

# Common Interest

The Official Publication of CAI-Connecticut

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*Inside:*

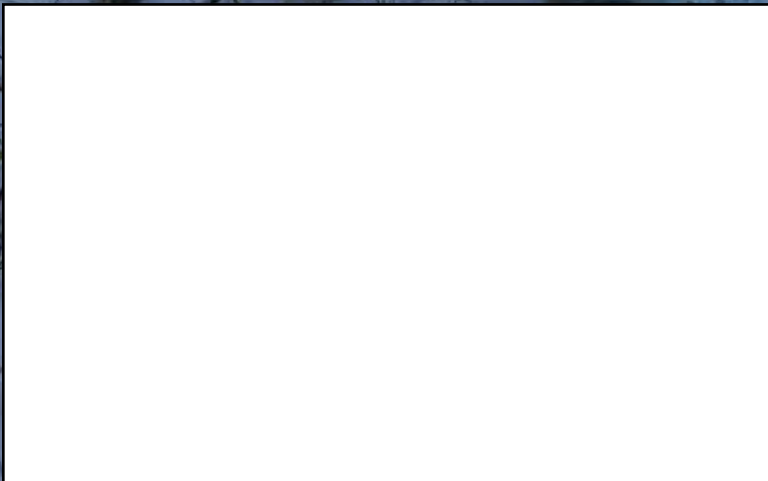
**BOARD  
MEMBER  
ETHICS**

**FINANCIALS:  
Checking Things Twice...**

**RECORDS:  
Do We Really Need to  
Keep This and/or Give  
Access to it?**

**If I Were King and  
Could Implement  
Anything**

*...and more!*



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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.



The materials contained in this publication are designed to provide accurate, timely and authoritative information with regard to the subject matter covered. The opinions reflected herein are the opinion of the author and not necessarily that of CAI. Acceptance of an advertisement in *Common Interest* does not constitute approval or endorsement of the product or service by CAI. CAI-Connecticut reserves the right to reject or edit any advertisements, articles, or items appearing in this publication.



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

*“The pandemic meant immense challenges for CAI-CT, and I have to say that the Chapter more than rose to the occasion.”*

**T**ime Flies! Trite, but so true. My two-year stint as Board president and my term as Board member now come to a close. The last two years were remarkable for reasons all too familiar to us all. The pandemic meant immense challenges for CAI-CT, and I have to say that the Chapter more than rose to the occasion. We flourished.

The challenges ahead to our industry and to the chapter are myriad, I have written of them previously. But I am highly confident that this organization including its staff and energetic volunteers are more than up to the challenges. We are so fortunate to have this resource working on our behalf. I will continue to urge that we expand our mission and lead us through the awaiting issues. The majority of common interest community boards and board members are not aware that CAI-CT even exists, leave alone avail themselves of our programs and seminars. We have so much to offer.

So I look forward to seeing CAI-CT lead in the years ahead, taking on new initiatives, strengthening the industry, our members and the organization itself. I urge everyone reading this piece to get involved. You'll benefit in so many ways, not the least of which will be the friendships you will make. For me, building relationships has been the best part of my involvement.

I'm not saying goodbye, but instead, "later" at a CAI event! ■



**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](http://www.caionline.org)
- EMAIL** [addresschanges@caionline.org](mailto:addresschanges@caionline.org)
- MAIL** to CAI, P.O. Box 34793, Alexandria, VA 22334-0793



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## From the Chapter Executive Director

**“Reading is important, because if you can read, you can learn anything about everything and everything about anything.”**

~ Tomie dePaola



Courtesy CAI-CT

Kim McClain

The reading fairy on the cover of this issue seems to be intently reading something interesting. Condo documents perhaps? Setting any silliness aside, perhaps one of the most important things any condo/HOA owner should do is to be knowledgeable about what is in the documents that are the foundation for everything that happens in their association. Paying close attention to what can or cannot be done and abiding by the requirements for being an informed and engaged owner would solve an enormous number of issues before they become major problems.

A key part of CAI-CT mission is to provide education. As part of fulfilling that mission, we provide a plethora of reading material from both local and National CAI sources. There is almost no end to what can be learned and everything and anything condo/HOA related.

We are gratified to see so many board members taking advantage of our popular Condo Inc. education program at an exceptionally great price: \$50 — CAI Members (when you sign into your profile before registering) \$75 — Non-Members and Bonus Special Pricing — 50% off for additional board members. For almost two years, we have been offering that program on Zoom with excellent results. Our next session will be held starting at the end of January. Now is the time to register at [www.caict.org](http://www.caict.org)!

Each time we have a Conference Committee meeting the energy and excitement about our March 19, 2022 keeps building. We have put together some phenomenal education sessions. We are so looking forward to welcoming our great exhibitors and all of you back to the Aqua Turf on March 19, 2022.

We will soon be turning the calendar to a new year. Let's hope that 2022 will offer many opportunities for happy and healthy happenings! We hope to see you soon!

Peace,  
Kim

### Jumpstart January – WEBINAR

Save the date for:

**Wednesday, January 12, 2022 • 12:30-2:30 pm**

Start off 2022 with some great education opportunities!

No need to leave your home or office. Connect through ZOOM and learn about:

GOOD FOR 2.0  
CONTINUING  
ED CREDITS

**Part 1: Property Manager or Social Worker? How to Draw the Line.** Are managers being asked to handle too much? Is the focus on preserving property values and providing guidance to the board or has dealing with “people problems” taken on a larger role? Two experienced managers will guide the discussion.



**Part 2: Boards Resigning? What to do when no one is left**

Condo board members are feeling the pressure too. When the complaints consistently outnumber the compliments and unit owners are becoming more agitated, many board members are rushing for the exit. When that happens, what are the legal issues that ensue? Who runs the association when the board seats are empty? Our speaker will offer insights into what actions can be taken to manage after a mutiny.



\$25 – CAI Members (must sign into your account) • \$40 – Non-Members

To Register Visit [www.caict.org](http://www.caict.org).

# UPCOMING CAI-CT EVENTS

## Jumpstart January — Exclusively for Managers

Hosted on Zoom

Wednesday, January 12, 2022 • 12:30 - 2:30 pm

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

Start off 2022 with some great education opportunities!

