

Common Interest

The Official Publication of CAI-Connecticut

Vol. XVI: Issue 4 • 2021

Inside:

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Who Is CAI?

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



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

President's Message



Reggie Babcock

With the pandemic nearly gone (fingers crossed), it is time to put on a sustained effort to grow.

Greetings — Our Connecticut chapter has weathered the pandemic and its challenges remarkably well. Much credit is due to the staff and cadre of “go-to” volunteers on whom we rely repeatedly. We quickly got smart in the use of technology, lessons that will serve as well in the future. We mobilized for educational events and the trade show. The Legislative Action Committee achieved successes that would not have been conceivable in non-pandemic times. The energy levels that were expended never could have been foreseen beforehand.

Now we have a little breathing room, and after some well-deserved self-congratulations, we can return to addressing the more fundamental and strategic challenges that await us. Last year the Board examined these challenges. The issues that we identified then frankly have been challenges for some time beforehand. And guess what? Those issues remain today.

The first opportunity CAI faces is our size. While membership rolls were on a slow upward trajectory before the pandemic, the opportunity to expand our reach is so much greater. Thousands of Boards and Board members are not members, and many probably are unaware of our presence and all that we offer. Non-members already benefit from our public initiatives such as the LAC. Our members are a small fraction of the Connecticut universe. With the pandemic nearly gone (fingers crossed), it is time to put on a sustained effort to grow. The result is a win-win outcome: CAI becomes stronger and Boards more qualified.

The other need for which CAI is uniquely situated is to enable our management companies and service providers to attract qualified employees. The difficulty of identifying and attracting candidates to work in our industry is an acute problem. The pandemic only served to underscore the appeal and security of a career in the industry. Our Management Company CEOs have validated this challenge as perhaps our greatest one. The overall job market situation defies logic, but there is little doubt that serious and qualified candidates are not seizing the opportunities we offer.

There are many possible strategies for improving both challenges. I know with certainty that we will succeed by bringing the same energy and commitment to the problems that we mustered for the pandemic challenges. ■

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From the Chapter Executive Director

**“We can complain because rose bushes have thorns
or rejoice because thorn bushes have roses.”**

~ Abraham Lincoln



Kim McClain

Courtesy CAI-CT

Perspective gives us the opportunity to determine how we look at any given circumstance. An optimist will view the many assets of a community and appreciate all the roses. The pessimist sees all those thorny items that are not “right” and complains that the board needs to take action. A realist may look at the entire situation and then assess what assets can be used to solve the problems. In most communities there is a combination of all of the above. Hopefully, the positive energy of the optimists can be a counterbalance to those who choose to get stuck with the thorns.

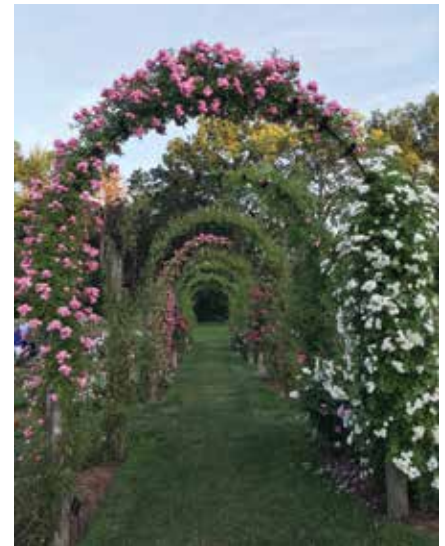
Time and time again, those who call our office express similar themes and issues in their communities: general apathy, lack of awareness of the rights and responsibilities of both the board and the unit owners, etc. We make it a point to tell them that their challenges – while stressful and annoying – are not unique. Connecting with other board members gives our members a way to share their challenges and also find solutions for managing the thorns.

While our summer calendar may not be full of events, there are plenty of programs that can be found on demand. We are working diligently to create some great programs coming up in August and through the Fall. Keep an eye on our website for details!

Happy Summer! ■

Cover Photo:

The Rose Garden is the center of Elizabeth Park in Hartford. It is the first municipal rose garden in the United States and the third largest rose garden in the country today. There are 15,000 rose bushes and 800 varieties of old and new roses in the garden. The garden has been a cherished spot since it opened in 1904. The original designer of the garden stated that he wanted a rose garden because, “Roses bring joy to the public.” Be sure to visit this magnificent place whenever the opportunity arises. Time spent there will no doubt provide a tranquil escape. ■



NOTICE TO ALL CAI-CT MEMBERS

Annual Meeting September 21, 2021

CAI-CT will hold its Annual Meeting on September 21, 2021 at 9:00 am via ZOOM. Election of officers and board members will be held at this time. If you have any questions or wish to make a nomination, please contact us at 860-633-5692 or www.caict.org.

