

Common Interest

The Official Publication of CAI-Connecticut

Vol. XVII: Issue 6 • 2022



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CONDO LAWS

Inside:

10th Annual CAI-CT

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& Condos Please!

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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



Frank Pingelski, EBP

"I'm excited to say that the upcoming Condo Inc. session will be in person!"

This summer has shown to be relatively quiet in relation to the last couple of years. I hope it's a sign of things to come, especially as many associations are approaching their budget renewal process! However, many things beyond anyone's control seem to be a constant factor in addition to the normal level of uncertainty.

I'm excited to say that the upcoming Condo Inc. session will be in person! While there are many distinct advantages and efficiencies that have come from virtual meetings, I always appreciate working face to face. The side conversations and informal meetups have always been a key to networking and meeting people you may not otherwise. The education itself is important, but being able to converse with others, share stories or discuss common issues is an amazing benefit that often times doesn't happen on Zoom. I would expect the virtual component is here to stay, and with good reason, it makes me appreciate the in person occurrences that much more.

CAI-CT continues to find new ways to reach out to communities and industry partners. While it seems like the distance future, now is the time to reserve your booth and sign up for the 2023 Annual Conference & Expo which is being held on March 18th 2023! ■



Have your community association board members changed since last year?

Be sure to update

your board's member names, titles (President, Vice President, Treasurer, Secretary, and Board Member), and contact information to ensure your board members receive all the latest CAI member benefits!

Update today:

- ONLINE at www.caionline.org
- EMAIL addresschanges@caionline.org
- MAIL to CAI, P.O. Box 34793, Alexandria, VA 22334-0793



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From the Chapter Executive Director

“Everything changes and nothing stands still.”

~ Heraclitus, ‘Cratylus’, 360 BCE



Kim McClain

Courtesy CAI-CT

Transitions are inevitable. Some are welcome and others challenge us to greater degrees. This summer has been filled with a mixed variety of transitions for me; both endings and beginnings.

My elderly sister passed away at the very beginning of the season. Although she was at a point in her life and health that she was ready to go, it was so very painful to realize that the person who was my “second mother” is no longer here on this physical plane. We have all dealt with the loss of a close family member or friend and know how hard it stings during those first days of the transition.

However, my sister’s death also afforded me many trips back and forth to Long Island. On one of my most recent journeys back to our great state, I had the pleasure of taking the ferry on a beautiful moonlit night. It was a magnificent sight to see the Connecticut coastline sparkling in the evening. I could not help but think that despite all the rancor amongst our citizenry on any number of issues, we are truly fortunate to call the Nutmeg State our home and need to spend more time appreciating its many assets and less time focused on its deficits.

Yet, there is also much to be celebrated on the beginnings side. Our daughter is set to cross the pond soon to begin her graduate studies in Scotland. There is much excitement about this new adventure, and we are hoping for a sighting of the Loch Ness Monster at some point.

Just before we completed this issue, we learned of a tragic event in Atlanta, Georgia. Apparently, a “disgruntled resident” allegedly shot and killed the property manager of the condominium building where she resided. Sadly, we all know that horrible acts of violence are becoming more frequent. We want to be sure that our common interest communities are prepared for the possibility that something like this could happen here. We are offering a program about how to deal with an active shooter on Tuesday, November 15th. We encourage you to join us.

Be well! ■



People in the News...

William Ward, Esq. Receives National Recognition as a CCAL Fellow — Honored for The Highest Level of Service to the Practice of Community Association Law

William Ward, Esq. of Ackerly & Ward has been granted fellowship in the College of Community Association Lawyers (CCAL). More than 4,000 lawyers practice community association law in the United States, yet fewer than 175 attorneys nationwide can distinguish themselves as CCAL fellows. Congratulations, Bill!

Attorney Ward earned this national recognition due to his outstanding leadership, commitment to the advancement of the legal principles and practical tools necessary for community associations to thrive. He possesses high ethics, strong analytical and writing skills, a substantial depth of experience and the ability to teach others in the field.

Bill has been an active member and supporter of CAI-CT for many years. He is a popular speaker at chapter education program events. Bill has served on several committees and on the CAI-CT Board of Directors. He is currently the Chairperson of the CAI-CT Board Leadership Development Program Committee.

CCAL was established in 1993 by Community Associations Institute (CAI), providing a forum for the exchange of information among experienced legal professionals working for the advancement of community association governance. Its goals include promoting high standards of professional and ethical responsibility, improving and advancing community association law and practice, and facilitating the development of educational materials and programming pertaining to legal issues. ■



UPCOMING CAI-CT EVENTS

Condo Inc. - (IN Person Event)

Saturday, October 1 • 8:30 am - 2:30 pm

Wallingford, CT

Bonus Special Pricing - 3 or more!

Contact ellen@caict.org for discounted pricing.

We have gathered together a group of industry professionals: legal, insurance, maintenance, financial and capital planning to share their expertise. In addition, this course provides the opportunity to interact with fellow board members and share your challenges and your triumphs!

\$50 - CAI Members / \$75 - Non-Members (Space is limited. Register Today!)

CEO CAM Council – Hosted on Zoom

Tuesday, October 18 • 1:00 - 2:00 pm

Qualifications to attend: you must be an individual member or the designated chief executive officer or equivalent of a management company holding a CAI membership. No more than two individuals employed by the same company may participate on the Community Association Managers Council at the same time. Pre-registration is required.

10th Annual Legal Symposium — Hosted on Zoom

Thursday, October 27 • 12:30 - 5:15 pm

Legal experts will present on a variety of current hot topics important to Connecticut Community Associations. Topics & Speakers to be announced September 1st.

(All proceeds to benefit legislative advocacy for Connecticut Community Associations.)

Scheduling conflict? – Register anyway, and we'll email you the recordings afterward! These webinars will be available on-demand following the live broadcast to those who register prior to October 27th!

\$50 CAI Members, \$75 - Non-Members

Sponsorships Available. Please visit www.caict.org for more information.

Condo Inc. - (IN Person Event)

Saturday, November 12 • 8:30 am - 2:30 pm

Greenwich, CT

Bonus Special Pricing - 3 or more!

contact ellen@caict.org for discounted pricing.

We have gathered together a group of industry professionals: legal, insurance, maintenance, financial and capital planning to share their expertise. In addition, this course provides the opportunity to interact with fellow board members and share your challenges and your triumphs!

