit or massage the information you provide your attorney or insurer. It will do nothing other than sabotage the claim. The facts are the facts.

## V. The Claim Representative is your friend; your Insurance Professional is your Advocate.

- a. Claim Reps want to pay your claim! Treat them as a partner. Board members are fiduciaries tasked with protecting the association’s interest. Treating a claim rep as an adversary is not in the association’s interest. Psychologically, people (claims reps included) want to help Insured(s) who are nice and civil.
- b. Claim Reps are creatures of audit. They must document the claim file to support any payment. Accordingly, make their job easier and provide the documents and information they request.
- c. Every insurance policy has a “**Cooperation Clause.**” Failing to cooperate may impact the adjustment of a claim and the rights and coverage in the policy.

**Admonition:** *The Association is a Business.* Leave Emotion and Principle at the Door! ■

*Joel W. Meskin, Esq., CIRMS, CCAL Fellow, MLIS, EBP is the Managing Director of Community Association Products at McGowan Program Administrators, a provider of insurance products, solutions and risk management to community associations nationwide. He can be reached at [www.mcgowanins.com](http://www.mcgowanins.com) or 800-545-1538.*



# CAI-CT 2021 Conference & Expo Update



Our Conference Committee has been simmering with lots of ideas! We'll be cooking up a storm of great programs and opportunities to connect with one another — and have fun! **Save the date for March 19-20, 2021** for our 24th Annual Conference & Expo virtual style. Since large in person events will probably not be safe until the third quarter of 2021, we can't possibly wait that long to stir things up together!

We are thrilled that so many of our loyal supporters have committed to making this the best possible virtual event we can imagine. They are indeed our Trend Setters. In each issue, we will list all of those wonderful companies that plan to join us in the CAI-CT kitchen on March 19-20, 2021.

A BIG Thank You to all of our *Trend Setters!* ■

## CAI-CT 2021 CONFERENCE & EXPO TREND SETTERS!



# Summer Sizzler 2020 Roared!

While we were not able to enjoy the warm summer breezes at Amarante's during our Annual Summer Sizzler this year, we still had a terrific event with nearly 80 people in attendance for our great program about maintenance and maintenance standards. We are grateful to our terrific speakers for creating a very informative program. Speakers: Carrie Mott – *Bouvier Insurance*; Frank Pingelski – *Toober Ferraris Insurance Group*; Karl Kuegler, CMCA, AMS, PCAM – *Imagineers, LLC*

Did you catch the awesome Sizzlersaurus popping in during the event? Thanks to our amazing event mascot (AKA: Deann Uberti), and her driver – Carrie Mott – the prize winners got a visit from the Sizzlersaurus and were given their prizes. Yes. The world is a little upside down now, but we try to keep things interesting at CAI-CT!

### Thanks to our great Summer Sizzler Committee:

Chris Hansen, Esq. – *Sandler & Hansen, LLC* – Chair  
Licia Ciotti – *United Property Restoration Services*  
Brian Kelly – *Bouvier Insurance*  
Deann Uberti, CMCA – *Levey Miller Maretz, LLC*



### Thank you to our generous sponsors:

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(left) Carrie Mott, EBP,  
*Bouvier Insurance*

(below) MJ Tanzella,  
*Westford Real Estate Management, LLC*



(left) Stu Madison,  
*Marina Bay Association*



## 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>.

### Community Association Manager Licensing Check

#### A.G. from New Haven County, Connecticut writes:

Dear Mister Condo,

Do you need to provide your state with a current copy of your bylaws and how often if yes? How do we get a new property management company? With 32 units how many votes do we need? How do we find out if the management company has a license in CT that is not outdated?

#### Mister Condo replies:

A.G., lots of questions here so let’s get to it. The state isn’t too likely to be interested in your current by-laws other than they should be on file with the local municipal authority land records. This is because you have deed-restricted the use of property in your municipality. The articles of incorporation were filed with the state when the association was formed and you should keep the state records updated with your annual filing with the Secretary of State with regards to officers and people to contact for the association. The Board selects the Property Management company and enters into a contractual agreement with them. Unless the contract was violated by the Property Management company, it is highly unusual to change before the contract ends because the association would still be contractually obligated to pay the management fees until the termination of the contract. If terminating for cause, it would be best to get an attorney involved to make sure the association can back up the claim before entering into a new agreement with another property management firm. Trust me, the attorney’s fees are well spent versus having to pay two sets of management fees for doing it wrong. The unit owners do not vote on the management change; that is up to the Board. The State of Connecticut keeps an updated list of licenses that can be searched online. Point your browser to <https://www.elicense.ct.gov/Lookup/LicenseLookup.aspx> and select “COMMUNITY ASSOCIATION MANAGER” from the dropdown list. Add a few more details to limit your search and you should find what you are looking for. Good luck!