**Part 1:** *Community Association Managers – Property Managers and/or Social Workers? How to Draw the Line.*

**Part 2:** *Boards Resigning? What to do when no one is left!*

\$25 – CAI Members (must sign into your account)

\$40 – Non-Members

**GOOD FOR 2.0 CONTINUING ED CREDITS**

## Community Conversations — Virtual connections. Informed communities.

Hosted on Zoom

Wednesday, January 12, 2022 • 2:00-3:00 pm

Get to the heart of the matter about current news, issues, and trends we have in common. CAI's new Community Conversations happen quarterly in collaboration with CAI chapters. Each conversation is led by community association leaders and industry experts. Join us and find solutions to create a powerful and positive impact on the community associations we serve.

Free – CAI Members (must sign into your [www.caionline.org](http://www.caionline.org) account)

\$25 – Non-Members

Please note there are NO CONTINUING ED CREDITS for this session.

## CONDO INC. — WEBINAR SERIES

Hosted on Zoom

Saturdays: January 29, February 5, February 12 • 9:00 – 11:00 am

Scheduling conflict? Register anyway, and we'll email you the recording afterward!

Industry professionals: legal, insurance, maintenance, financial and capital planning will share their expertise. Becoming a good board member is a process; but you can minimize the errors and the time it takes you to get up to speed by attending this webinar series.

\$50 – CAI Members (must sign into your account)

\$75 – Non-Members

Bonus Special Pricing – 50% off admission for additional board members.

Please note there are NO CONTINUING ED CREDITS for this session.

## CEO CAM Council

Hosted on Zoom

Tuesday, February 15, 2022 • 1:00 - 2:00 pm

Qualifications to attend include: 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.



## CAI-CT Annual Conference & Expo “Ingredients for Success”

Saturday, March 19, 2022 • 8:30 am – 2:00 pm

Aqua Turf, Plantsville, CT

We are IN-PERSON this year with over 75 exhibitors! Session Topics include: Maintenance Standards; Fire Marshal's Perspective; Avoiding Litigation; Electric Vehicles; Hybrid Meetings; Vetting Vendors and the Legal and Insurance Panel.

### Board Members & Managers

\$25 – CAI Members (must sign into your account)

\$45 – Non-Members

### Service Providers

\$100 – CAI Members (must sign into your account)

\$150 – Non-Members

**GOOD FOR 4.0 CONTINUING ED CREDITS**

## Community Conversations — Virtual connections. Informed communities.

Hosted on Zoom

Wednesday, April 13, 2022 • 2:00 – 3:00 pm

Get to the heart of the matter about current news, issues, and trends we have in common. CAI's new Community Conversations happen quarterly in collaboration with CAI chapters. Each conversation is led by community association leaders and industry experts. Join us and find solutions to create a powerful and positive impact on the community associations we serve.

Free – CAI Members (must sign into your [www.caionline.org](http://www.caionline.org) account)

\$25 – Non-Members

Please note there are NO CONTINUING ED CREDITS for this session.



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

## Manager Matters...



A recent Foundation for Community Association Research report entitled: Attracting Talent to the Community Association Management Industry, offers some very interesting insights into community association management as a profession. The report is based on a survey of nearly 700 managers. We will be sharing some of the more compelling findings in upcoming issues of Common Interest.

**Job stability.** While many layoffs occurred during the past 20 months, 91% of respondents stated that job stability was a key reason they are Community Association Managers.

To learn more about the profession of Community Association Manager, go to our website: [www.caict.org](http://www.caict.org). ■

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## THANK YOU NEW & RENEWING MEMBERS

### Welcome New Members

#### Associations

Heritage Cove Condominium Association  
 Hunters Run Condominium Association  
 Meadow Hill, Inc.  
 Southwick at Milford  
 Woodridge Lake POA, Inc.

#### Individual Managers

Tyler Witkowski  
 Shawn Kellam  
 Nicole E. Rosa

#### Business Partners

Savy & Sons

Renaissance at Danbury  
 Riverplace Homeowners Corporation  
 Roton Point Association, Inc.  
 Sonoma Woods Condominium  
 Southport Woods Condominium Association  
 Spring Lake Condominium # 8 Association, Inc.  
 Stony Mill Condominium Association  
 The Village at Oxford Greens  
 Town in Country Condominium Association, Inc.  
 West Lyon Farm Condominium Association  
 Windham Oaks Homeowners Association

#### Management Companies

AJM Real Estate Services, Inc.  
 Aspect Property Management  
 Imagineers, LLC  
 Jeff Louis Associates, LLC  
 KP Management  
 Merit Properties, Inc.  
 The Property Group of CT, Inc.  
 Propertyworx, LLC  
 ThamesHarbour Real Estate, LLC

#### Individual Manager

Russell Antonacci, CMCA, AMS  
 Natasha Bavrlic, CMCA  
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 Kenneth Burkamp  
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 Edward Davis, Jr., CMCA, AMS  
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 Emily Rae Westlake, CMCA, AMS

#### Business Partners

Ackerly & Ward  
 American Safe Wash  
 Aquaguard LLC  
 Brown Roofing Company, LLC  
 Comcast  
 CondoLogic  
 Crystal Restoration Services  
 Dime Bank  
 Mark D. Alliod, CPA  
 MHA Property Loss Advisors, LLC  
 New Look Painting  
 Planned Companies  
 ReadySetLoan.com  
 Shipman & Goodwin, LLP  
 Sterling National Bank  
 The Window People, a TWP Home LLC Company

**Not a member? Join Today! Visit [www.cai-ct.org](http://www.cai-ct.org) for information.**



## Legally Speaking...



Adam Cohen, Esq.

### Board Member Ethics

By Adam J. Cohen, Esq.