\$50 - CAI Members / \$75 - Non-Members (Space is limited. Register Today!)

Active Shooter Preparedness Solutions for All Organizations

Tuesday, November 15 • 12:00 pm - 3:00 pm followed by social hour

Bonus Special Pricing – 3 or more!

Contact ellen@caict.org for discounted pricing.



Alert, Lockdown, Inform, Counter and Evacuate (ALICE) Training provides effective active shooter training and preparedness solutions for organizations of all sizes in a variety of industries. This training will help individuals respond with confidence increasing the survivability of an act of violence. ALICE strategies reduce anxiety and build confidence in individuals who have gone through the ALICE program.

Managers & Board Members: \$50 CAI Member/ \$75 Non-Member

Service Providers: \$100 CAI Member/ \$125 Non-Member

CHAT & CHEW with Common Interest Author

On ZOOM

Wednesday, November 30 • Education from 12:00 - 1:00 pm

Ask Your Questions to your favorite authors! This month's featured speaker will be Scott J. Sandler, Esq., CCAL, *Sandler Hansen, LLC*

Free for CAI Members, \$25 - Non-Members

(No Continuing Education Credits for this event)

Jumpstart January (WEBINAR) – Hosted on Zoom

(Exclusively for Managers)

Wednesday, January 11 from 12:30-2:30 pm

No need to leave your home or office. Connect through ZOOM!

Start off 2023 with some great education opportunities!

Board Members & Managers - \$30 CAI Members/ \$55 Non-Members



CAI-CT Annual Conference & Expo

Saturday, March 18, 2023

Aqua Turf, Plantsville, CT

Reservations for Booth Space & Sponsorships now being accepted.



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

ACTIVE SHOOTER Preparedness Solutions for All Organizations

Tuesday, November 15th
12:00 - 3:00 pm followed by social hour

Bonus Special Pricing – 3 or more contact ellen@caict.org for discounted pricing.

Alert, Lockdown, Inform, Counter and Evacuate (ALICE) Training provides effective active shooter training and preparedness solutions for organizations of all sizes in a variety of industries. This training will help individuals respond with confidence increasing the survivability of an act of violence. ALICE strategies reduce anxiety and build confidence in individuals who have gone through the ALICE program.

Managers & Board Members:
\$50 CAI Member/ \$75 Non-Member

Service Providers
\$100 CAI Member/ \$125 Non-Member

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CEUs



Event Sponsor: \$750
(Includes 4 admission tickets)

Banner: \$450
(Includes 2 admission tickets)

To register, visit www.caict.org.

THANK YOU NEW & RENEWING MEMBERS

Welcome New Members

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Cider Mill Heights Condominium Association

Individual Managers

Nick V Caprio

Brian T Unger, CMCA

Thank You Renewing Members

Associations

Dorion Terrace Association, Inc.

Farmington Edge One Condominium Association, Inc.

Oaks Condominium Association, Inc.

Silver Ridge Owners Association

Springhill Terrace Condominium Association

Individual Managers

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Not a Member?
Visit www.caict.org for membership information.



Statutory Snippet... EXECUTIVE SESSION

Even when the legally permissible reasons for holding an executive session are met, they can only be held during a regular or special meeting, not instead of one. C.G.S. § 47-250(b)(1) ■



CAI-CT's Recommended Course for All Connecticut Community Associations

Especially for Board Members

CONDO, INC.

The Business of Running Your Community

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!

Topics include:

- **LEGAL:** CIOA, Documents, Rules Enforcement, Meetings, Contracts
- **FINANCIALS:** Budgets & Reserves
- **CONTEMPORARY ISSUES:** Reserve Analysis, Long-Term Planning
- **INSURANCE:** CIOA, Risk Management, HO6 Policies, D&O Insurance



3 or more contact
ellen@caict.org
for discounted pricing.

IN-PERSON

Saturday, October 1, 2022
Wallingford, CT • 8:30am-2:30pm

OR

Saturday, November 12, 2022
Fairfield County, CT • 8:30am-2:30pm

Light breakfast and lunch
Members \$50, Non members \$75



Visit www.caict.org to register.

Birds & Bees & Condos Please!

It is always exciting to learn about communities where neighbors work together for a common goal and beautify their community in the process. In the case of Springbrook Village Condominiums in Glastonbury, CT, they are not only adding some glorious color and texture to their landscaping, but they are also helping to support the pollinators which are essential in order to produce seeds and fruit.

Although the Springbrook Pollinator Pathway Committee had a limited amount of space with which to work, they were very strategic about what kind of plants were appropriate and what area would give them the best chance for both survival and being noticed by the community as a cheerful reminder about the beauty of nature. The committee was also very creative in how they procured the plants, costing the association nothing other than the time and talents of the gardeners.

The garden has 40 different pollinator plants that are all perennials and bloom from April through August. They attract both butterflies and bees that gather the pollen from the colorful blossoms.

It turns out that without pollinators, some ecosystems will surely collapse and our food chain would be compromised. The importance of pollinators was made more evident by the recent news about the near extinction of the Monarch Butterfly. Their numbers are down 90% of what they were in 1992. Coincidentally, the milkweed plant population, which is critical to the monarch's survival, is also down 90%.

Natural landscaping can make properties look beautiful and inviting. There is scientific evidence that sustainable methods produce better results for our land than the "conventional" practices of landscaping which includes the use of chemicals and procedures that harm pollinators and other wildlife.

Is your community interested in becoming part of the Pollinator Pathway in Connecticut?

For more information about how you can support pollinators in your community, go to: www.pollinator-pathway.org. You can find answers to many questions including:

- Native Pollinator Plant Lists
- Native Garden Designs
- How to Rethink Your Yard
- How to Convert a Lawn to a Meadow
- If I Use a Landscaper

We'd love to know your story about projects that help build community in your association. Tell us about what you're doing! Email: kim@caict.org ■



"Natural landscaping can make properties look beautiful and inviting."



"Is your community interested in becoming part of the Pollinator Pathway in Connecticut?"



Legally Speaking...



Adam Cohen, Esq.

Dealing With Bank-Owned Units

By Adam J. Cohen, Esq.

Now that foreclosures have resumed after covid-related delays, banks are again becoming the owners of condominium units and other homes in residential associations after their borrowers default on their mortgages. They either acquire them through the foreclosure process or, occasionally, accept them directly without the need for litigation through a “deed in lieu of foreclosure.” When this happens, the bank generally assumes the same rights and obligations as any other unit owner.

