

# Common Interest

The Official Publication of CAI-Connecticut

Vol. XVI: Issue 2 • 2021



CONNECTICUT CHAPTER  
**community**  
ASSOCIATIONS INSTITUTE

*Inside:*

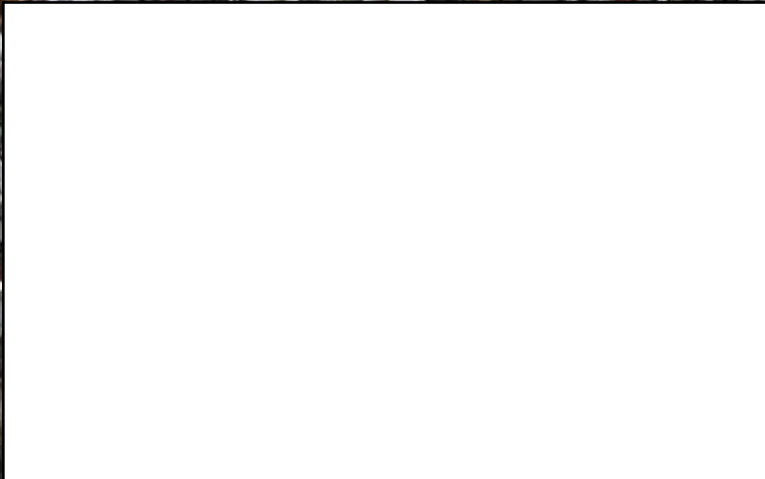
**Not So Neighborly  
DISPUTES**

**SPECIAL  
ASSESSMENTS**  
For Loans

**A DEMAND  
FOR CIVILITY**

**RESALE  
CERTIFICATES**  
Disclosing Future  
Capital Projects and  
Current Violations

*...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.



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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

*"There is so much we offer, yet too many stakeholders in this industry fail to take advantage of the value we offer."*

Greetings — We can say with great relief that our recent Conference & Expo appears to have been a success. Despite the many challenges, we created a very productive event in this extremely strange environment. We certainly will have lessons to take away, and our experience this year will shape plans for our 2022 event.

Aside from all the other ongoing CAI-CT programs and events that continue but appear very different than once they did, the Board is looking to the future of the Chapter. Clearly we must continue to be mindful of the offerings we sponsor for members and potential members to sure they remain relevant and valuable. We never want to become stale. There is so much we offer, yet too many stakeholders in this industry fail to take advantage of the value we offer. While membership had been rising gradually before the pandemic and didn't change significantly since the pandemic, there is a huge universe of Associations, individuals and businesses that haven't come in under the tent. We continue to challenge ourselves, the staff, the membership committee and frankly, each and every one of you, to help us reach the hundreds and hundreds of potential members who haven't yet seen the light!

Our other main mission is to enable persons to recognize the opportunity to build their careers in community association businesses. We have heard loudly and clearly from the CEOs of management companies that hiring managers is much too frustrating. Schools apparently do not offer curricula in property management. The imbalance of suitable candidates with the demand for managers persists and is possibly worse than ever. The current circumstances result in competition for able managers among management companies, and overburdening managers who already are shouldering challenging workloads. Over the months ahead, we will explore with appropriate schools the development of property management curricula and career paths (with internships?). These programs need not be limited to prospective property managers, but also will be offered to students with interest in accounting, project management, insurance, law, technology and all of the disciplines that comprise our work.

We all can be cynical about our chosen work, yet most of us have stayed with it for a long time and find great satisfaction in our profession. I want to excite and entice others as we have been. Let me know your thoughts! [reggie@westfordmgt.com](mailto:reggie@westfordmgt.com) ■

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## From the Chapter Executive Director

**“Volunteering is the ultimate exercise in democracy. You vote in elections once a year, but when you volunteer, you vote every day about the kind of community you want to live in.”**

~Author Unknown



Kim McClain

Courtesy CAI-CT

For over a year now, we all have gotten very accustomed to washing our hands, wearing a mask and watching our distance. While we are very conscious of protecting ourselves as well as our neighbors, is there more we can do to help others as we begin to ease out of our COVID isolation?

Local charities and non-profits need support now more than ever. Sadly, too many people assume that since meetings and events are mostly on Zoom, organizations must be saving lots of money. WRONG. While it is true that travel, room rentals and food expenses are nearly nonexistent, the time staff must spend on: organizing webinars; doing tech checks with the speakers; educating attendees about how to log on; uploading recorded sessions — and more — is extraordinary.