#### **What are the ethical rules for an association's Board members and officers, and how can they adhere to them?**

Rather than listing out everything Board members can and cannot ethically do, state law imposes little more than a general standard of care they must exercise at all times. Contrary to popular belief, an association's Board members and officers do not owe "fiduciary duties" unless they were appointed by the developer. Instead, directors elected by the unit owners (or appointed by the other Board members to fill a vacancy) are bound by a far more lenient legal standard called a duty of "ordinary care." Section 47-245(a) of the Common Interest Ownership Act says that, unless the declaration or bylaws say otherwise, "officers and members of the executive board not appointed by a declarant shall exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized under chapter 602." Chapter 602 governs nonstock corporations, which is how most associations are organized. Section 33-1104 of Chapter 602 says simply: "A director shall discharge his duties ... (1) In good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner he reasonably believes to be in the best interests of the corporation."

The duty of ordinary care means that a director or officer must act as a sincere, reasonable person would – in other words, trying to do the right thing for the association. Connecticut's courts will not second-guess the board member's actions absent fraud or self-dealing, even if they turned out to have been wrong. By analogizing to what is known as the "business judgment rule," judges will assume they know less about the community's best interests than the Board members, defer to their discretion, and reject lawsuits against them. They are also entitled to rely on the expert advice of lawyers, accountants, and other consultants, as an ordinarily prudent person would do. Only when a Board member or officer is really only serving himself, like embezzling money – or being truly malicious, like discriminating against someone on the basis of their race – will he violate that ethical standard.

There are a few statutes which are more specific on ethics. For example, Section 47-245(j) of CIOA prohibits any board member or candidate from accepting a bribe. The corporate statutes can expose a board member to liability for causing the association to contract with his family's business or do other things which benefit him personally, unless a majority of the other board members approve after full disclosure. Some associations have bylaws which bar spouses from serving on the board simultaneously,



RapidEye/Getty Images

prohibit unprofessional behavior or chronic absences, or lay out guidelines to preserve each board member's objectivity.

Most decisions made by an association's board affect them personally since they are residents and/or unit owners like everyone else; this is not an ethical problem. Only when an action or decision will affect a particular board member differently from everyone else does a potential ethical concern arise. For example, a board member should not participate in a vote on her own application to modify her home's exterior, or whether to fine her spouse for a rule violation, or whether to hire her brother's landscaping business. If challenged, a court is likely to hold that her vote on such motions cannot be counted toward a majority.

People with leadership positions in an association should familiarize themselves with these general principles and any specific code of conduct adopted in the bylaws. When an issue comes up which affects the board member financially or differently from other owners, he should be as transparent as possible to everyone about it, and recuse himself from the deliberation and vote – which means physically leaving the room or logging off the remote meeting. If the issue involves an outright dispute between the board member and the association – such as falling seriously delinquent in common charges or accusing the rest of the board of misconduct – advice on the dispute from the association's lawyer must exclude him to protect attorney-client privilege, and the member should consider resigning to avoid the risk that the soured relationship will color his other official decisions. If the board member refuses to step aside, in extreme cases the association may have no choice but to remove him by recall or even consider litigation. ■

*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 to governing documents to revenue collection strategies and commercial disputes.*

## Financially Speaking...



Daniel Levine, CPA

### Financials: Checking Things Twice...

By Daniel Levine, MBA, CPA

While it's hard to believe another calendar year is ending, the start of a new year can bring about a time of reflection and re-organization. This article will look at a few due diligence items for an association to consider as it turns the page to a new year.

#### Check your balance sheet:

Many times, a board will focus most of its time managing income and expense for the year. As a result, an association's balance sheet may only be reviewed sporadically. A board should take the time to use this document and make sure there is nothing old or outdated listed on here. This can be especially prevalent when there is a switch between management companies or accounting methods. If there are line items on the balance sheet that have not changed from last month (or longer) a board should decide if these items are still relevant or if they should be removed.

#### Check your signatories:

When a new board of directors is elected, or the current slate is re-elected an association should take the time at the start of each year to review its cash accounts and who still has access to them. The board should review mailing addresses for all current accounts to ensure their treasurer or professional management company is receiving all records. Any signers that should no longer be on the accounts should be removed and any newly approved signers should be added.

#### Check your records:

A board should take inventory of the most recent year and ensure that their records are accessible and complete. If financial institutions were changed ensuring that all bank statements were received and are part of the records is important. Understanding and determining if support for bills paid during the year are complete is equally as important. Any unusual transactions, such as a bank loan, reserve appropriation/loan, or insurance claim, should be reviewed to determine if all support for these transactions is available and documented.

#### Check your procedures:

The accounting landscape frequently changes both in terms of rules and technology. A community may have access to new methods of making deposits, payments, or receiving payments. A community should take time to review its disbursement and receipt processes to ensure that it is still understood or to determine if new procedures relating to approval, record retention, or oversight are needed. This will keep procedures up to date and avoid any internal control issues.

*“When a new board of directors is elected, or the current slate is re-elected an association should take the time at the start of each year to review its cash accounts and who still has access to them.”*



Dilok Klaisaporn/Stock/Getty Images Plus

#### Check your association documents:

More-so for new members of the board, a review of the condominium documents should be done to see if the documents still fit the associations current needs and to develop an understanding of how the association operates. How are allocated interests broken down and common fees assessed? What expenses is the association responsible for? Understanding the fundamentals of your community can make managing it much more efficient.

#### Check your knowledge:

The scope of knowledge required by members to manage their community continues to grow. Does the board have a working copy of the laws that govern their community? Does the association understand how to read and interpret their financial statements? Does the association have adequate insurance coverages and is it saving enough for the future? If members of the board are unsure of these things having a meeting to determine which areas to invest in continuing education can be helpful to ensuring the board is ready to meet any upcoming challenges.

#### Conclusion

Association management can be a lot of work. Taking a moment to check the current state of your association and certain areas can ensure the association sets off on the right foot for the upcoming year. Developing specific plans to improve or target areas for improvement can help continue the association forward on the path toward to success. ■

*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.*

# CONDO/HOA 2022 CONFERENCE & EXPO

IN-PERSON | GOOD FOR 4 CEU'S

## CAI-CT CONFERENCE & EXPO

Saturday, March 19, 2022

Aqua Turf, Planstville, CT  
8:30 am - 2:00 pm

# Ingredients for Success!

### General Admission Includes:

- 5 Fabulous Education Sessions!
- Phenomenal Prizes!
- Fantastic Exhibitors!
- Fascinating Networking Opportunities!