UPCOMING CAI-CT EVENTS

SUMMER SIZZLER PARTY

New Haven County Networking Event

Thursday, August 5, 2021 • 3:00 - 5:00 pm — Networking Party After Amarante's Sea Cliff, East Haven

Pandemic Protocols: The Pandemic has changed how we all do business in many ways. What will your management style look like in the future? Keep on Zooming? Back to traveling — or not? What will the “new normal” be for community association managers? We will also be sharing *Oddball Stories and things we have learned during COVID.*

Pricing: \$25 (CAI Members who sign into their account prior to registering will receive a \$10 discount.) — \$50 - Service Providers

Approval for 2 continuing ed credit.s

Sponsorships available – contact ellen@caict.org

FALL FUN – FRESH AIR & FRESH BEER – Perfect Together! + A Vendor Fair (NEW!)

Wednesday, September 29, 2021 • 3:00 pm - 5:00 pm

Hops on the Hill, 275 Dug Road, South Glastonbury

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

Pricing: \$25 (CAI Members who sign into their account prior to registering will receive a \$10 discount) — \$50 - Service Providers

Approval for 1 continuing ed credit.

CONDO INC. October WEBINAR SERIES

Wednesdays, October 6, 13 & 20, 2021 • 6:00 pm - 8:00 pm

Hosted on Zoom

This LIVE webinar will be presented in 3 parts. While we encourage live participation at each session so you may ask your session topic questions, we realize that each person's schedule is different. The components of the presentation will be recorded and sent to registrants for viewing as their schedule allows.

FOR A LIMITED TIME, PANDEMIC PRICING — \$50 for up to 3 attendees! Must register at the same time.

Sponsorships available – contact ellen@caict.org

Virtual Legal Symposium

Hosted on Hopin

Thursday, October 28, 2021

Our panel of legal experts will cover topics important to your community. The components of the presentation will be recorded and sent to registrants for viewing as their schedule allows. (All proceeds to benefit legislative advocacy for Connecticut Community Associations.) Bring your questions!

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

Approval pending for 4 continuing ed credits.

Sponsorships available – contact ellen@caict.org



Statutory Snippet...

Board Meetings.

(1) at least two per year; (2) must be open to all unit owners who must be given notice of the meeting as well as an opportunity to be heard. (C.G.S. 47-250)

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

Legislative Update

Victory at last! The end of the 2021 Legislative Session was a real nail biter for us. As the clock was ticking down, our bills made it through the final hurdle in the Senate.

HB 6538

AN ACT MAKING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT

We expect that Gov. Lamont will sign this bill and it will be effective immediately. This bill makes revisions to the CIOA, regarding the allowance of electronic meetings of an association regardless of whether it is explicitly stated in the association's documents, access to association records and the elimination of the requirement to send certain notices from an association via certified mail.

HB 6665

AN ACT CONCERNING THE REMOVAL OF RESTRICTIVE COVENANTS BASED ON RACE AND ELIMINATION OF THE RACE DESIGNATION ON MARRIAGE LICENSES

Once enacted, restrictive covenants based on race will be prohibited and a process to remove such covenants from instruments recorded on the land records in this state is part of this new law will be in effect.

Our Legislative Advocacy Delegates and lobbyists worked hard to make sure these bills made it past the finish line. It can often be a challenging process, but there is a deep commitment to getting things done. We are grateful to all of our members who contacted their representatives in the General Assembly to voice their support for these bills. Thank you for being part of the team! We also wish to express our gratitude to Rep. Steve Stafstrom (D-Bridgeport) and Sen. Gary Winfield (D-New Haven) as co-Chairs of the Judiciary Committee for shepherding these bills through. ■



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

THANK YOU NEW & RENEWING MEMBERS

Welcome New Members

Associations

Greystone on the Lake Condominium
The Hills - Rivington
Norwest Condominium Association
Ridgewood @ Middlebury

Individual Managers

Justin Carta
Philip Mahler
Xshanti Lucky

Management Companies

Elite Property Management & Consulting

Business Partners

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Thank You Renewing Members

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Condominiums at Center Court
Cornerstone Condominium Association, Inc.
Edgewater Association, Inc.
Founders Village Homeowners Association, Inc.
Four Beaches Condominium Association
High Ridge Estates Condominium Association
Mountain View Condominium Association of Meriden, Inc.
Oldefield Farms Homeowners Association, Inc.
Parker House Association
Prosperity Park Condo Association
Regency Towers
Riverview Commons Association
South Village
Steeplechase Condominium Association
Sterling Village Assn, Inc.
Strawberry Fields Condominium Association, Inc.
Waters Edge Condominium Association