Without a doubt the COVID-19 pandemic has created unmet needs above and beyond the usual. Those organizations which work directly to meet those needs require significantly more resources to function. Simultaneously, all nonprofits are feeling the pressure, even if they are not providing direct services related to the COVID crisis. We are realizing that the economic uncertainty caused by the pandemic seems to be causing many donors to dial back. Numerous nonprofits are also canceling many of their usual programs and fundraising events due to concern about public safety. This further impacts the ability of nonprofits to get through the lean times ahead.

What you can do: Given that donations and volunteer hours are way down for most nonprofits, your support is critical to the survival of the organizations that help to support you and your community. If you are in a position to do so, please make a donation and/or offer to volunteer for a local nonprofit. Your generosity will be greatly appreciated!

The strength of our organization is based on our committed cadre of volunteers. CAI-CT is fortunate to have a great group of committee volunteers, but we can always use additional ideas and talents. We welcome new members!

April has been Volunteer Month since 1991. Our Condo/HOA board members are some of the hardest working volunteers we know. They are the ones who keep your associations humming along. Be sure to thank them — often! Even better — offer to join a community committee or serve on the board. That would be the best thanks of all!

We hope to see you soon at one of the many programs we are offering this Spring! ■

## SAVE THE DATE...



Friday, June 4, 2021  
9:00 am - 2:00 pm  
Lyman Orchards Golf Club,  
Middlefield, CT



Visit [www.caict.org](http://www.caict.org) for information on golf, lunch and sponsorships.

# UPCOMING CAI-CT EVENTS

## **SPRING FLING — Education & Hartford County Networking Party**

Wednesday, May 5, 2021  
Education 3:00 pm - 5:00 pm • Networking Party 5:00 pm - 6:00 pm  
Auer Farm, Bloomfield

**Oddball Stories and things we have learned during COVID.**  
We have a panel of 6: 2 attorneys, 2 insurance professionals and 2 association managers. Come share your strangest experiences — COVID or not. We could all use a few laughs and some of those — you just can't make this stuff-up stories. Join us for Cinco de Mayo on the farm afterwards! ¡Ole!

\$25 - CAI Members, \$50 - Non-Members

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**Good for 2.0 Continuing Ed Credits**

## **CONDO INC. (Hosted on Zoom) WEBINAR Plus Round Table Discussion**

This LIVE webinar will be presented in 3 parts.

1. **May 12th** (4:30 – 6:30 pm): Legal – Understanding State Laws and Association Governing Documents
2. **May 19th** (4:30 – 6:30 pm): Financials - Understanding Your Financial Matters & Long-term – Developing and Implementing a Plan
3. **May 26th** (4:30 – 6:30 pm): Insurance – Protecting Your Association & Round Table Discussion with all speakers



**FOR A LIMITED TIME, PANDEMIC PRICING —**  
\$50 for up to 5 attendees!

## **CAI-CT's 22nd Annual Golf Tournament**

*Enjoy a day on the links with CAI-CT!*  
Friday, June 4, 2021 • 9:00 am - 2:00 pm  
Lyman Orchards Golf Club, Middlefield

This event brings the membership together and provides a networking opportunity for managers and business partners. This is a must attend experience with exciting sponsorships, awards, gifts and games!

Visit [www.caict.org](http://www.caict.org) for information on golf, lunch and sponsorships.



## **Pandemic Protocols**

Friday, June 4, 2021 • 1:00 pm - 3:00 pm  
Lyman Orchards Golf Club, Middlefield

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?

After the program we will be joined by our golfers. We'll have a beer tasting and some fun food. On a late spring Friday afternoon, what better way to kick off the weekend?

\$25 - CAI Members, \$50 - Non-Members

*Sponsorships Available. Please visit [www.caict.org](http://www.caict.org) for more information.*

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## **Condos and Constitutional Law - Flags and Free Speech**

Monday, June 14, 2021, 12:30 - 1:30 pm

*Political signs, flag poles, community bulletin boards — what rules can be imposed?*

Community associations have significant discretion because they aren't government entities and, as such, aren't bound by the same constitutional restrictions. Since a community association is private and not an official form of “government,” federal First Amendment freedom of speech protections typically don't apply to private association restrictions or covenants that may limit such rights. Our speaker will explain how the Constitution affects rules in condos and HOAs.