### Additional Options Requiring Pre-Registration Include:

- Presidents' Breakfast
- Exclusive Managers' Breakfast
- Optional Lunch With an Expert — \$32

**Pre-Register by March 1st for Savings!**



**Ingredients for Success...  
Great Education Courses!**

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

**Exclusive PRESIDENTS' BREAKFAST:** *Maintenance Standards and Hearing Procedures: Are they Half-baked?* Key ingredients for having your association taste success. This session will be interactive! (Must pre-register to attend)

**Exclusive MANAGERS' BREAKFAST:** *Too Hot to Handle — A Fire Marshal's Perspective on Dealing with Common Issues* (Must pre-register to attend)

**Building Community to Avoid Litigation:** Cooking up ways to create harmony in communities takes patience and flexibility. Our speakers will offer suggestions for managing the smorgasbord of personalities and competing interests in associations.

**Electric or Gas?** Are your owners starting to clamor for EV charging stations? Find out what legal issues need to be considered. Learn about the options for installing charging stations.

**Virtual & Hybrid Meetings:** Watch Out for Cookies — How have virtual meetings helped communication? How can we continue to adapt to this technology and include options for hybrid meetings?

**Vetting Vendors:** Don't Get Burned — Knowing the important questions to ask, ensuring proper insurance and licenses are up to date and having properly drafted contracts will be covered in this session.

**Legal & Insurance Panel:** Our legal and insurance experts will be ready to answer your burning questions. Learn how to avoid legal problems and stay on top of those that may already exist.

**Optional Lunch with an Expert of your Choice** — Additional \$32 fee required. Seating limited to 8 per expert.

### PLATINUM SHOW SPONSOR:



### GOLD SHOW SPONSORS:



### PRE-REGISTRATION BY MARCH 1ST:

\* Add \$15 after March 1st

| GENERAL ADMISSION:  | CAI MEMBERS | NON MEMBERS |
|---|-------------|-------------|
| Association Managers, Presidents, Board Members and Unit Owners | \$25        | \$45        |
| All Service Providers   | \$100       | \$150       |



Jonathan Chappell, Esq.

## Records: *Do We Really Need to Keep This and/or Give Access to it?*

By Jonathan Chappell, Esq.

A frequent scenario: “Mr. Unit Owner is asking for a copy of (fill in a record here). He will not tell us why he needs it.”<sup>1</sup> “We can refuse this, right?” The answer is “it depends” on the record sought.

It is best to get the disclaimer out of the way. This article is to give guidance, not to replace the advice of learned counsel. Analysis should involve review of CIOA 47-260<sup>2</sup> and then Title 33, Chapter 602, Part XIV of the Connecticut General Statutes (“Nonstock Act”).<sup>3</sup> The best practice is to call your attorney with the specifics.

### I. What Records Must Be Retained?<sup>4</sup>

CIOA mandates an association “shall retain:”

- Detailed records<sup>5</sup> of receipts and expenditures affecting the operation and administration of the association and other appropriate accounting records.
- Minutes of all meetings of the association’s unit owners and board, a record of all actions taken by the unit owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association. Minutes of meetings of the board in executive session are optional. *While CIOA does not say how long minutes must be kept, Subsection 33-1235(a) of the Nonstock Act makes minutes “permanent records.” Most associations are nonstock corporations. It is best to maintain draft/unapproved minutes, but they should be watermarked “draft” until approved.*
- The names of unit owners in a form that permits the association to prepare a list of the names of all owners and the addresses at which the association communicates with them, in alphabetical order showing the number of votes each owner is entitled to cast. *This is needed for a unit owner petition. See CIOA 47-250(a)(2).*
- The association’s original or restated organizational documents, the association’s bylaws and all amendments to them, and all rules of the association that are currently in effect.
- All financial statements and tax returns of the association for the past three years.
- A list of the names and addresses of the association’s current directors and officers. The issue of whether this requires disclosure of a board member’s email address is a frequent question. *Without more, if the email is used for association business, it seems it should be public.*
- The association’s most recent annual report that was delivered to the Secretary of the State.



andriano\_cz/iStock/Getty Images Plus

*“Minutes of meetings of the board in executive session are optional.”*

- Financial and other records sufficiently detailed to enable the association to comply with CIOA 47-270 (the preparation of a resale certificate).<sup>6</sup> (e.g. unsatisfied judgments, pending suits or administrative proceedings, insurance, and the number of foreclosures brought in the prior year).
- Copies of current contracts to which the association is a party.
- Records of actions by the board or a committee to approve or deny any requests by unit owners for design or architectural approval from the association.
- Ballots, proxies, and other records relating to voting by unit owners, for a period of one year after the election, action, or vote to which they relate. *See note 7.*

### II. Record Retention.

But how long must we keep records? CIOA and the Nonstock Act do not provide mandatory timelines for all records. Many of the records just must be current; one example is the *current* unit owner roster is needed to get signatures on a petition. See CIOA 47-250(a)(2); 47-260(a)(3). Other records that must be kept current include those in 47-260(a)(4, 6, 7, 8, and 9). Those with a specific deadline do exist. See CIOA 47-260(a)(2) and Nonstock Act 33-1235(a) (minutes are permanent records), 47-260(a)(5) (financial statements and tax returns for the last three years), and (a)(11)<sup>7</sup> (voting records for one year).

[Continues on page 12.]



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**RECORDS...from page 10.**

Some associations may want to establish a record retention schedule to state how long a type of record must or will be kept. Here is a sample: [https://cdn.ymaws.com/www.caict.org/resource/resmgr/2020/record\\_retention.pdf](https://cdn.ymaws.com/www.caict.org/resource/resmgr/2020/record_retention.pdf). The schedule may qualify as a “rule” pursuant to the definition in CIOA 47-202(31), and a board can adopt it after notice and comment. This process requires owner comments, but just a board vote. In addition, this policy could determine which records will be kept in print or just electronically.