[Continues on page 30.]



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Scott J. Sandler, Esq. †  
Christopher E. Hansen, Esq.

† Fellow, College of Community Association Lawyers

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Jonathan Chappell, Esq.

## Transition: *Know What a Declarant Might Not Tell You*

By Jonathan Chappell, Esq.

There have been many prior articles written about transition. The focus of this article is on what the incoming board elected by the owners should do to prepare for transition and put the community in the best position for long-term success.

### What is transition?

Transition is the transfer of the operation of a community from the declarant to owner-elected board. The requirements of the transition process are spelled out in subsections 47-245 (d) through (h) of the Common Interest Ownership Act (“CIOA”).

The following are what this attorney believes are “best practices” to plan for and make sure transition occurs in accordance with the association’s governing documents and CIOA.

### Prioritize What is Important to Your Community.

The owners should discuss what is needed once transition occurs to make the community the best possible place to live and own. Some associations have established transition committees to create a prioritized checklist of what the owners must or at least should do before, during, and after transition.

### Remember that the Declarant May Not Do What is Best for the Owners.

The declarant is developing the community to make money. I am sure that many of us who had the opportunity to discuss this topic with the late Matthew Perlstein got an ear full!

A key thing to remember is that transition does not help the declarant make money and reduces the declarant’s control over the operation of the community. Some declarants will hold on tight until the unit owners galvanize and force transition to the unit owners, possibly even compelling the owners to sue to get control. Even putting aside potential “shenanigans,” the declarant may simply want to maintain control over the day-to-day decisions for as long as it can get away with it. A declarant almost never approaches owners asking that the unit owners take over control of the community, and, if they do, it is probably that they are not able to make as much money as intended. A declarant may be a nice person and easy to talk to, but when it comes to transition you cannot rely on them to do the right thing.

### Know When Transition Should Take Place.

Make sure that you know when the period of declarant control ends. As referred to above, Section 47-245(d) of CIOA lists the events that trigger the end of the period of declarant control. These include: (1) 60 days after the conveyance to unit owners other than the declarant of 60% of units that the declarant reserves the right to create; (2) two years after all declarants have ceased to offer units for sale; and (3) two years after any



*“Even putting aside potential ‘shenanigans,’ the declarant may simply want to maintain control over the day-to-day decisions for as long as it can get away with it.”*

YvanDube/E+/Getty Images

right to add the new units was last exercised. The owners should be ready to begin the process of transitioning power away from the declarant when the statute is triggered if the declarant does nothing. Many developers, by design or inadvertence, do not turn the association over in time.

### Prepare for Transition.

The owners should plan who will do what when they take control so the association can be ready to go on “day one.” Importantly, who is ready, willing, and able to be an effective board member? The owners should also seek out and identify the professionals they will need to assist them through the transition process and in the operation of the association, including the following:

#### Attorney.

Of course, the association will need an attorney to advise it during and after transition. The attorney should review the existing documents, at least for “red flags” and provisions that may impact the operation of the community and advise the association so that if any issues are discovered, can be dealt with swiftly. The attorney can also be a sounding board for the new board on necessary procedures (e.g. giving notice and having meetings, enforcement, collections). Additionally, the attorney can also assist the association in determining whether it has any viable claims against the declarant or the declarant appointed directors, whether these claims are worth pursuing, and if the statute of limitations might apply to any possible claims.

#### Manager.

Hiring a manager may be the most important decision the association makes. Most managers have been on both sides of transition and will be aware of how to get what is needed to quickly begin assisting the board to operate the community. For example, the association will

*[Continues on page 20.]*

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**TRANSITION...from page 18.**

be given control over the association bank accounts and the manager will be able to setup the accounts so that incoming common charges are credited to the paying owner and that the association quickly is able to pay its bills.

An experienced manager will know how to set up bank accounts and financial records, respond to mortgage questionnaires, prepare and send out routine meeting notices, identify problems and solutions in the budget, recommend contractors, and can advise about what the association must maintain, repair or replace, and when a question or situation requires input from the association's attorney, accountant, or other professionals. Hiring a manager is likely to reduce what an association pays other advisors, including attorneys.