Individual Managers

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Hakki Cinel, CMCA, AMS, PCAM
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Management Companies

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KWA Group Kuzmak-Williams & Associates, LLC
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Residential Management Corporation

Business Partners

Assured Partners
Bouvier Insurance
Pilicy & Ryan, P.C.
SavaTree/SavaLawn
Union Bank Homeowners Association Services
Webster Bank

Website Insight — CAI-CT Job Bank



CAI-CT Job Bank is the insider's source for community association employment within our area. If you are seeking employment or looking for a new career within the Community Association industry, be sure to scan the listings of available jobs. Please contact ellen@caict.org if you would like to post a job or resume. Posts run for 90 days. Visit <https://www.caict.org/page/JobBank> for current options! ■



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

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!

October Webinar Series

Hosted on Zoom

3 Wednesdays • 6:00pm-8:00pm

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1. OCTOBER 6:
Legal - Understanding State Laws & Association Governing Documents
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Long-term Planning & Financial Matters
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Adam White, CMCA, AMS
Director of Operations

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Legally Speaking...



Adam Cohen, Esq.

Copyrights: Associations Need Permission for Movies, Music, Web Content, and More

By Adam J. Cohen, Esq.

“Copyright,” like its name suggests, is the legal right to copy any creative work. It is a form of property: ownership of the original expression of an idea. Everything from poetry and choreography to computer software and industrial designs are subject to the law of copyright. There is no need to “register” the work with a government agency or add a “©” notation to it; copyright protections are automatic, and enforceable in court.

Homeowners associations need to be aware of the restrictions on copyrighted materials because they are so easily violated without bad intent. For example, some associations will create simple websites and decorate them with pictures they cut-and-paste from the internet. Make no mistake, this can be illegal. Just because an image can be found online does not mean it is free for the public to use and reproduce, even if it isn’t accompanied by a warning against doing so. In fact, there are attorneys and other outfits which use software to scour the internet for identical photos on two different websites, reach out to the one which originally created it, and then demand money from the other (plus their own fee, of course) to settle a copyright infringement threat. Even some web designers make this mistake.

Other organizations may copy articles they find about condominium laws and trends, and post them to their own websites without the author’s permission. (I speak with experience here.) Crediting the author by name is not enough; permission is what is needed to avoid liability. Never put any content on the association’s website that the board did not create itself or get written permission to use. Several search engines like www.tineye.com can be used to find an image’s owner for this purpose, and the author or publisher of written work is usually noted in the material itself. Some will happily give permission to copy the material at no charge or for a nominal fee; others will not.

“Movie nights” and parties which play music can also violate copyright laws. It makes no difference that the event is free or only open to residents. Playing someone else’s movie or music violates copyright law without their permission, period. Associations can buy services like cable and satellite television packages which may specifically allow video exhibitions to residents, but a DVD or download is lawful for an individual’s personal use only. Hosting a movie outside of a private residence – including the association’s clubhouse – without purchasing a license first can expose the host to litigation. Having the radio on during a community event is legal, but digitally-streaming music without a license is not. Many movie licenses can be purchased at



anyaberku/iStock/Getty Images Plus

“Homeowners associations need to be aware of the restrictions on copyrighted materials because they are so easily violated without bad intent.”

www.mplc.org, and music licenses can be purchased from whichever distribution companies own the catalogue for particular compositions.

Yes, condominiums really have been sued for not buying these licenses. The penalties range from a few hundred dollars to several thousands of dollars depending on the severity of the violation, plus reimbursement of the copyright holder’s legal fees. Although the law does allow for “fair use” of copyrighted material without the need for a license, this is a nebulous exception which is mostly reserved for parodies, reviews, and educational uses. Associations would have a difficult time avoiding a lawsuit based on this defense. The law does, however, usually allow duplication in order to accommodate the disabled, such as enlarging a written work for the visually-impaired.

Don’t fall into what could be a very expensive trap for the ignorant. The holders of copyrights have been increasingly aggressive in protecting their property in recent years, and associations who share their music, pictures, movies, articles, and other work without permission can find themselves at the wrong end of a lawsuit. ■

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

Reserve Accounting & Fundamentals

By Daniel Levine, MBA, CPA

A common question we receive from boards of directors is how much should they save into reserves? While there is not a one size fits all answer, there are some fundamental components to budgeting or preparing for long term capital repairs that will carry across the industry. This article will look to highlight a few key aspects of this process for associations reviewing their reserve budgets.