**III. What Records Can an Association Withhold?**

Full disclosure. My thoughts are skewed by experience representing municipalities subject to the Freedom of Information Act,<sup>8</sup> where municipal attorneys commonly provide the laymen’s standard “when in any doubt, give it out.” The policy of “FOIA” is increasing access to government records.

Section CIOA 47-260(c) requires when records only “shall be withheld” where they concern “personnel, salary and medical records relating to specific individuals” and “information the disclosure of which would violate any law other than this chapter.” An example is a doctor’s note submitted in support of a request a reasonable modification.

CIOA 47-260(d) provides records that “may be withheld:”  
(1) Contracts, leases and other commercial transactions to purchase or provide goods or services, currently being negotiated;

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- (2) Existing or potential litigation or mediation, arbitration or administrative proceedings;
- (3) Existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the declaration, bylaws or rules;
- (4) Communications with the association’s attorney which are otherwise protected by the attorney-client privilege or the attorney work-product doctrine;
- (5) Records of an executive session of the executive board; or
- (6) Individual unit files other than those of the requesting owner.

“May” indicates the association can choose to withhold. Think about when a board wants its lawyer to draft an opinion to use to explain a board decision.

An association, like many of us, are told to adapt to a “paperless society” as records continue to literally stack up around us. Owners have a right to certain records simply by owning a unit. When there is any doubt about a request or an association wants to develop a records retention policy, it should get its counsel involved. ■

*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. An owner’s purpose is irrelevant. CIOA 47-260 does not expressly require “good faith” and a “proper purpose” as is required by Subsection 33-1236(b) of the Nonstock Act.
- 2. Section 47-260 applies to all common interest communities, no matter when the community was established. See CIOA 47-216(a).
- 3. The Nonstock Act applies to likely a significant majority of associations created as a nonstock corporation.
- 4. Much of the language is quoted from CIOA, with limited italicized commentary.
- 5. It seems unlikely to be disputed whether something is/is not a “record,” but this is defined by CIOA 47-202(29).
- 6. See CIOA 47-270(a) (7, 8, 15, and 16).
- 7. Whether ballots must be released after a vote is an issue somewhat frequently discussed by association lawyers. The issue is whether a “secret” ballot means it is kept secret even after the results are announced, or whether once votes are counted the records must be kept for one year and must be disseminated if requested. That discussion is beyond the scope of this article.
- 8. See CGS 1-200 et seq.

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## Manager's Column...



Rich Wechter, CMCA

### Being Practical, Part LXXIV

## If I Were King and Could Implement Anything

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, the last for an endless 2021, we want to take an opportunity to close our eyes and offer a series of wishes that we would like to see come true in the near future. While this is offered with a touch of levity, the wish list being offered is real and the hope to see these matters come true is genuine.

### A. Setting the Table on this Topic

Louisa May Alcott once wrote "We all have our own life to pursue, our own kind of dream to be weaving, and we all have the power to make wishes come true, as long as we keep believing." While one does not get everything they ask for (see: disappointed children every December 26th), we can still dream for the skies. As noted by the poet, Alexander Pope in An Essay on Man Epistle I, "Hope springs eternal in the human breast."

After almost thirty years of involvement in community association governance, representation and management, one develops a rather lengthy wish list of those things that call out for implementation. In order to keep this article under control, we offer a top fifteen list of wishes we would implement if we had royal powers. They are not in any particular order of priority.

### B. Our Top Fifteen List of Wishes

#### Wish #1 - Require Developers to Maintain an Escrow Account for Defects for Ten Years After the Last Unit/Home is Sold

Community Association Managers and Board Members can recite chapter and verse of incidents when defects in construction rear their ugly head after the warranty period has expired. Many of these defects result in large unbudgeted expenditures for community associations and in many circumstances, unfavorable results due to contractual and statutory requirements. Our wish is for a mandatory escrow account, the amount for which can be debated later, that would provide a source of funds to correct these late appearing defects. We suggest that the fund be available for ten years after the closing on the last unit in a community association. While we recognize that Developers will increase their sales prices to cover such an escrow account, this is a price that is well worth it. Just ask anyone that has seen six and seven figure remediations of construction defects in their community associations.

#### Wish #2 - Mandate Voting by Unit Owners

The number one complaint we hear and experience at owners' meetings is the high level of apathy, even in the new world of virtual

*"Associations should have social committees that provide an opportunity for residents to socialize and come together as a community."*



Big Cheese Photo/Getty Images Plus

meetings. This becomes a real problem when the vote of the majority interest in the common elements is required, as occurs with a vote to authorize the use of common charges as collateral for a loan. While this suggestion has been the focal point of many smiles over the years, no one has really taken this suggestion seriously. Perhaps it is time to do so.

#### Wish #3 - Make Voting Easy

In our ever-developing electronic society, we still have awkward and time-consuming methods for voting. It is time that we have the ability for unit owners to cast ballots quickly and easily, as early as the day they receive voting documents.

#### Wish #4 - Require Orientation Meetings for New Unit Owners and Tenants

One of the most common complaints of Boards and Managers is the failure of new residents (owners and tenants) to follow the rules of their respective association. In most cases, new owners never read the association governing documents prior to, at, or after the closing. It is even more rare to hear that a tenant has read the governing documents let alone has received them before moving in. Accordingly, to combat this lack of awareness of the asso-

ciation governing documents, we would like to see a mandatory orientation meeting for all new residents that would be attended by a representative of the Board, Management Company and if in existence, a Welcome Committee representative. This meeting, which could be either in-person or virtual, would combine a social meet and greet with a business review of the most pertinent rules and procedures of an association. If Coops can mandate this, why not condominiums and homeowner associations.

**Wish #5 - Mandate Safety Programs and Simplify the Process**

While many associations have mandatory safety programs (water heater replacement, chimney, dryer vent, and census), others do not have some or all of these programs. All of these programs are critical to a safe association. Going forward, the process to comply with these programs should be simplified as both managers and Board members spend way too much time chasing after non-complying units.