Of course, usually the bank does not have the slightest interest in association meetings or any other community involvement. Instead, the bank wants nothing more than to sell the unit as quickly as possible to extricate itself from its responsibilities to the association and to recoup its losses on the defaulted loan. Banks typically sell foreclosed homes at steep discounts resulting from physical neglect and motivated by the taxes and costs which would result from continued ownership. Unfortunately, both the presence of foreclosed homes and their reduced resale prices may also lower property values of the other units in the community.

In this unpleasant situation, the two things that the association wants the bank to do most — maintain the unit and pay the common charges — are exactly what the bank wants to avoid, since it means devoting more money to a “bad” loan and spending it on a unit which it does not use. Just figuring out how to contact the bank can be difficult. Checking the land records in town hall is a good start, because banks are legally obligated to file notices with the town clerk whenever they begin or complete a mortgage foreclosure. They must also include their attorney’s contact information in those notices, which can be viewed by the public on request.

If a foreclosed unit falls into disrepair, the association’s board can impose fines against the bank after giving the bank notice and a hearing just like any other unit owner for violating its maintenance rules. These might range from broken windows and unsanitary conditions to winterization and vacancy hazards which can result in burst pipes and vandalism. In severe cases, complaints can also be filed with municipal officials. Although towns cannot create maintenance requirements targeted at foreclosed properties, they can enforce generally-applicable property regulations and blight ordinances. Also note that if the unit was occupied by a tenant at the time it was foreclosed, that tenant is usually legally entitled to continue living there for at least 90 days after the bank takes title or the balance of the lease term, and the bank may have enhanced upkeep obligations to ensure the unit remains habitable under state law.



mphilips007/Stock/Getty Images

“Banks typically sell foreclosed homes at steep discounts resulting from physical neglect and motivated by the taxes and costs...”

Getting banks to pay common charges can also be challenging. Unless the foreclosing bank held only a second mortgage, the nine-month priority rule is usually irrelevant for a bank-owned unit. That is, since the mortgages (along with all other liens) have been extinguished by the foreclosure, the association’s common charges coming due after title changed hands become the only nongovernmental liens remaining. The board should send its demand letter to the bank as the unit’s owner, but will have more success if it knows the law firm which handled the foreclosure for the bank and the company which the bank retained to manage the acquired unit, so that they can be given copies as well. One of them should be able to alert the proper department within the bank.

One final caution. When is a bank-owned unit not a bank-owned unit? When the bank begins the foreclosure but deliberately does not complete it, for months or even years, to avoid the obligations which come along with assuming title. These “zombie foreclosures” mean the unit owner wrongly believes the bank has taken title and that he is off the hook for upkeep and common charges, so nobody takes care of anything. Be sure to check whether the bank has actually completed its foreclosure and legally taken title before sending it the common charge and maintenance demands. Sometimes banks will honor these before taking title and sometimes they won’t, but they will not be legally required to until after they take title. ■

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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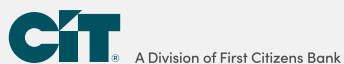
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Financially Speaking...



Daniel Levine, CPA

How to Have a Smooth Audit

By Daniel Levine, MBA, CPA

Many associations do not necessarily perform an audit every year. To have an audit conducted, an association will engage an independent third-party CPA to provide an opinion on the financial statements. An important consideration in this process will be the cost of the engagement and what documents the association will be required to provide. Audits are unique compared to other services associations engage with in that much of the information to be reviewed comes from the association itself instead of something the auditor brings with them.

One item that dictates what's required during an audit are rules known as Statements on Auditing Standards (SAS). These SAS' provide the framework for what an auditor has to do to have an audit be in compliance with the profession. Within the SAS' there will be procedures that are mandatory to be completed (such as sending bank confirmations).

These mandatory steps along with any additional procedures the auditor deems necessary, and the state of an association's records are typically the driving factors behind cost and audit timing. This article will highlight some of the larger steps an association can take to ensure a smooth audit process as well as items that can impact costs of the engagement.

Records Inventory

When engaging in an audit, the association should take stock of its records and its retention policies. If there are missing bank statements, missing bank reconciliations, or missing invoices this will impact the audit process. Auditors will want to see and copy these source documents as support for the financial statements and its transactions. If the documents are missing alternative procedures will have to be undertaken to still obtain sufficient and relevant audit evidence which could increase cost of the engagement.

Outside of third-party source documents, internally generated documentation and understanding your accounting software and its ability to generate reports or other required account details is critical. If detail behind certain account balances or transactions cannot be generated it may be difficult if not impossible for the audit to move forward. The missing detail will have to be recreated at the very least and missing details can extend the time to complete the audit field work and delay report issuance.

While this section may seem like common sense, this is an issue frequently encountered during the course of an audit. Common missing items that have been encountered are bank statements for investments



“Internally reviewing your reports prior to the engagement can be helpful in identifying items that appear unusual...”

Feodora Chicesea/Stock/Getty Images

such as CDs as the bank may not generate these monthly or perhaps statements are sent directly to an association board member instead of the management company. Internally created documentation such as documents relating to intercompany transactions such as capital reserve appropriations, memos detailing payment terms and purposes of special assessments, and all board meeting minutes are also at times missing and require additional procedures by the auditor.

Review your reports

Internally reviewing your reports prior to the engagement can be helpful in identifying items that appear unusual and perhaps require correction prior to the audit being conducted. Identifying and correcting any obvious misclassifications or accruals can help reduce the detailed testing and journal entries that need to be prepared by the auditor and therefore help manage cost as well as the time necessary for an audit to be conducted.

During the year, if an unusual transaction is encountered during an audit, then it could also be an option to contact your outside CPA to better understand how the transaction should be recorded and if there are any specific accounting rules relating to its presentation. This can reduce errors and post transactions correctly the first time.

Timely Response to Inquiries

No matter how all-inclusive an association's records policy is, there will always be additional questions and clarifications needed for an audit engagement. Ensuring these items are resolved quickly will

[Continues on page 12.]



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Scott J. Sandler, Esq.†
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† Fellow, College of Community Association Lawyers

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FINANCIALLY SPEAKING...from page 10.

allow an engagement to move forward and have timely report issuance. Identifying a single point of contact an auditor can reach out to for these items can help streamline communication processes and make for a smoother audit process.