**Accountant.**

CIOA requires that the declarant furnish the association with an audited financial statement at the time of transition. Many developers resist paying for the audit and, sometimes, even the declarant's own accountant will not have enough information to certify an audit. The association should hire an accountant who is knowledgeable about community associations, to assist it in reviewing whatever financial data it received from the declarant, in planning for the future, and in preparing tax returns.

**Engineer.**

The only way to find out whether there are any defects in the common elements or whether construction has been completed properly

is to hire an experienced engineer to inspect the common elements and prepare a report identifying deficiencies that must be addressed. The association only has a limited time after transition to sue the declarant for defects or force the declarant to correct construction issues and an engineering report is an important part of this process. Another very important role of the engineer is planning for future capital improvement projects.

**Conclusion.**

The most successful transition occurs when the association has been planning for it. An association must plan before it happens. The associations that have planned and even discussed the timing with the declarant are likely to be in the best position to succeed. I believe the best outcomes result from communication, planning, and prioritizing. ■

*Jonathan Chappell, Esq. is an attorney in the law firm of Feldman, Perlstein & Greene, P.C. based in Farmington, CT. Jonathan serves on our Legislative Advocacy Committee.*

**Editor's Note: Our Condo Inc. program is an excellent opportunity for newly transitioned associations to get started on the right track. Our expert speakers provide information for how to effectively and to efficiently operate your community. The next program will be offered online on October 3, 2020. This is a great investment for the future of your association. More details can found at [www.caict.org](http://www.caict.org).**



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## Manager's Column...



Rich Wechter, CMCA

### Being Practical, Part LXV Association Standards/Rules — *Do Associations Need Enforcers?*

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 a timely subject for many associations: the need, or lack thereof of associations to utilize enforcers of association standards and rules. This is a topic that raises the blood pressure of association residents like no other topic. We hope to explore this topic in both an informative and entertaining manner that will provide boards, management companies and residents with the ability to avoid the pitfalls that many associations suffer in dealing with this topic.

#### A. Setting the Table on this Topic

Most of us have gotten many laughs watching the recent Geico commercial titled "Cynthia", in which a woman named Cynthia, on behalf of the HOA, finds various violations at a home in a HOA and cuts down unauthorized flower pots, declares that shrubs were not board approved, notes a failure to break down cardboard and, in a final act of absurdity, cuts down a mailbox station for being two inches too tall. I am sure that all of us can envision some former or current member of a board doing all of these things, while holding the dreaded clipboard. I am also sure that there many boards and individual board members who have expressed a distaste for this commercial, while I have no doubt that there are many more residents of condominium associations and HOAs who are still laughing at that commercial and declaring that they have seen that behavior play out at their associations.

It is within this context that we begin our discussion of this matter. Within both extreme reactions to this commercial, there are some important considerations to examine and actions to take that should establish a proper balance for all concerned. I well imagine a future article to continue the conversation on this subject.

#### B. The Need for Association Standards/Rules

In an episode from the television show "Seinfeld," Cosmo Kramer had played a round of golf in which his opponent picked up his ball in the fairway and cleaned it - an obvious rules infraction. Kramer, furious with his opponent for a complete disregard for the rules of the game, penalized him a stroke. Elaine asked, "So, what's the big deal?", to which Cosmo replied, "Hey, a rule is a rule, and without rules there's chaos."

In the world of community associations, the absence of rules will lead to chaos. History, well beyond the world of associations has



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*"The most common complaint generated by board members is the look of these areas, noting some personal distaste for some of the objects found outside of units/homes."*

taught us that. This is true, regardless of association size, but is most relevant in larger associations. Can anyone imagine an association with no rules regarding pets, trash and recyclable disposal, or the appearance of common and limited common areas? The "anything goes" doctrine is not viable in a common interest community.

#### C. Defining Association Standards/Rules

The linchpin in this matter is the establishment of clear and fair association standards/rules that are easily understandable and properly enforceable. Associations need to examine all current standards/rules to confirm that they are both understandable and properly enforceable. A standard/rule created with no chance of proper enforcement is useless. Both parts of this equation are equally important. Boards need to carefully examine all existing and proposed standards/rules to confirm the clarity of them and the ability of the association to properly enforce them. Input from many resources is highly suggested. We have all experienced a rule being enacted due to an encounter that a board member has with a resident. Rules should never be enacted for personal reasons, but, rather, should be enacted for good solid business reasons. To paraphrase "The Godfather", "it's not personal Sonny, it's business." One area that many associations

are dealing with is personal items on common and limited common areas (flowerpots, statues, lights, etc.). The most common complaint generated by board members is the look of these areas, noting some personal distaste for some of the objects found outside of units/homes. We respectfully suggest that the approach to this matter is to define what is the look you are trying to achieve and then to establish parameters for the type of item, size, quantity and location that should be allowed. This provides a healthy dose of objectivity into the equation while reducing the subjectivity that most offends residents, and which generates an impossible enforcement structure. Finally, it is important to balance compliance against creating a “vanilla” community that demonstrates a distaste for creativity and imagination. It is the variety in life that brings out the best in all of us.