**Wish #6 - Mandate Revisions of Governing Documents**

In the James A. Michener novel, Centennial, one of his characters, Gray Wolf notes: "Only the rocks live forever." Governing Documents surely do not outlive the rocks. The demographics of associations along with attitudes change over time. Associations should be required to review governing documents on a regular basis and make appropriate changes when needed. We should be looking to the future while not ignoring the past or present.

**Wish #7 - Mandate Social Committees**

Community Association Managers are taught that their associations are a corporation, a government and a neighborhood. It is that last description that seems to get ignored. Associations should have social committees that provide an opportunity for residents to socialize and come together as a community. In this era of political discord, Covid-19 and social isolation, the need for social committees has never been more important.

**Wish #8 - Control the Frequency of Instant Communications**

We are in the era of instant communications (e-mails, texts, tweets and a host of other methods that more senior members of our world have no idea or interest in). We need to have everyone understand that every instant communication creates a time allotment for the recipients to review and respond to. These forms of communication make it too easy for an abuse of the recipient's time. Our recommendation is to introduce an old fashion communication device, the phone. It allows all parties to the call an opportunity to cut to the chase and take care of what is being requested or sought.

**Wish #9 - Mandate E-Mail Association Communications Instead of Regular Mail**

CAI-CT was successful in 2021 in eliminating the need for sending out Notice and Hearing letters by certified mail return receipt requested. The next hill to climb is to eliminate the need for transmittal of  
*[Continues on page 16.]*

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**MANAGER'S COLUMN...from page 15.**

association communications by regular mail. The 2010 CIOA changes did not go this far. However, twelve years later, as we approach 2022, the time is now to go paperless.

**Wish #10 - Better Pay for Community Association Managers**

It is not easy being the bad guy with a target on one's back. The time demands on community association managers is enormous and grows every year. With the labor shortage seemingly getting worse, we need to draw in people who want to work in a field where rewards are few and sleep is sometimes a luxury. Accordingly, pay for community managers needs to go up to reward good managers and to attract new blood going forward.

**Wish #11 - Pay for Your Own Water Use**

Many associations pay for water usage both for the common elements and individual units. With such waste of water by many association residents, associations should finally take the plunge and meter each unit individually. There should also be water lines that are for association use only which will eliminate unit owner complaints that the association is using water that they pay for individually.

**Wish #12 - Mandate Board Education\***

Community Association managers are required to be licensed and to have completed course study for that license along with a continuing education requirement. While Board members need not be licensed, they should be required to take some basic course or courses in association governance and operation. This will only enhance their knowledge and abilities to the benefit of their respective associations.

**Wish #13 - Change the Burden for Approval of the Pledge of Common Charges and Assessments for Association Loans**

While CIOA requires a majority voting interest in a common interest community to reject a budget or special assessment that has been approved by their respective board in order to overcome that prior board approval, the approval of the pledge of common charges and assessments as collateral of Association loans requires the affirmative vote of the majority interest in the community association. Thus, while a non-vote is, in essence, considered a "Yes" vote on a budget or special assessment, that same non-vote is considered a "No" vote on a resolution for the pledge of common charges and assessments as collateral of an Association loan. This critical variance needs to be eliminated with the vote requirement on loans to be the same as the requirement on budgets and special assessments.

**Wish #14 - Mandatory Reserves**

Any association without a reserve account is living on the edge. In light of the tragedy at Surfside, Florida, associations should be required to have established reserve levels based upon their size, age,

composition and complexity. This wish will be the subject of a future article.

**Wish #15 - All Units Should be Treated Equally for Common Charges and Voting Rights**

We have saved the most reaching wish for last. Many associations treat units the same with respect to common charges/assessments and voting rights. All such units pay the same fees, and each gets one vote. However, many associations have in their governing documents, a weighted system based upon the square footage of each unit. The larger the square footage of a unit, the higher the common charges/assessments and the greater the vote that unit gets. We see that scenario as unfair, undemocratic and illogical. The common charges and assessments generally go to the payment of common expenses that are not related to the size of units. The landscaping, roofing, siding, amenities, management and insurance expenses are, for the most part independent of the size of a unit. It has always been difficult to contend that the size of a unit impacts the use of the lawns, pools, etc. Accordingly, it is time that units are treated similarly as to fees and voting rights.

**C. Conclusion**

We could go on and list another 15 wish items. Perhaps we will do that in a future article. The list presented in this article contains many strategies for positive change for the operation, governance and maintenance of community associations. We hope that this article will result in a lot of thought and conversation in the upcoming year along with action. We wish everyone a healthy and happy holiday season and offer our sincere wish for a better 2022. ■

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

**\*Editor's Note: As we have mentioned in the past, Public Act 06-123 states: The executive board of each association of a common interest community shall encourage each member of such association, including the officers to attend a basic education program concerning the purpose and operations of common interest communities and the rights and responsibilities of unit owners and their board. The Act goes on to state that all or part of the fees should be considered a common expense of the association and paid from association funds. We offer our popular Condo Inc. education program for Association Board members several times per year. The next session is being held on three consecutive Saturdays – January 29, Feb 5 & 12, 2022 on Zoom. Weather nor travel time will be an obstacle to attend. Register today at : [www.caict.org](http://www.caict.org)!**



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Michael Lockhart

## TECHNICAL EXPLANATIONS

By Michael Lockhart

### Reserve Studies: *The Key to Harmonious Community Living*

What is an association board’s role in serving their community association? Can a board accurately navigate changing needs related to replacement schedules and funding needs? Do homeowners have a clear understanding of the association’s current and future capital project and reserve funding needs? Knowing the answers to these types of questions is essential to understanding the relationship between boards and homeowners and how they both play a role in promoting a harmonious community.