How to Start a Capital Budget

While taking the first step towards budgeting for future capital repairs is commendable, without direction it is still called wandering. What I mean by this is that without a formal goal, determining if the association is saving enough will be impossible. Understanding the needs and responsibility of repairs in your community will help determine what is required in long term capital repairs and as result is the critical first in determining a capital reserve budget.

To do this many associations hire a professional to create what is known as a reserve study. These studies look at the capital components of a community and estimate the useful life and potential replacement costs of these items. This in turn can create a cashflow roadmap that a board can use to determine what savings are required to meet these cash flow requirements. This roadmap can then be incorporated into the annual budget process to ensure adequate savings occur.

For communities on the smaller side, a complex reserve study may not be a possible solution to have done. In these cases, an alternative method of reviewing the community's past and see what projects cost previously can help create a foundation for forecasting the future. By knowing the previous cost of a repair and using an inflation factor, a board can try and estimate the cost in the future. This estimate can be further refined by inquiring of vendors in the industry and obtaining quotes for capital work to see if the estimate is reasonable. Once the costs are known an association can then determine what savings are required to be able to meet those repair costs.

It is important to remember as well that any type of forecast is not a crystal ball. Things can change and assumed costs could increase or the life of an asset could be cut short by unexpected circumstances. The plan, once created, should be reviewed to make sure it is still valid and if not, changes to contributions into the capital reserve should be adjusted accordingly as a result.



Olena Kychygina/Stock/Getty Images Plus

“It is important to remember as well that any type of forecast is not a crystal ball.”

Executing the Plan

Once a plan is created it is important that a board executes it and sets aside the funds collected. Many associations run into operating shortfalls, and wind up borrowing from the capital reserves or perhaps even appropriate funds for projects that were not the justification for the reserve build up.

In these cases, while the association can solve short term issues, it will create a longer-term problem. An association should carefully consider what they are appropriating and spending their capital reserve on. If it is for an operating item, the board should consider a plan to catch up and replace the used funds. This will help the capital reserve fund stay healthy and be able to be used on future capital repairs.

What if There is a Shortfall?

While in a perfect world a community could save 100% for any potential future capital repair, in reality this is difficult to do due to the fluctuating nature of costs and scope of projects and unexpected costs occurring. In the event there is a shortfall, what can be done about it all comes down to lead time before a project must be done.

When an association has lead time to correct a shortfall the simplest remedy is to adjust the amount being contributed to the capital reserve and replenish the fund. The association also has the ability to poten-

[Continues on page 12.]



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FINANCIALLY SPEAKING...from page 10.

tially defer a project. In some cases where safety is involved this is not an option, but if able to defer a project, an association can allow for more time to collect funds to pay for it.

If the capital repair becomes necessary and the reserves are still under funded the association can either decide to borrow from a third-party lender or assess the community the difference. These options have their own costs associated with them. Borrowing from a third party requires the association to absorb an interest cost relating from said borrowing. By assessing the community, the board must spend time to determine the amount of the assessment and see if a formal vote is needed. This generates an opportunity cost where the board could be spending this time on other items of community management. These costs are ones that can be avoided however if the reserves were adequately built up. Therefore, it is critical to manage shortfalls while the association is still able to.

Explaining to the Community

The hardest part of contributing to the reserves sometimes is when an increase in fees is necessary to fully fund the reserves. Unfortunately, it is sometimes necessary to do this to maintain the fiscal health of the community. Contributing to the reserves is not something that has an immediate effect that can be seen in the community. The benefit only comes from when the capital repairs must be done.

To explain to a community why a monthly common charge increase

is necessary a board has a few explanations at their disposal to help a community to understand the need for contributions of a particular level:

- 1) As explained earlier this helps avoid costs down the line. By paying today the community would be able to avoid additional fees in the future.
- 2) The members of the community are taking advantage of the capital assets now, not just in the future when they need to be replaced. An example here is roads. Members of the community today drive on an association's roads or parking lot and are the ones generating the wear and tear. Therefore, by assessing a unit owner today for the use of these capital assets, they will have the funds needed to replace them and it's not a future unit owners' responsibility.
- 3) It helps maintain an attractive community. For potential new buyers into a community a healthy and robust reserves can be a selling point. New buyers will not have to be responsible for paying for past issues and it lowers the cost of entry into a community. This can also help with property values and increase the value of community members largest asset: their home.
- 4) By adequately funding a reserve the association is ensuring repairs can occur timely and the community overall can be safer when its critical infrastructure is maintained.

Conclusion

While saving for capital repairs can be a difficult task for any association. There are a few key items a board can undertake to make the process effective.