Identify Signatories and Determine who has Access to Accounts

A mandatory step in the audit process is requesting third party confirmations of financial institutions. Even if all statements are present in the file, this third-party verification is an important piece of audit evidence that the auditor obtains. To do this the auditor will prepare, and have signed, bank confirmations that will be mailed to the association's banks to be completed and returned. The bank will not process these documents if the incorrect person signs these forms.

If there has been a recent change in the board or perhaps accounts are solely managed by the board, this can cause issues with bank confirmation

completion and delay further procedures. Having up to date signatories on all accounts and details of who is authorized will help the association's auditor complete this required procedure efficiently.



Have a Discussion with the Auditor About Their Audit Plan

While the audit standards outline procedures all auditors must follow, each auditor will have additional procedures that they feel are necessary to be able to obtain enough evidence to issue a report. These additional procedures will vary from audit firm to audit firm. Discussing with your auditor what the planned scope of the audit is and what type of testing and collection of audit evidence they plan to conduct can help ensure that the association has all the documents together and ready for the audit.

Timely Processing of Engagement and Representation Letters

When hiring a CPA to conduct an audit, the firm will send to the association what is known as an engagement letter. This letter will highlight what the auditor's responsibilities are, what the association's responsibilities are, whether additional services are included with the audit, and pricing. This letter is essentially the contract to hire the CPA. Every audit is required to have an engagement letter and work will not begin unless this letter is signed and returned.

At the end of the engagement, the auditor will have the association sign and send to them what is known as the representation letter. This representation letter is typically drafted by the CPA firm, but is in actuality the association's letter to the CPA confirming a variety of items. These range from the board confirming there is no ongoing litigation to the fact that the board is aware and comfort-

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able with the tax return filed by the association. Like an engagement letter, the representation letter is a required step in the audit process. A finalized audit report will not be issued if this document is not provided to the CPA firm. An association should look to review this letter and sign and return as quickly as possible.

Conclusion

Like many other services associations engage with, an audit has a process that must be followed. To help manage cost and ensure timely completion of the engagement an association can take preliminary steps and actions during the course of the engagement to be able to help manage cost as well as be able to have an audit report issued more quickly. ■

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 At Large Legislative Advocacy Committee and serves on the CAI-CT Board of Directors.

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SCHEDULE FOR THE DAY:

12:30 PM - VIRTUAL VENUE OPENS

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1:00 PM - WELCOME

Scott J. Sandler, Esq., CCAL — *Sandler & Hansen, LLC*

1:05 PM - LEGISLATIVE UPDATE

Chas A. Ryan, Esq. — *Pilicy & Ryan, PC*
Chair Legislative Action Committee

1:20 PM - SESSION 1

A: Foreclosures and Priority Liens: Attention to Detail Matters

Speaker: Ron Barba, Esq. — *Bender, Anderson & Barba, P.C.*

Moderator: Mark Sperry — *Fernwood Estates Association, Inc.*

The foreclosure process is something associations typically seek to avoid. However, when this action is necessary it is extremely important to ensure all the correct steps are taken, as the process will go much more smoothly. This session will offer a step-by-step explanation of foreclosure actions including sales and bidding and taking title. The importance and value of the priority lien will also be discussed.

B: The Written Word: Problems and Pitfalls

How your emails, text messages, and social media posts can come back to bite you.

Speakers: Kasey Burchman, Esq. and
Kelly Freitas, Esq. — *Feldman, Perlstein & Greene, LLC*

Moderator: Rich Wechter, CMCA —
Westford Real Estate Management, LLC

If your property management company or association is sued, you will be subject to the discovery process, which is VERY BROAD. In the condo world you think about documents in terms of what unit owners are entitled to review if requested under CIOA. But the scope of relevant documents in litigation may be much broader. This presentation will help you understand what not to put in writing, i.e. emails, texts, social media, websites and meeting minutes, in order to avoid future problems.

C: Election Nuances: Avoiding Chaos

Speaker: Gregory McCracken, Esq. —
Jacobs, Walker, Rice & Barry, LLC.

Moderator: Karl Kuegler, Jr. CMCA, AMS, PCAM — *Imagineers, LLC*

This session will offer a review of typical provisions in governing documents concerning election of directors at annual meetings, requirements that the election occur by ballot, requirements for majority versus plurality voting, and election inspectors or tellers. Although virtual meetings offer many advantages, there are some additional challenges as well especially with respect to ballots. We will also discuss proposed changes to bylaws to support workable means of voting by ballots in virtual meetings.

2:15 PM - BREAK**2:20 PM - SESSION 2****A: But How Do We Pay for _____?**

Speakers: Chas Ryan, Esq. — *Pilicy & Ryan, P.C.* and James Whetzel — *Fairfield County Bank*

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

Aging infrastructure often means very costly replacement and repairs. What if your association's reserve fund is not robust enough to support major capital improvements? Bank loans are often a good option. Details about how to obtain a loan, e.g. information required; the length of the loan; cost solvency; and transfer fees. Learn what you need to know to get some association dough.

B: Plugging into EV Charging Stations: What the New Law Requires

Speaker: Andrea Dunn, Esq. — *Bender, Anderson and Barba, P.C.*

Moderator: Mark Sperry — *Fernwood Estates Association, Inc.*

Electric vehicles are becoming more common in common interest communities, but where will they power up? Learn how Public Act 22-25 makes void and unenforceable any provision in declarations, bylaws, rules, or condominium instruments, that prohibit or unreasonably restrict EV charging station installation in a unit or limited common element parking space. This session will offer insight, suggestions and advice on how to navigate the ever-changing times of alternative energy.

C: Claims 101

Speakers: Dave Pilon, CIRMS and Carrie Mott — *Bouvier Insurance*

Moderator: Karl Kuegler, Jr. CMCA, AMS, PCAM — *Imagineers, LLC*

When most people think of insurance, they think of insurance claims. Claims management is one of the most important (and hated, but we'll get to that later) parts of insurance. Claims management is such a vital part of insurance, why is it so universally hated? We will dig into the claims management process along with its key players to discover why the process leaves both customers and insurance professional wanting to pull their hair out. Don't worry, we will also recommend some tips for improving the claims management process to make it less of a headache for everyone involved.