**D. Establishing the Procedures for Enforcement**

The beauty of the “Cynthia” Geico commercial is the manner in which she cites to the standards/rules in violation by the homeowners and reacts to the violations by cutting down flowerpots and the two-inch too high mailbox station. It is difficult to not appreciate the commercial for its humorous intent. . In the midst of this hilarious banter, there are some valuable lessons to be learned.

The first is the most obvious: Rules enforcers should never engage in “rules remediation” in response to rules violations. Cutting down flowerpots and mailbox stations will only create anger and resentment in a community. If violations or deviations from association standards/rules are in play, the right response is a calm and well drafted letter explaining what

*[Continues on page 24.]*

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*MANAGER’S COLUMN...from page 23.*

the association standard/rule is and why what exists is in variance with that standard/rule. Phone calls, personal confrontations, back and forth e-mails or text messages is not the recommended course of conduct. We also strongly recommend against having someone stalking around a community taking pictures of claimed variances with association standards/rules. We do, however, recommend the following: 1) Remind residents of association standards/rules and observations of variances on the property in well drafted memos; 2) announce in advance, of walk arounds to be conducted to document such variances to provide residents time to eliminate the variances or to offer explanations of such variances to the board for consideration; 3) conduct such walk arounds with a group of board members and the property manager; 4) provide residents with an explanation letter and reasonable time to eliminate the variance; and 5) conduct a Notice and Hearing on the variance if all else fails. Finally, do not ever use a clipboard during one of these walk arounds.

**E. Conclusion**

All kidding aside, the enforcement of association standards/rules is a tricky subject. The need for a balance between conformity and individuality is critical and the ability of an association to maintain order without stifling its residents is a challenging task. We hope that this initial exploration into this topic will aid property managers and association board members in dealing with the enforcement of association standards/rules. ■

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

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## 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.

### Green Construction

By Timothy Wentzell, P.E.

Now that Bob the Builder has gone green, it appears to be the time for the rest of us to learn from Bob and his merry crew. There are many aspects to Bob's reuse, reduce, recycle slogan that affects how construction is undertaken and, in particular, how the whole field of reconstruction is affected.

Two aspects of green construction are the use of new materials, both with regard to what they are made from along with their energy efficiency, but probably just as important is the disposal of the replaced materials. For example, in a roof replacement project, two to three pounds per square foot are often removed from a roof, and these used asphalt shingles have value, both in road patching material and/or as an asphalt additive for new asphalt paving. The aluminum or copper flashing also has residual value and can be separated and recycled. Even plywood, if removed, can be utilized after processing into mulch or boiler fuel. These materials can be separated at the jobsite, or often at what is called an intermediate processing center (IPC), where the materials are sorted into their different categories and shipped to different facilities that can reuse them. This enables these recycled materials to not only minimize the use of new virgin materials, but, in addition, to save valuable landfill space.

On similar projects like siding, window replacement, etc., the replaced materials often have recyclable value. Even carpeting can be recycled in some parts of the country. However, the old faithful of recycling is probably paving, where pavement that is removed during a paving project can be reused in a product called recycled asphalt pavement (RAP), which often contains other products as well, such as recycled glass or even crumb rubber from old tires. In fact, the use of some of these additives in RAP often makes for an even better quality pavement.

The other end of green construction is the use of new products, in particular, materials that use recycled materials. For example, plastic lumber sold under trade names like Azek for building trim or Trex



*“Two aspects of green construction are the use of new materials...along with their energy efficiency, but probably just as important is the disposal of the replaced materials.”*

actually use less materials in their construction as the 2x6's are spaced further apart. Furthermore, this allows for a greater amount of insulation to be installed. However, it is likely that the condominium owner or board member is more concerned about reconstruction projects where options like this are not available. Such projects as window replacements can offer some very significant improvements in energy efficiency, both because many of the products available can have effective R-values two to three times what 20- to 30-year-old builder grade windows may have had. Probably equally as important is the new seal techniques used in new windows that can often almost totally eliminate air infiltration around windows, resulting in overall savings that can be significant. Other projects such as boiler replacements can offer similar improvements in efficiency. Even projects as simple as the addition of attic insulation can significantly lower energy usage, especially in older buildings, and often have payback periods far shorter than what might be expected.