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tive. First create a solid plan for what needs to be replaced, when it needs to be replaced, and for how much. Second make sure the savings into the capital reserve fund are being done each year and create a plan to deal with any shortfalls. Last ensure there is justification for the savings and a plan to explain to the community why the required levels of saving are necessary for both the short- and long-term health of the community. ■

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

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Jonathan Chappell, Esq.

Covid Collection: Be Nice...But Not Too Nice

By Jonathan Chappell, Esq.

COVID's Early Days.

In early spring of 2020, a time when we did not have any understanding of the magnitude of the COVID pandemic, I wrote an article titled “Common Charge Collections: Make Sure Everyone Pays Their Fair Share.”¹ That article advised associations to adopt a standard collection policy and to use it aggressively. Aggressively meant to refer a unit for collection at the first opportunity, when the unit became two months late. The reasoning was that to delay would only increase the risk, or likelihood that the association would not be paid in full, because of the limited nine-month priority lien and/or the statute of limitations. The former being an unfortunately very common issue when a mortgage is secured by the unit. The latter a much less common circumstance.

Collection During COVID.

Beginning in those early days, a question raised has been “Do we want to collect during the pandemic, and, if so, how aggressively can/should we?” This attorney’s position is that unless the unit owner demonstrates a COVID impact or similar equitable circumstance, collection should remain as aggressive as usual, *especially* on units secured by a mortgage.

COVID laws or orders aside, CIOA already makes clear that an association board has somewhat broad discretion whether to enforce, including “whether to compromise any claim for unpaid assessments,” provided the board is not “arbitrary or capricious.”² For example, if a unit owner tells the board her business was closed due to the pandemic, the board could decide not to refer the unit for collection and to discuss a payment plan or other measure to give her the chance to become current. This discretion is also not restricted to COVID; if a unit owner experiences another issue impacting her ability to pay, the board still has some discretion.

CAI’s statement about the foreclosure moratorium is generally consistent with board discretion and allows for a somewhat aggressive approach to collection, even despite COVID.³ The following portion of the statement aptly explains the importance of the timely payment by unit owners (Emphasis added):

Assessments are the lifeblood of community associations and are utilized to deliver essential services to residents such as snow removal, trash pickup, and streetlights and to provide for the upkeep and maintenance of common areas including sidewalks, pools, and roads. Since community associations are nonprofit in nature and work on tight zero-based budgets, it is critical that every homeowner pays their assessments in a timely manner to ensure continuity in providing these services.



“The collection of community association assessments is a very serious and important responsibility of the governing board.”

The collection of community association assessments is a very serious and important responsibility of the governing board. Failing to collect assessments may impair a community association’s ability to pay its bills, provide essential services, obtain financing for continued operations, and may impact the ability of a potential purchaser to obtain a mortgage.

The trustees’ statement includes a “principle” (#2) that associations “should adopt a moratorium on foreclosures until at least June 30, 2021.” In my opinion, especially given the board discretion discussed above, a “blanket” acceptance of a moratorium is unnecessary and even risky. Frequently, after an association’s collection referral to its attorney, the statutorily required pre-suit demand is sent to the unit owner and the mortgage company and the response is payment in full (by either the owner or mortgagee) or a payment plan (with the unit owner). This is the ideal for the association in terms of revenue. If an association makes it known that it will not pursue collections, this could cause some owners to just stop paying the association.

“COVID Nightmares.”

A couple of “sideways” collections to maybe provide an association some more incentive to pursue collections somewhat quickly.

The first is a unit owner who lucked out and avoided losing a unit

because of the timing of COVID. A foreclosure judgment by sale was ordered in December 2019 (before much concern or understanding of COVID). This was ordered by sale only because the United States is a party; the debts secured by the unit were very much more than the value of the unit. The sale date was scheduled in mid-March 2020. The auction did not proceed, and the sale date has been extended several times due to COVID. The sale still has not occurred. This unit owner has not been impacted by COVID, medically or financially, except being benefitted that the sale could not happen because of the potential but unlikely gathering of people at the auction. The unit owner has resided in the unit and without paying his common charges or assessments the entire time.

A very different scenario is a case where the unit has much equity. For whatever reason, the unit owner has fallen behind a few times, having family pay the debt. Here, there is not a mortgage on the unit which generally makes collection more difficult. Citing the equity, in April a sale was scheduled in November. Though the lack of a mortgage at least means the association potentially can be paid in full, it appears doubtful the unit owner will sell the unit prior to the sale date (as was represented to the court) and will likely file bankruptcy. This owner also represented that he was unable to evict tenants due to the moratorium; the “tenants” are believed to be his daughter’s family.

Data Supports A More Aggressive Approach.