3:15 PM - BREAK**3:20 PM - SESSION 3****A: Reasonable Rules Enforcement**

Speaker: Bill Ward, Esq., CCAL — *Ackerly & Ward*

Moderator: Karl Kuegler, Jr. CMCA, AMS, PCAM — *Imagineers, LLC*

Rules Enforcement has many facets. First, the rules have to be reasonable. Often Boards pass rules that conflict with their declaration or bylaws, require an amendment to the declaration, or are arbitrary & capricious. Discover what steps that can be taken to obtain compliance - letter, email, reminders, etc. The important legal requirements for Notice and Hearing; making an enforceable decision by the Board; and implementation of the decision will also be covered.

B: Casualty and Effect:**What Losses Are or Are Not a Casualty Loss**

Speakers: Scott J. Sandler, Esq., CCAL — *Sandler & Hansen, LLC* and Rich Bouvier, CIRMS — *Bouvier Insurance*

Moderator: Andrea Dunn, Esq. — *Bender, Anderson and Barba, P.C.*

Who is required to fix what and why. The speakers will provide guidance about how to determine repair responsibilities, when the loss is a casualty loss and when it's not. Learn how the association's master policy and the owner's HO-6 policy work together to cover the loss and the impact of deductibles.

C: You're Hired!**Driving Employee Engagement in 2022**

Speaker: Rob Buffington — *Gordian Staffing*

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

Is your association and/or business experiencing the effects of the "Great Resignation?" Attracting the right employees has become quite a challenge lately. Awareness of what employees are looking for in 2022; what the highest priorities are; and how companies can offer them in solid ways to reduce HR liability and without disrupting operations will be the focus of the discussion.

4:15 PM - BREAK**4:20 PM****Community Cooling!****Lowering the temperature in community.**

Panel: Andrea Dunn, Esq.
Karl Kuegler, Jr., CMCA, AMS, PCAM
Scott J. Sandler, Esq., CCAL
Mark Sperry
Rich Wechter, CMCA

Community associations are comprised of people with different ideals, preferences, and values. How we talk about things matters. While we may be able to share our views with people who already agree with us, sharing our opinions while leaving room for someone's viewpoint can be challenging. How can we seek to listen to those who hold different beliefs? How can we respectfully disagree? And most importantly, how can we diffuse a heated situation.



LEGAL SYMPOSIUM SPEAKERS



Ronald J. Barba, Esq. — Bender, Anderson & Barba, P.C. Ron graduated from the University of Connecticut in 1991 with a Bachelor of Science in Economics. He obtained his law degree from the Quinnipiac College School of Law in 1994. Attorney Barba's practice has focused on common interest ownership law, construction and commercial litigation, commercial and residential real estate and landlord/tenant 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 and Connecticut Trial Lawyers Association. Ronald Barba has presented countless seminars for continuing legal education providers as well as clients.



Rob Buffington — Gordian Staffing. Rob is an experienced consultant in the HOA management space and brings a wealth of experience and knowledge to management companies and mid-size businesses that struggle with vendor services, staffing, bookkeeping, and overall management issues. He has been and HOA manager previously and also had experience on the vendor side working with HOA's. He currently owns and runs an accounting firm and a remote staffing company, both of which focus on servicing HOA management companies.



Kasey Burchman, Esq. — Feldman, Perstein & Greene, LLC. Kasey received her undergraduate degree from New York University (B.A., 2001), and graduated from Quinnipiac University School of Law, cum laude (2004). She joined the firm in January 2005. Kasey focuses her practice on civil litigation representing both plaintiffs and defendants at both the trial and appellate court levels. She has extensive experience in representing condominium associations in litigation relating to contract disputes, unit owner disputes and construction defects. Kasey Burchman received her undergraduate degree from New York University (B.A., 2001), and graduated from Quinnipiac University School of Law, cum laude (2004). She joined the firm in January 2005. She has extensive experience in representing condominium associations in litigation relating to contract disputes, unit owner disputes and construction defects.



Andrea Dunn, Esq.— Bender, Anderson & Barba, P.C. Andrea graduated from Western Michigan University in 1996, with a Bachelor of Arts in Philosophy, cum laude. She is a member of the Golden Key National Honor Society. She attained her law degree from Quinnipiac University School of Law in 2001. Her practice has focused on litigation in the areas of creditor's rights, collections, contracts, foreclosure, landlord-tenant and community association common interest ownership law. She is a member of the Connecticut Bar Association and a member of the CAI Connecticut Legislative Action Committee, also serve on the Legal Symposium Task Force.



Kelly Freitas, Esq. — Feldman, Perlstein & Greene, LLC Kelly received her undergraduate degree from University of Vermont (B.A., 2004), and graduated from University of Connecticut School of Law, cum laude (2008). She joined the firm in September 2009. Kelly focuses her practice on civil litigation, representing both plaintiffs and defendants at trial and appellate levels in construction defect claims, insurance matters, collection matters, contract and business disputes, personal injury claims and premises liability matters. She has extensive experience representing condominium associations in construction defect litigation, unit owner disputes, contract disputes, insurance coverage issues, and defense of property damage and personal injury matters.



Karl Kuegler, Jr., CMCA, AMS, PCAM — Imagineers, LLC Karl has been a member of the community association management staff at Imagineers, LLC for over 25 years serving the last 14 years as its Director of Community Association Management. As an involved member of CAI-CT, he has served in several capacities including his current roles as chair of the Conference & Expo Committee, Vice Chair of the Legislative Action Committee, committee member for the Legal Symposium Committee, and a member of the CAI Connecticut Board of Directors. He was the recipient of the CAI-CT 2016 Community Association Executive Award. Karl appreciates the opportunity to serve the needs of community associations as they look to govern and address the needs of their communities. Karl has obtained the CMCA, AMS and PCAM industry related designations.



Gregory W. McCracken, Esq. — Jacobs, Walker, Rice & Barry, LLC Greg is a partner at Jacobs, Walker, Rice & Barry, LLC. His practice emphasizes common interest community law and land use, planning, and zoning law. He represents community associations and developers, and he advises property owners and other lawyers. Greg is a frequent speaker for CAI-CT and has given presentations on the Common Interest Ownership Act for CBA and HBRA-CT. Greg is a graduate of the University of California at Davis (B.A., Linguistics, 1985), the University of the Pacific, McGeorge School of Law (J.D., with distinction, 1993), where he served on the board of editors of a journal of international law and on the international moot court competition team, and the University of Illinois (M.U.P. 2000). He is a member of Phi Beta Kappa and the Order of the Coif. He Received the American Institute of Certified Planners Outstanding Student Award. Greg has been named to the Connecticut Super Lawyers® list in the area of Real Estate from 2009 to date. Greg is currently a member of the CAI Connecticut Board of Directors.