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| FIVE YEAR OUTLOOK                                  |                   |           |           |           |           |           |
|--|-------------------|-----------|-----------|-----------|-----------|-----------|
| The Village Homeowners Association<br>Madison, USA |                   |           |           |           |           |           |
| Reserve Component Inventory                        | RUL # 0<br>FY2018 | 1<br>2019 | 2<br>2020 | 3<br>2021 | 4<br>2022 | 5<br>2023 |
| <b>Property Site Elements</b>                      |                   |           |           |           |           |           |
| Landscape, Partial Replacements                    | \$,360            |           |           |           |           | \$,796    |
| Light Poles and Fixtures, Fixtures Only, Remaining |                   |           | 12,731    |           |           |           |
| Mailbox Stations                                   |                   |           | 12,094    |           |           |           |
| Signage, Address Identification, Replacement       |                   |           |           |           |           | \$,560    |
| 2018 Reserve Expenditures                          | \$9,220           |           |           |           |           |           |
| Anticipated Expenditures, By Year                  | \$5,530           | 0         | 24,825    | 0         | 0         | 12,286    |

A board’s primary role is to make decisions based on good faith that serve the best interest of the homeowners or association as a whole. This begins with having a comprehensive reserve study that is current. A current reserve study serves as a roadmap by identifying, prioritizing and educating the board about their association’s long-term needs. By prioritizing all capital projects and developing a customized reserve funding plan for the next 30 years, the reserve study supports a board’s ability to proactively manage replacement events and facilitate the annual budgeting process.

| Recommended Reserve Funding Table |                            |                       |      |                            |                       |      |                            |                       |
|-----------------------------------|----------------------------|-----------------------|------|----------------------------|-----------------------|------|----------------------------|-----------------------|
| Year                              | Reserve Contributions (\$) | Reserve Balances (\$) | Year | Reserve Contributions (\$) | Reserve Balances (\$) | Year | Reserve Contributions (\$) | Reserve Balances (\$) |
| 2019                              | 72,000                     | 302,021               | 2029 | 134,000                    | 674,655               | 2039 | 180,000                    | 264,146               |
| 2020                              | 96,000                     | 253,840               | 2030 | 138,000                    | 805,785               | 2040 | 185,000                    | 455,612               |
| 2021                              | 120,000                    | 150,823               | 2031 | 142,100                    | 801,436               | 2041 | 191,000                    | 591,851               |
| 2022                              | 144,000                    | 77,085                | 2032 | 146,400                    | 866,122               | 2042 | 196,700                    | 772,465               |
| 2023                              | 168,000                    | 30,949                | 2033 | 150,800                    | 859,265               | 2043 | 202,800                    | 932,522               |
| 2024                              | 115,500                    | 139,166               | 2034 | 155,300                    | 638,880               | 2044 | 208,700                    | 674,800               |
| 2025                              | 119,000                    | 221,579               | 2035 | 160,000                    | 430,357               | 2045 | 215,000                    | 367,889               |
| 2026                              | 122,600                    | 323,220               | 2036 | 164,800                    | 211,701               | 2046 | 221,500                    | 68,621                |
| 2027                              | 126,300                    | 456,098               | 2037 | 169,700                    | 160,709               | 2047 | 228,100                    | 268,659               |
| 2028                              | 130,100                    | 574,725               | 2038 | 174,800                    | 93,410                | 2048 | 234,900                    | 473,421               |

*“...how does a board efficiently and effectively navigate the long-term success of their association when replacement needs and reserve contributions are ever changing?”*

But how does a board efficiently and effectively navigate the long-term success of their association when replacement needs and reserve contributions are ever changing? The answer a dynamic reserve study that is easy-to-use and, ideally, cloud-based.

Although a long-term roadmap, a reserve study is a snapshot in time. It predicts replacement schedules based on conditions observed during the site inspection. Recommended reserve contributions are established to offset the pooled expenditures for each year. When a reserve study recommendation is not followed, a board needs to be

able to weigh the result of not following such recommendations to ensure the decision made is in the best interest of the association.

One might suggest that not following the reserve study to a “T” is detrimental to a board’s ability to fulfill its responsibilities. In reality, working with a reserve study that can be changed over time enhances a board’s ability to successfully fulfill its obligations. Having a dynamic reserve study allows one to

actively manage a replacement schedule and annual reserve contributions over time. This is most easily accomplished by conducting ‘what if’ scenarios with dynamic, cloud-based applications.

There are many reasons why a board may alter the reserve study. A few examples include:

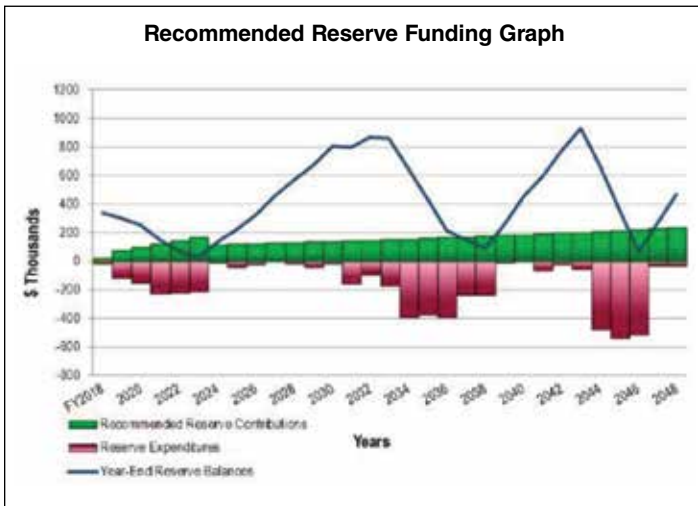
- Deferring replacement as the result of a component being in acceptable condition;
- Accelerating replacement for the purpose of improving curb appeal;
- Phasing replacement to spread total cost across multiple years;

- Adding or deleting components to the component inventory of reserve items;
- Increasing or decreasing reserve contributions due to economic conditions.

All of the above examples and more can be built into a dynamic reserve study, allowing the board to create alternate scenarios and ensuring they make informed decisions based on their association’s long-term needs. Another benefit of cloud-based applications is that board members and managers can easily share their ‘what if’ scenarios with each other. Thus, any changes can be made in ‘real time’ and more efficiently distributed than communicating changes via email with key stakeholders.

The single most important key to a harmonious community is — communication, communication, communication. A board should inform homeowners when a reserve study is being conducted, and why. It is to protect their investment in their homes. The results of the study should be summarized into an Executive Summary (included by most reserve study providers) and distributed to current and future owners. An Executive Summary lays out what’s happening with the reserve funds and justifies why setting money aside is necessary. When large projects are looming, property managers, through the board, should educate homeowners on what they should expect (disruption to their daily lives), and the end result of specific capital replacements

*[Continues on page 20.]*





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RESERVE STUDIES...from page 19.

in terms of enhanced property value and appearance of the community. An informed homeowner is one who understands board decisions and can more easily support them.