Speaker:

Michael S. Karpoff, Esq., *Hill Wallack, LLP, Princeton, New Jersey*

\$15 - CAI Members, \$25 - Non-Members

*Sponsorships Available. Please visit [www.caict.org](http://www.caict.org) for more information.*

**Good for 1.0 Continuing Ed Credit**

## **PARADISE Education and Networking PARTY**

Wednesday, June 24, 2021  
Education 3:00 pm - 5:00 pm • Networking Party 5:00 pm - 7:00 pm  
Location TBD

*Electric Vehicles — Plug Into the Future*

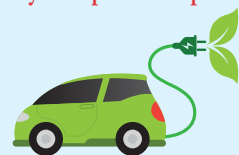
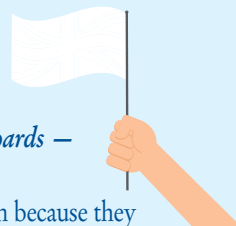
Electric vehicles (EVs) are economical, environmentally friendly options for drivers and are quickly becoming the future of transportation. The sales growth of EVs indicates that they will soon be a part of everyday life for many Americans living in community associations. Managing the increasing demand for EVs will require associations to consider electricity capacity, charging stations, association policies, and innovative management strategies. Learn what your community association will need in order to keep pace with this expanding and evolving technology!

Speaker: CT DEEP Staff

\$25 - CAI Members, \$50 - Non-Members

*Sponsorships Available. Please visit [www.caict.org](http://www.caict.org) for more information.*

**Good for 2.0 Continuing Ed Credits**



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

## THANK YOU NEW & RENEWING MEMBERS

### Welcome New Members

#### Associations

The Anchorage  
Concerned Cartright Towers Owners  
Gatehouse Condominium Association  
The Village at Crystal Springs Condominium Association, Inc.

#### Individual Managers

Jennifer Hartley  
Donald Ringuette

#### Business Partners

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### Thank You Renewing Members

#### Associations

Beacon Hill Association, Inc.  
Birchwood Commons Condominium Association  
Bishop Meadows  
Branford Business Condominium  
Bryewood Condominium Association, Inc.  
Carter Heights, Inc.  
Caswell Cove Condominium Association  
Chestnut Hill Homeowners Association  
Country Walk Association, Inc.  
Ferry Landing Association, Inc.  
Fieldstone Village of Orange, Inc.  
First Town Square Association  
Guilford Mill Association  
Heatherwood Condominium Association  
Hillside Place at New Britain Condominium Association, Inc.  
Kensington Woods Association, Inc.  
Knollbrook Condo Association  
Lakeside Commons Condominium Association  
Legend Hill Condominium Association  
L'Hermitage Condominium Association, Inc.  
Marina Bay Association  
Meadow Brook Estates Homeowners Association, Inc.  
Montgomery Village  
Mountain Commons Condominium  
New Concord Green

Newfield Commons Condo Association  
North Field Condominium  
Proprietors of Sterling Woods  
Prospect Woods Condominium Association, Inc.  
Regency at Prospect Association  
River Colony of Guilford Association, Inc.  
Riversedge Association  
Soundbreeze of Groton Condominium Association, Inc.  
Spinnaker Association, Inc.  
Spring Lake Village Association #6, Inc.  
Springbrook Village Condominium Association, Inc.  
Sterling Woods Master Association  
Summerwood Condominium Association, Inc.  
Summit Master Association  
Sylvan Point Condominium Association  
Taft View II Condominium Association  
The Atrium of Portland  
The Meadows of Enfield Condominium Association, Inc.  
Tinker Pond Homeowner Association  
Tuscany Hills Condominium Association, Inc.  
Webster Hill Estates  
West Farms Condominium Association No. 1  
Westbury Condominium Association, Inc.  
Wheeler Estates Condominium Association, Inc.  
Winnipauk Village Condominium, Inc.

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KC Anne Budrewicz, CMCA, AMS  
John F. Capone, CMCA  
Edward Dutka  
Sandra Edge, CMCA  
Catherine M. Garofalo, CMCA, AMS  
Norman Goodman, CMCA  
Melissa Cathleen Gouveia, CMCA  
James Hollyday, Jr., CMCA, AMS  
June K. LaForge, CMCA  
David Leopold  
Glenn Michael Mackno  
Dawn Mattei  
Michael McGovern, CMCA  
Kerri Neri  
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Christine Alexandra Segal, CMCA, AMS  
Alison L. Shaheen, CMCA, AMS  
Leanne E. Shoop, CMCA, AMS  
George Theodoridis  
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Barbara Zinn, CMCA

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Alliance Association Bank  
Allied Universal  
Alwire Project Engineering, LLC  
Baybrook Remodelers, Inc.  
Becht Engineering BT, Inc.  
Beebe Landscape Services, Inc.  
Bill's Landscaping LLC  
Blue Wave Pool Service & Supplies, Inc.  
Building Renewal, LLC  
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## Legislative Update