Like the medical community has done its research to get a better understanding on COVID science, CAI has some research on the

financial impact of COVID on associations.⁴ The CAI research shows overall that 92% of units are current. Also, there was only a two-percent difference in delinquencies looking at January and February of 2020 versus January and February of 2021.

There is a backlog of foreclosure lawsuits filed with our courts, and some also expect an “uptick” in more foreclosures when the foreclosure moratorium is lifted. This uptick would include mortgage foreclosures where an association would need to be a party to protect its priority lien, and some unit owners facing a mortgage foreclosure may stop paying their common charges.

Conclusion:

An association should consider referring collections per its policy until it may be given facts which it believes warrant leniency. While there are certainly circumstances that warrant finding an alternative to referral for collection, an association should consider each case carefully to determine if collection is appropriate. ■

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 new member of our Publications Committee.

END NOTES:

- 1 *Common Interest*, Volume XV: Issue 2, page 23.
- 2 CIOA Subsections 47-244(g) and (h).
- 3 See, <https://www.caionline.org/Pages/covid19foreclosures.aspx>
- 4 See, <https://hoaresources.caionline.org/covid-19s-financial-impact-on-hoa-assessments>

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Condo Canines — Covid Canines

By Ellen Felix

Working from home during the pandemic allowed many the opportunity to add a furry Fido to their household. As the state opens up and people are returning to work, how can you help Fido adjust to time away from you? Fido may have enjoyed your family's company 24/7 over this past year. It's not realistic to expect Fido to adjust to be home alone for long hours without some support for the transition from you. Here are a few tips to help.

Tire Fido out physically and mentally!

- Provide lots of opportunities for physical exercise. Leash walks, off leash walks, fetch, tug and swimming are great ways to physically tire your pup. Consider doggie daycare, a day playing with friends will exhaust Fido for days!
- Mental exercise is just as important. Fido's meal in a bowl will take 30 - 60 seconds to eat. Why not stretch the time to 15 minutes or more using a few mental games? Fido will be more relaxed after working his brain. Stuffing a kong with peanut butter for licking, scattering kibble in the grass or towel for sniffing, using a puzzle bowl for meals, hiding treats in an egg carton for shredding will all tire and calm Fido.

Manage Fido and your expectations!

- Manage Fido's environment to provide a safe place for him. Freedom for a bored pup is a recipe for disaster. Consider using a crate or gate to create a puppy proof environment until you can trust him to mind his manners while your away.



svetlana/istock/Getty Images

- Play music and Fido will be less lonely. There are several youtube videos specifically made for this purpose!
- Consider a dog walker. Great for housebreaking and socialization.
- Provide safe toys for Fido to occupy his time away from you.

With a little bit of effort and thought you and Fido can make a successful transition to time away from each other. And your time together will be all the more special! ■

Ellen Felix is the Director of Program Operations for CAI-CT. In addition to being our technical wizard, she is also extremely knowledgeable about dog training. Please send any canine related questions to: ellen@caict.org.



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Manager's Column...



Rich Wechter, CMCA

Being Practical, Part LXXI Board Unity in the Aftermath of the COVID-19 Crisis

By Rich Wechter, CMCA

In this column, we tackle various topics of interest with the intent of imparting practical advice. In this issue's column, we look at a vital topic for the smooth and effective governance of community associations: the need for Board unity. The last year has challenged the health and well-being of all of us, especially Board members. Tensions have been quite high while Board members have been dealing with the consequences of a pandemic. Some association Boards have weathered the COVID-19 storm and are stronger than ever. Unfortunately, some association Boards have become fragmented and dysfunctional and are on the verge of civil war. Property managers, contractors and residents cannot help but get sucked into these battles, all to the detriment of the association. We hope to briefly explore this topic in an effort to help Board members resolve any disputes and regain a unified position going forward.

Setting the Table on this Topic

Martin Luther King, Jr. once wrote that “We may have all come on different ships, but we are in the same boat now.” The COVID-19 health crisis may have physically separated us and introduced the world of Zoom to community associations, but all of the matters that community associations faced prior to COVID-19 still exist and need to be addressed. Budgets still need to be prepared, capital improvement projects still need to be planned and managed, unit accounts in arrears still need to be dealt with, violations letters still need to be sent out and maintenance work orders still need to be handled. Life goes on despite the new parameters that we are all working under. Board members, while they will never be expected to agree on 100% of all matters that come before them, are, in many cases, moving further apart from each other as they cope with the community association world as our society opens up closer to the pre-COVID-19 outbreak. It is in this context that we offer some examples of this breakdown and suggestions to get Board members back on track to develop unity. While we do not suggest that all Boards are experiencing any such breakdown, many are having issues and this article is designed to help those Boards.