Carrie Mott — Bouvier Insurance Carrie is an Insurance Advisor with Bouvier Insurance with 25 years of experience focused on community associations. She is an active member of the Connecticut Chapter of CAI and presently serves on the Education Program Committee, the Conference Committee and several of the Events Committee programs. She is also a member of the CAI Connecticut Board of Directors. Carrie often educates Managers, Board Members and Unit Owners regarding coverage differences between the association master policy and unit owner’s policies and the coverages needed for both to ensure proper coverage in conjunction with the Common Interest Ownership Act.



Dave Pilon, CIRMS — Bouvier Insurance Dave has been with Bouvier Insurance for over 18 years and serves the insurance needs of over 200 community associations throughout southern New England & New York. A former CPA, Dave has earned CAI’s Educated Business Partner credential and is a member of the CT chapter’s Legislative Action Committee.



Chas A. Ryan, Esq. — Pilicy & Ryan, P.C. Chas 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 is the Chair of 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, LLC Scott is the managing partner of Sandler & Hansen, 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. From 2010-2020, he 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.



Mark Sperry — Mark D. Sperry is past President of Fernwood Estates Association, Inc., a 55 & Over community in West Hartford. As a retired insurance company actuary who downsized into a condominium, Mark is keenly aware of important role CAI fills in meeting the educational needs of board members as well as current and prospective unit owners. He also serves on the CAI-CT Membership Committee and also served on the CAI-CT Board of Directors from 2013-19. Mark has also participated in “Members Only” Common Interest Theater.



William W. Ward, Esq., CCAL — Ackerly & Ward Bill 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. He served as a member of the Board of Directors from 2013-19 and also serves on the Legislative Action Committee for CAI-CT. He was also 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.



Richard Wechter, CMCA — Westford Real Estate Management, LLC AAMC Rich is a Senior Vice President at Westford Real Estate Management, LLC. He serves on the CAI-CT Legislative Action Committee and is also a member of the Legal Symposium Task Force.



James Whetzel — James is VP, Manager of Small Business Lending at Fairfield County Bank. He has been with Fairfield County Bank for eight years.



Jonathan Chappell, Esq.

Who Restores a Unit and Pays the Costs to Do So?

By Jonathan Chappell, Esq.

This article attempts to provide a “roadmap” to discuss a frequent call: “Unit #__ was damaged by (fill in here what happened — rain, cracked foundation, water heater, tornado, etc.). Is the association or unit owner obligated to restore the unit,¹ and who pays for it?”

While the following should assist, your scenario may require additional considerations you should discuss with the association’s attorney.

I. Does the Association Insure the Units?

This is a good time to suggest that you review your community’s insurance policy and/or call your insurance professional. Subsection 47-255(b)(1) of the Connecticut Common Interest Ownership Act (“CIOA”) tells us when an association must insure units: “In the case of a building that contains units divided by horizontal boundaries described in the declaration, or by vertical boundaries that comprise or are located within common walls between units.”² CIOA § 47-255 applies to all communities, no matter when created.³

Even if not statutorily required, your documents might still require this.

If the response is “yes,” your community does insure units, continue reading. If not, skip to Subsection I(ii) below.

i. IF YES (Association Insures Units): Is This Covered by the Association’s Policy?

Does the association’s policy accept or deny coverage? CIOA § 47-255(h) requires a unit “**damaged or destroyed** shall be repaired or replaced promptly by the association”⁴ A Connecticut Superior Court Judge⁵ provided this:

Generally, in common insurance usage, “damage or destruction” deals with items commonly covered by insurance, while everything else is maintenance, repair and replacement. That is, a working distinction is that a portion of a common interest community is “damaged or destroyed” (or suffers damage or destruction) if it suffers physical damage that is of a type and is caused by an occurrence of a type commonly covered by the casualty insurance required by Section 3–113⁶ of this Act or by the Declaration or for which insurance is carried by the Association is in effect. Otherwise, to “maintain, repair and replace” (or to perform maintenance, repair and replacement) is the act of addressing and correcting deterioration, wear and tear, and obsolescence to the Property which is not covered by the casualty insurance required by Section 3–113.

If there was a casualty loss covered by insurance, skip to Section II(i). If not, just continue reading.



ii. IF NO (Association Does Not Insure Units or no Casualty Loss): Check Your Documents

The next step is to determine who has the obligation to maintain, repair, or replace what needs work - apply the “general rules” in your documents.

Since this article is limited to the discussion of a unit, most scenarios will result in a unit owner having the obligation.⁷ The analysis begins with what needs repair and whether it is within the unit boundaries or is otherwise part of a unit. The documents might also delegate the obligation to maintain certain portions of a unit to the association.

A moment to speak to owners (board members included). You should confirm whether your association must and does insure units. In this lawyer’s opinion, all owners should have an owner’s insurance policy independent from the association’s, whether your community insures units or not. While a community cannot force you to buy insurance, and if the association is obligated to insure its coverage is primary,⁸ having an owner’s policy (also known as an “HO6” policy) can make the claims process less complex for you. The available coverages may include paying the association’s deductible or filling other gaps not covered by the association’s policy (e.g. unit owner’s personal property). I suggest associations should communicate to owners and encourage/strongly suggest that all owners should obtain their own policy.

II. WHO PAYS?

Ultimately, what everyone wants to know is who will pay to restore a unit, the owner or will the costs be shared by all owners as a common expense?

[Continues on page 20.]



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WHO RESTORES A UNIT...from page 18.

i. Covered, Casualty Loss

If a covered, casualty loss, the association’s insurance policy pays, except for the amount of the deductible and limited by the policy limits.

Often an owner seeks to have an association pay other costs, including alternative housing, loss of personal property, or storage of personal property. The association’s policy will not cover these costs, and an association should not voluntarily agree to pay these, at least before discussing with counsel.

ii. Do the Documents or CIOA Allow Costs to be Assessed Against a Unit?

Unless your documents expressly authorize the assessment of the insurance deductible or other uninsured cost against particular unit(s), these costs are paid by the association as a common expense. If your documents do not already do so, you should consider consulting association counsel to amend them.