In total, all of these types of things can allow common interest communities to realize Bob's goal of reuse, reduce, recycle! ■

*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.*

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*ASK MR. CONDO...from page 16.*

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# The Overlooked Facet of Community Pond Management: Structure

By Shannon Junior

Lakes and ponds can be amazing focal points of our communities. People are innately drawn to water, and local waterbodies create natural spaces to enjoy a morning run, an afternoon walk with the dog, or a neighborhood social event. Many communities that I work with have implemented beautification and habitat enhancement projects for their ponds, and some have even hosted kids fishing derbies or remote control boat races. But while maintaining healthy and attractive waterbodies is a priority for most HOAs, the basic structural and functional maintenance activities are frequently overlooked. It's relatively easy for the average community manager or resident to identify when their stormwater pond is experiencing problems when it's covered in weeds and algae or when the fish stop biting, but many of the tell-tale signs of structural trouble are more subtle and difficult to identify.

Lakes and ponds can occur naturally in the landscape, but more often they are man-made, constructed for drinking water supply, irrigation, livestock watering, recreational use, or stormwater management—as is the case for most HOA waterbodies. There are many important components in a stormwater management facility that help regulate water levels, filter debris, and prevent flooding. All of these structural components require frequent inspections and maintenance to ensure the continued integrity and functionality of the waterbody. Without proactive monitoring, it is easy to accidentally overlook serious structural damage and volume loss until the problems require costly repairs and invasive solutions like dredging.

In some localities, the inspection and maintenance of stormwater management facilities (also referred to as 'BMPs' or 'best management practices') is handled by the City or County; although, more commonly, it is the responsibility of the pond owners. Unfortunately, it can also be confusing to understand your HOA's obligations for each of the facilities in the community, especially when the responsibilities can vary between localities, communities, and the facilities themselves. The key documentation that outlines the responsibilities of the HOA for stormwater facilities in the community is the Stormwater Maintenance Agreement with the locality. This document should exist for every facility that is part of an approved site development plan, and should be on file with the locality if you aren't able to locate it.

Your lake and pond management provider is typically a knowledgeable resource when it comes to understanding the frequency and formality of professional inspections. Typically, the age, condition, and complexity of the facility are taken into account, as well as the regulatory requirements of the locality. On a regular basis, your lake management professional will provide visual inspections of the entire facility. If concrete inlet pipes are present, they should also be checked for spalling, cracking, and misalignments. The outlet structures should be checked to ensure that water is properly flowing and that there are no blockages or damage to the trash rack, if one is present. It is also important to monitor the water level in the pond – an abnormally high or low water level for an extended period



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*“If potential areas of concern are identified, it is always cheaper to remediate them early rather than to perform costly repairs after the problems become more severe.”*

of time could be a sign of a serious structural issue. The pond banks, including the dam embankment, should be inspected for erosion and animal burrows. They should be well vegetated with no bare spots. Finally, there should be no woody growth on the dam embankment or within 10 feet of any pond structure since tree roots can compromise the structural integrity of the embankment and can cause cracking, displacement or blockage of pipes.

If potential areas of concern are identified, it is always cheaper to remediate them early rather than to perform costly repairs after the problems become more severe. For wet ponds, bathymetric studies should be performed periodically to document the current storage volume of the facilities and the extent of sedimentation. Likewise, more comprehensive monitoring with annual lake and pond assessments can pinpoint areas of potential concern and facilitate the development of custom solutions. Common solutions include aquatic weed and algae management, aeration, nanobubble technology, biological augmentation, nutrient remediation, mechanical hydro-raking and strategic erosion control. These strategies can be implemented as needed depending on the unique property characteristics, goals and budget of the community.

Each facility is unique and is most effectively managed using a customized approach. A stormwater maintenance professional can help you develop a specific plan that prioritizes the goals of your community, so you can cut down on maintenance and expenses over time. ■

*Shannon Junior is an Ecologist with SOLitude Lake Management, a nationwide environmental firm that provides sustainable lake, stormwater pond, wetland and fisheries management solutions.*



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