Examples of the Lack of Board Unity

We offer a few examples of the lack of Board unity:

1. Individual board members acting as rogue agents, taking actions without board authority or knowledge.
2. Board members, while working from home, or not currently working, utilizing e-mails as an attempt to have a 24/7 dialogue



Jikaboorn/Stock/Getty Images Plus

“Some association Boards have weathered the COVID-19 storm and are stronger than ever.”

with fellow board members, property managers and others, which bogs down everyone's ability to function effectively.

3. Board members ignoring their responsibilities and refusing to be accountable for their actions.
4. Board members taking on much more responsibility than is reasonable or expected and causing conflict with their fellow board members.
5. Board members ignoring the word “We” when acting as Board members and, instead, focusing on the word “I” in their dealings as Board members.

How to Get Back Board Unity

We offer a few suggestions for Board members to regain the unity that they had pre COVID-19:

1. Focus on the core matters that come before the Board on a regular basis.
2. Without violating the CIOA rule regarding holding a Board meeting without notice, gather the Board members for a “Get to Know Each Other Again” Social Function. Do not discuss Board business at that function; rather, talk about each other and learn things about each other.

3. Re-establish the functions of each member of the Board.
4. Re-establish the need for actions to be taken as a Board except to the extent that the Board has provided individual Board members with authority on particular matters.
5. Analyze the work load of Board members to avoid any one Board member taking on an unreasonable amount of work and authority.
6. Remember that there is no "I" on the Board. There is only "We."
7. Encourage your fellow Board members while on the Board to continue to thank each other for their work. Everyone likes to feel appreciated for what they do. Property managers can also be thanked as well.
8. Keep the Board meetings on point and on schedule. Once you hit the two-hour mark, most people, especially at night after a long day, lose concentration.
9. Respect a dissenting opinion or view on any matter. Unity does not mean that Board members must agree 100% of the time. However, disagreements on issues can and must be respectful and cannot be allowed to impact other matters.
10. Do not allow unfair or rude behavior on the part of any unit owner or resident to divide the Board. Everyone is entitled to their own opinion, just not to their own facts.


Conclusion

We would be quite naïve to think that COVID-19 is the sole cause of a breakdown of Board unity.

However, the last year has brought us challenges that we could never have imagined both in the society at large and in the world of community associations. Boards are not immune to these challenges and can easily be distracted and negatively impacted by the events of the last year. Any Board in an association with a pool can attest to this. However, we do think it is possible for Boards to rise above this tide of difficulty and achieve a high degree of unity and purpose to continue the good work that preceded the COVID-19 crisis. We hope that this article will aid association Board members in this effort. ■

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


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Ronald Barba, Esq.

Fidelity Insurance Claims: *Not as Simple as it Sounds*

By Ronald Barba, Esq.

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

What to do if theft is suspected

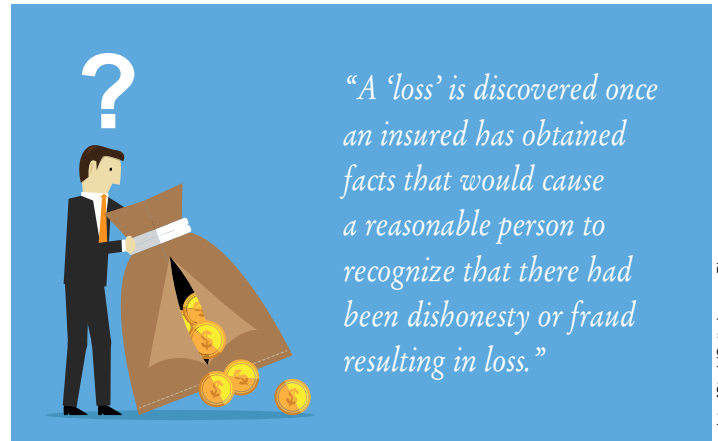
Once facts raise concerns that money may be missing, the carrier must be notified. Prior to notification, the association should involve its counsel to assist. The board must establish that a "loss" has been sustained. "Loss" is typically defined in these policies as a "theft" or "dishonest act" by an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

Proof of Loss:

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

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

Investigating the theft of funds can be frustrated by the need for a forensic audit of the financial records. Forensic audits can be expensive,



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

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

Conclusion

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

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



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Erica Taras

TECHNICAL EXPLANATIONS

By Erica Taras

Construction Prices During COVID-19: *How Your Multifamily Community Could be Impacted*

Everyone has seen impacts of COVID-19, from needing to wear a mask while shopping to financial uncertainties and shutdowns of all kinds. One sector of society has truly been facing unforeseen uncertainties related to the virus, forcing a hard economic hit on all parties involved: the construction industry.