CIOA Subsection 47-257(e) also authorizes an association to assess any cost not covered against a unit, after giving notice and a hearing, if restoration costs were caused by the owner’s failure to comply with a maintenance standard, or an owner’s gross negligence or willful misconduct.

III. Does this Roadmap Work?

Here is a basic application to two common scenarios. Remember the discussion is about the restoration of a unit and assume the association does insure units.

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1. Roof Leak

i. Wear & Tear

Rainwater leaks through a common element roof. This is likely “wear and tear” and not covered (see Section I(i) above). Absent negligence or like claim, the unit owner is likely responsible (Section II(ii)).

ii. Tree Puncture

This may be considered a “classic” casualty loss. Section (II(ii) may allow the association to assess the deductible against the unit.

2. Water into a Basement

i Failure of Hot Water Heater

This is probably a casualty loss (Section I(i)), paid by insurance under Section II(i).

ii. Seepage

This may not be covered as a casualty loss (Section I(i) above, absent additional facts (e.g. windstorm, cracked foundation). The unit owner would be responsible ((Section II(ii)).

In conclusion, this roadmap may assist you with the determination of who is obligated to restore a unit. This can be a somewhat complex issue depending on the actual facts and may require discussion with counsel. ■

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

END NOTES:

- 1 This article limits discussion to a unit, not common elements.
- 2 The coverage of “improvements and betterments installed by unit owners” is beyond this article’s scope.
- 3 CIOA Subsection 47-216(a).
- 4 This article does not discuss the limited instances where repairs/replacement are not required.
- 5 The trial court’s decision was affirmed by our Appellate Court. Boyle v. Apple Hill Homeowners Ass’n, Inc., No. HHDCV156058284S, 2018 WL 915054, at *9 (Conn. Super. Ct. Jan. 19, 2018), affirmed, 189 Conn. App. 905, 205 A.3d 820 (2019).
- 6 This cites to commentary to The Uniform Common Interest Ownership Act.
- 7 For communities created after January 1, 1984 or that have opted into CIOA, the first sentence of Subsection 47-249(a) of CIOA gives additional support for a unit owner’s obligation: “Except to the extent provided by the declaration, subsection (b) of this section or subsection (h) of section 47-255, the association is responsible for maintenance, repair and replacement of the common elements, and each unit owner is responsible for maintenance, repair and replacement of his unit.”
- 8 CIOA § 47-255(d)(4).
- 9 CIOA Subsections 47-257(b) and (c)(2).

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Summer Sizzling on the Deck!

We were not trying to have the weather situation at our event be themed with the education topic which dealt with climate change and the challenges we face with respect to insurance. However, we all felt the effects of climate change that evening. We were truly sizzling on the deck. Although our location was on the shore, the breeze was limited, and it was HOT! There was plenty of space in the indoor air-conditioned room, yet by far the majority of attendees were out on the deck enjoying the company of old and new acquaintances.

The Lucky Ducky matching game was also great fun! There was a lot of laughter with folks trying to find their duck “match” so they could go together to place them in the duck pond and get more raffle tickets. Yes, it was all it was quacked up to be and more!

Our Summer Sizzler Committee provided their great ideas and energy to make the event a success. Thanks to our co-Chairs: Chris Hansen, Esq. – Sandler & Hansen, LLC and Licia Ciotti – United Property Restoration Services and committee members Brian Kelly – Bouvier Insurance and Jon Gosnell, CMCA – Imagineers, LLC.

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(above) Lynn Jackson, PCAM - The Property Group of CT, Chris Hansen, Esq. - Sandler & Hansen, LLC; Carrie Mott - Bouvier Insurance and Licia Ciotti - United Property Restoration Services

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Manager's Column...



Rich Wechter, CMCA

Being Practical, Part LXXX Board Resignations — How to Deal With Them

By Rich Wechter, CMCA

In this column, I tackle various topics of interest with the intent of imparting practical advice. In this issue's column, a sequel to my most recent article on how to avoid board resignations for reasons other than illness, death, selling a residential unit, or pressing business or family matters, I discuss best practices on how to deal with board resignations when they cannot be avoided.

A. Setting the Table on this Topic

It is assumed that despite all suggestions noted in my most recent article on how to avoid a board resignation, a community association will face a board resignation from time to time or, in some more difficult circumstances, multiple board resignations. Boards then need to adjust to said resignations. As Pearl Zhu noted "The real strategic differentiation is to create true value, look forward, not backward, and present the advanced uniqueness to shine through."

I look briefly on how to deal with board resignations.

B. How to Deal with Board Resignations

I offer just a handful of ways to deal with board resignations.

1. The board needs to first acknowledge the resignation and express their thanks for the service of the departing board member. This needs to occur even if the departure of the board member(s) was not civil. The remaining board members must always take the high road. The reasons for a resignation of a board member are personal and should not be provided to the entire community unless the board member who resigns either conveys the reasons to the community-at-large or asks the board to do so.
2. The board should then look inward to analyze why the board resignation occurred. While a board resignation in some cases cannot be avoided, it is quite possible that the board resignation could have been avoided if the remaining board members could have seen the resignation coming and prevented the particular resignation.
3. The board then must decide what the board and the community needs in a replacement board member. This should not be a quick decision. The board should be deliberate in determining what is needed in a replacement board member.
4. The board should then have the association community manager send out a notice of board opening and obtain the completion of a candidate information form from all interested candidates. It is also suggested that a list of duties and responsibilities be sent out with the candidate information form along with a board code of conduct. If these last three documents do not currently exist in a particular association, then they should be drafted, approved by the board and accompany the notice of board opening.
5. The board should avoid appointing someone as a board replacement without providing the entire association ownership an opportunity to submit their interest in joining the board. While there may be an obvious choice to join the board, you never know who else is quite capable of being an excellent addition to the board.
6. The board should consider the timing of selecting a replacement board member. If the vacancy occurs close to an annual meeting, the board may wish not to appoint a replacement board member and just await the annual meeting election to have the vacancy filled.
7. The board should attempt to be unanimous in the selection of a replacement board member. If there are options available to the board, they should agree on a replacement board member who can work with the remaining board members, especially in cases where the board is split on major issues impacting the community association.
8. The board should look to diversify the composition of the board. Associations thrive when they have a diverse board with different backgrounds, life experiences and skill sets.

"The board should then look inward to analyze why the board resignation occurred."



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[Continues on page 28.]