Regular communication and educating homeowners promotes trust and confidence in leadership decisions. A properly funded association is likely maintained in excellent condition. Additionally, maintaining a property in excellent condition increases curb appeal and homeowner satisfaction, ultimately making the association a more desirable one to be a part of. The result is a harmonious community between all current and future members. ■



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*“A properly funded association is likely maintained in excellent condition.”*

Michael Lockhart is a Regional Account Manager for Reserve Advisors and is responsible for assisting managers and community boards throughout New England and the Mid-Atlantic with their custom reserve study needs. Michael is a member of the CAI-CT Education Program Committee and is a speaker at our education sessions.

ENVIRONMENTAL TIP

Got layers?

Perhaps your holiday gifts may have included some new warm clothing. Use your gifts – literally! Instead of raising your home’s temperature, put on a few layers of clothing to keep you warm. Adding undershirts, sweaters, socks, and light jackets will help to keep you toasty. By taking the same the same approach at night, layering blankets, comforters, and quilts on your bed you will be warmer. All of this layering will make it easier to turn down your thermostat’s temperature a bit, and you can save both energy and money.



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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>.

### Should Retiring HOA Board President Run Annual Meeting?

**D.M. from Hartford County, Connecticut writes:**

Dear Mister Condo,

The president of our HOA will not be seeking re-election and will resign the position effective with the annual meeting scheduled for April, 2022. Should the board seek to fill the open position ahead of the annual meeting to allow the new president to conduct the meeting or should the existing president resign at the end of the annual meeting and let the remaining board seek to fill the open position?

### Mister Condo replies:

D.M., not seeking re-election and resigning are two very different things. As long as the current HOA Board President is still in office, there is no reason he or she should not carry out the duties of the President at the Annual Meeting. Once the election is held, the torch is passed to the newly elected Board and its officers to carry on. If the Board President resigns before the Annual Meeting, it would be the duty of the currently seated Board to follow the rules for appointing an interim officer and/or appointing officers to fill out the term. Unless there are some other rules or regulations stated in your governing documents, any member of the Board remains a member until they either resign, refuse to run again, or lose an election unless they are removed for cause. From what you have told me, this is a simple case of a Board Member, who happens to be President, making the decision to not run again. All the best!

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

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## Tips for Protecting Your Identity During the Holidays

Identity theft is a problem any time of the year. But, while consumers are focused on giving during the holidays, crooks are focused on taking. If there's one thing consumers don't need, it is dealing with identity theft during the holidays. The National Foundation for Credit Counseling (NFCC) offers the following tips to help consumers protect themselves during the busy holiday season:

- Be aware of your surroundings. Sidewalks and malls will be crowded and shoppers will be distracted—the perfect combination for a pick-pocket. If someone bumps into you, don't assume it was an accident. Women should clutch purses closely at their side or in front of them with the wallet hidden at the bottom. Men should stow wallets in an inside coat pocket.
- Don't carry large sums of cash. Charge your purchases or use a debit card. Just remember that credit cards offer some protections that debit cards don't. When you use a credit card, you can dispute a purchase before paying for it. With a debit card, the money is removed from your account at the time of the purchase. A thief can wipe out your checking or savings account before you ever realize the theft has taken place.
- Guard your PIN number at the ATM. Be aware of anyone lurking around the ATM, and if someone is standing too close, simply ask him or her to step back. Thieves can also install devices that read your information at the ATM without you knowing it. If you notice anything unusual about the ATM, use a different one, and report what you've seen to the bank.
- Don't let your credit card out of your sight. Unscrupulous clerks or waiters can copy your card information or swipe your card into a second card reader and later make a new credit card for themselves. Worse yet, they can sell your information to an organized crime ring.
- Lighten your wallet. Remove anything from your wallet that you don't absolutely need to have with you. That way, if someone is successful in stealing it, they won't get as much. Never carry your Social Security card with you, but check other cards that might use your SS# as an identifier. If you're not going to be using your checkbook, leave it at home.
- Make copies of your credit cards. Copy both sides of all your cards. If you lose your wallet, you'll have easy access to all of your account numbers and phone numbers, allowing you to alert your bank immediately.
- Keep up with all receipts. Not only will you need them to make returns easily, but crooks are very interested in stealing the information they contain. Never stuff the receipts into your car visor or leave them exposed in any way.
- Open your credit card statements as soon as they arrive. Check the bill for any unauthorized purchases. Even better, keep a watchful



*“Open your credit card statements as soon as they arrive. Check the bill for any unauthorized purchases.”*

eye on your accounts by going online and reviewing your accounts each week. If you notice anything out of the ordinary, report it immediately to your bank. Doing so will likely remove any payment responsibility you might have for fraudulent purchases.

- Secure all personal information even while at home. Unfortunately, many times an ID thief is someone we know. During the holidays, you may have guests in your home. Remove temptation by putting personal information out of sight.
- Consider signing up for a credit monitoring service. Such services alert you via email anytime there is an inquiry or other activity to your credit report. In other words, if someone tries to open an account in your name, you'll know about it. Such services are offered by all of the major credit reporting bureaus, and could be money well-spent.
- Order your credit report. Consumers are allowed one free credit report every 12 months from each of the three bureaus. Order a report now from one bureau, and order another one in January from a different bureau. This will give you a good snapshot of activity and will alert you to anything unusual.

In spite of all your efforts, if you are victimized by ID theft, contact an NFCC Member Agency for help. Their certified counselors can walk you through the steps to recovery. To find the agency closest to you, dial (800) 388-2227, or go online [www.DebtAdvice.org](http://www.DebtAdvice.org). To locate a Spanish speaking counselor, call (800) 682-9832.

For more information and tips about identity theft visit NFCC at [www.ProtectYourIDNow.org](http://www.ProtectYourIDNow.org) ■



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