Many construction projects were put on hold or cancelled completely at the start of the pandemic, during spring of 2020. At the same time, due to health and safety concerns, regulations, and not yet knowing the extent of virus impacts, construction material manufacturers either drastically slowed or completely stopped production. Once construction projects were permitted to resume, production of materials took much longer to start back up again and continued to face production delays due to social distancing requirements, so many contractors started relying on materials that were in distributors' warehouses. Materials saved for a rainy day were quickly used up, but material production was not yet back up to pace. Construction projects that were supposed to occur during the COVID-19 regulation period were being rescheduled for the near future, but projects for the near future were already scheduled and planned for, so a serious demand for materials quickly became apparent.

Because of the quick decrease of supplies and fast increase in demand, construction material prices skyrocketed. In the late summer of 2020, many manufacturers announced an increase in pricing, which caused construction projects of all types to see a sudden jump in pricing. In the fall and winter, many manufacturers announced another increase in pricing for similar reasons. Construction material and labor costs have risen across the board, with material increases ranging anywhere from 5-15% or more. Labor rates have also seen a similar price increase. Therefore, project costs overall were drastically forced up.

In addition to price increases brought on by COVID-19, pressure-treated and fire-treated lumber specifically, are becoming increasingly more difficult to find in stores because of a slim supply available. This slim supply is in part due to both lumber mills being closed down in response to the virus, and an increase in do-it-yourself home renova-

tion projects occurring while many are spending more time at home. Prices are rising due to this demand.

In addition to lumber shortages, roofing shingles are also experiencing a shortage. For example, a major roofing manufacturer is essentially sold out of shingles until the start of the fall, and now only has four shingle colors available out of the original large variety:

Charcoal, Pewter, Weathered Wood, and Barkwood. Any other colors will not be available in 2021 unless a contractor already has them in their warehouse, although this is not a practice that should be relied on. Additionally, siding manufacturers have provided notification stating delivery times for siding materials could be up to twelve weeks, whereas prior to COVID-19, delivery times were only a fraction as long. As manufacturers are still trying to catch up from the initial shutdown at the start of the pandemic, materials are becoming more unavailable and therefore more expensive.

As has been a precedent throughout COVID-19, uncertainty lies ahead, and that

unfortunately lies true with construction prices. If your multifamily community must undergo a replacement project in the foreseeable future, starting to plan the project as far in advance as possible will be beneficial for many reasons, but now especially for COVID-19 related reasons. With material prices being uncertain day to day, any community should aim to budget for an additional project contingency so that if manufacturers announce another unexpected pricing increase, community funds for these increases are available. Of course, a project cannot be left open or not completed once started, so budgeting a contingency ensures despite of any potential price increases, there are funds available to cover the remainder of the project.

Planning as far in advance will additionally allow for materials to be ordered on a timeline that gets them to the project site right on time for the project, rather than facing project delays because of material shortages and long delivery times. Seeing roof shingles completely sold out, delivery times of multiple months, and material cost increases occasionally appearing at any moment have truly shifted the thought process of starting to undertake a repair or replacement project.

"In addition to lumber shortages, roofing shingles are also experiencing a shortage."



Because of COVID-19, early planning and focusing on budget and supporting funds are necessary in order to ensure all materials are in on time for the desired project timeframe, and any potential manufacturer cost increases are covered accordingly. ■

Erica Taras is a Project Manager with The Falcon Group. Her responsibilities include performing building inspections, assessing building conditions, developing construction drawings & specifications, structural assessment & design of masonry, concrete, steel & composite structures, construction administration and consulting services.

ENVIRONMENTAL TIP



Did you know...

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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>.

Who Pays Common Fees for Uninhabitable Condo Unit?

L.C. from New Haven County, Connecticut writes:

Dear Mister Condo,

If a unit owner is displaced because of a fire in an adjoining unit are they liable for their common charges until they can move back into their unit?

Mister Condo replies:

L.C., unit owners are only liable for their own common charges. In other words, each unit owner, regardless of the reason they cannot inhabit their unit, is responsible for paying their own common charges. There is no transfer of common fee liability as a result of a fire or other disaster that made a neighboring unit uninhabitable. In fact, many insurance policies provide funds for housing while a unit is uninhabitable. In theory, the insurance may provide enough for the displaced unit owner to provide housing and cover the cost of the common fees while the unit is under repair and uninhabitable. I am sorry that unit owners were displaced and I hope for a speedy repair and recovery for all parties. All the best!

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