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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.

Reserve Study Secrets

By Timothy Wentzell, P.E.

When we prepare reserve studies for our common interest community clients, a question that I am frequently asked is quite logically, “How do you determine the expected costs for repairs?” After my typical flippant answer of, “We just make ‘em up!” we do try to explain the process. For an engineering firm, the determination of costs for repairs for a common interest community is really no different than the tasks that we frequently undertake for our new construction projects for numerous other clients in order to estimate the funding for either bonding (in the case of municipal projects) or borrowing estimates (for a typical commercial client).

In the case of a condominium association, the process is slightly different, but still quite similar. The first step in the process is to make a determination with regard to the appropriate types of repairs that are needed. For example, in the case of a parking lot or a roadway, is an overlay an appropriate remediation technique? Or, is reclaiming or pavement removal a better choice? As another example, in the case of a roofing system, could a new asphalt shingle roof be placed on top of the existing roof or does the existing roof need to be removed down to the plywood and a complete new roofing system installed? Another factor may be has the association had leaking problems and if so, were they weather related, for example, ice dam issues? These types of issues should be related to the reserve study preparer as they may affect both schedule and timing.

Once these decisions are made, in the case of the pavement, we then need to determine the area, the amount of curbs, etc., or, in the case of the roofs, we need to determine the area of the individual roofs. Then, we typically use an estimating publication service, such as R. S. Means, which publishes costs for similar projects nationwide with adjustments made for local area construction, labor, and material costs. We then factor in the type of replacement or repair and adjust the standard figures, frequently based on our own experience in construction projects. Due to the fact that reserve studies are only part of what we do, our experience enables us to factor in pricing information from other similar construction projects for which we either write specifications or do project management where we are then privy to pricing as well.

In Connecticut, up until a few years ago, reclaiming was rather expensive for paving projects, due to the fact that many contractors lacked the equipment needed for this process. In the last few years, significantly greater competition has developed so that the cost for this



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“All this being said, this process can still create estimates that vary from the costs that occur at the time of construction or when repairs are actually made.”

part of the paving project has dropped fairly significantly. We factor this type of experience into our estimates as well.

Certainly, one of the problems in estimating the costs for any construction project is that we are forced to assume what the actual specifications would be for the project at the time of construction. For example, some factors to consider for a paving project are how thick should the new pavement be? Or, in the case of a roofing project, would architectural shingles be selected by the association? Or, what would the desired warranty period be for the shingles? These certainly would have a fairly significant effect on the overall price.

All this being said, this process can still create estimates that vary from the costs that occur at the time of construction or when repairs are actually made. For example, in both of the cases cited previously (pavement and roof shingles), a large component in the manufacture of both of these products is crude oil. When there are significant spikes in this raw material cost, it invariably will affect pricing for these projects as well. However, factoring in as many of the components that are known will certainly enable a reserve study to be as accurate as possible.

The second question often raised, especially in projects that go out many years – is how do we establish the period in which a project would likely be undertaken? This is certainly much more difficult. There really is not good guidance available for many projects that may not be undertaken for many years. However, when you look at enough parking lots and determine the existing pavement age for many projects, for example, you do have a pretty good idea of when remediation would be needed. The roofing example cited previously also fits into this category. By verifying the age of the existing roofs and evaluating the existing shingles to determine their expected life based on their type, thickness, etc., one can certainly make fairly good assumptions with regard to the replacement time periods.

However, for many other items such as, for example, concrete sidewalks, the level of acceptable deterioration is often very much up to the viewer's opinion. We are left to make assumptions such as whether the association appears to be aggressive in doing these types of maintenance items or whether they like to stretch them out. We certainly try to incorporate this kind of information as well.

So, I guess the answer to the two questions – how do we determine the cost and when are the projects undertaken? – is probably best answered thus: by using available information and adding our extensive experience to the mix. ■

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

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MANAGER'S COLUMN...from page 24.

9. If the choice of a replacement board member becomes difficult due to a bountiful of options or a lack of candidates, the board should take their time in making a decision.
10. Once the board has made the selection of a replacement board member, the announcement should be made as soon as possible to the entire community.

C. Conclusion

A board of directors in a community association can, in many cases be just like any family. Sometimes, families get along and sometimes they are at each other's throats. Occasionally, a family member leaves the household. The remaining board members must move on and learn from the experience of losing a board member by resignation in the process of replacing that board member. Boards must remember the profound words of the great philosopher George Santayana who stated, "Those who cannot remember the past are condemned to repeat it." I hope that this article will aid board members in their effort to make the right decision in replacing a board member who has elected to resign from the board. ■

Rich Wechter, CMCA is Senior Vice President at Westford Real Estate Management, LLC. Rich serves as a LAC Delegate and a member of the Legal Symposium Task Force.



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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>.

Leaky Condo Foundation Makes Watery Mess!

J.D. from New Haven County, Connecticut writes:

Dear Mister Condo,
 Our condo was purchased 5.5 years ago with a finished basement. A year after purchase, the basement flooded. We put in a claim with our homeowners’ insurance, but also entered a complaint with the HOA. They determined there are foundation defects in our unit and our entire building. We live with sump pumps in our window wells to prevent another flood and recently found that our basement contains mold and water is seeping in slowly into a child’s bedroom in the basement. What is our recourse?

Mister Condo replies:

J.D., I am truly sorry for the water intrusion and mold issues in the basement of your condo. Basement flooding in low-lying areas is a real problem for many Connecticut home and condo owners because so much real estate was built on grounds that have high water levels. It is almost impossible for a foundation to withstand such pressure. Over time, it only gets worse. I am sure you are not alone in this problem. It is time to speak with your fellow homeowners to discuss how much flooding is happening throughout the condo. Ideally, the Board will take steps to remedy the flooding. However, understand that the process of restoring dry basements can be very expensive. Even if there is a construction defect as your insurer has pointed out, the odds of recovery against a builder so many years after the condo was built is unlikely although you might want to get an opinion from an attorney who specializes in construction defect litigation before the association takes on the entire expense by itself. Many communities simply live with sump pumps as they are an inexpensive solution. As long as they are properly maintained and kept in good working order, they have been a proven solution. As for mold remediation, that needs to happen soon. Unchecked, mold can become toxic and make residents sick or worse. Bring the matter to the Board’s attention and speak to your neighbors about their problems. The association needs to consider solutions. All the best!

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