Despite the fact that the General Assembly is functioning strictly on a Zoom platform, there has been a tremendous amount of activity. Thus far, we have been actively tracking over one dozen bills, many of which have already gone by the wayside. The bills that are still active and require our close attention are as follows:

**HB 6538 - AN ACT MAKING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT** This bill is intended to make revisions to the CIOA, regarding the allowance of electronic meetings of an association beyond the time span of the Governor's Executive Orders, 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** This bill will prohibit restrictive covenants based on race, to provide a process to remove such covenants from instruments recorded on the land records in this state. Ten states have already adopted a similar bill and nine more are considering it. We have requested an amendment to this bill which would allow for the removal of such restrictive discriminatory covenants without the need for a majority vote to amend the documents for this purpose.

**HB 5125 - AN ACT CONCERNING THE PROVISION OF IMMUNITY FROM CIVIL LIABILITY FOR ENTITIES THAT HAVE OPERATED PURSUANT TO HEALTH AND SAFETY GUIDELINES DURING THE COVID-19 PANDEMIC** - The intent of this bill is to provide immunity from civil liability to entities that have operated pursuant to health and safety guidelines during the COVID-19 pandemic.

We encourage you to sign up for Legislative Alerts on our website: [www.caict.org](http://www.caict.org). We will be certain to notify when we need additional support from our members to contact their elected representatives. ■

## Oxford Greens – Community Vaccination Program



The folks at Oxford Greens were commended for their efforts on these pages last year for their efforts to use needles (sewing that is) to help protect their community by making well over 1,000 masks which they donated to local health care organization, first responders and more. They were in action again recently only this time with needles for vaccines. Thanks to the energy and coordination efforts of Tracey-Ann Samuel, the Administrative Director for Oxford Greens, they were able to host 2 vaccination clinics which provided vaccines for 148 residents of the community. This made getting the vaccine much easier and safer for members of the community. For those who were not able to participate in the clinics, Tracey worked diligently to help guide people to other places offering vaccines. We applaud the community spirit and keen interest in looking out for the community's health and well being at Oxford Greens. ■

**SPRING FLING**  
Education & Cinco de Mayo!

Wednesday, May 5, 2021  
Auerfarm, 58 Auer Farm Road, Bloomfield

3:00 - 5:00 pm • Education Session  
5:00 - 6:00 pm • Cinco de Mayo Networking Party

### Topic: Oddball Stories and things we have learned during COVID.

We have a panel of 6: 2 attorneys, 2 insurance professionals and 2 association managers. Come share your strangest experiences — COVID or not. We could all use a few laughs and some of those — you just can't make this stuff-up stories. Join us for Cinco de Mayo on the farm afterwards! ¡Ole!

(Good for 2.0 CEUs.)

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## Legally Speaking...



Adam Cohen, Esq.

## Not So Neighborly Disputes

By Adam J. Cohen, Esq.

Two neighboring residents aren't getting along with each other. His music is too loud, her yard is a mess, he yelled obscenities at me. The situation is escalating. Each resident complains to the board and demands help against the other. Is the association required to get involved?

Generally speaking, the answer is no. State law does not obligate the board or manager to intervene in most kinds of disputes between unit owners. The Common Interest Ownership Act (CIOA) gives the board discretion in handling the community's day-to-day problems, and specifically authorizes boards to decline to take enforcement action against a resident even when a rule has been clearly violated. If two residents are bickering, in most cases, the board can and often should decline to get involved. They will simply need to work out their issues amongst themselves as mature adults, and if that's not possible, by litigation between the two of them if necessary.

Naturally, however, there will be situations in which the board is justified in choosing to intervene. When a personal feud impacts the rest of the community or reveals serious rule violations, the board should consider enforcement actions to deter bad behavior and whatever other options may be available to keep the peace. Petty quarrels are one thing, but as stewards of the community, the board members shouldn't turn a blind eye to significant problems, even if brought up by a resident who is not himself blameless. At the risk of being perceived as "picking sides," the board should consider taking action when appropriate and preventing disputes from worsening to the extent doing so is practicable.

*"When a personal feud impacts the rest of the community... the board should consider enforcement actions to deter bad behavior..."*

Many associations have rules explaining how unit owners may submit complaints for the board's consideration. Boards should follow their rules on handling such complaints, and in most cases, are legally required to hold a hearing if a unit owner requests one in writing. The board must send a scheduling notice at least 10 business days before the hearing and an outcome notice within 30 days afterward, both by regular mail and return-receipt mail. The board can still decide not to take the enforcement action sought or even to answer questions posed. State law also allows associations to adopt rules requiring that community-related disputes between two unit owners must be submitted to mediation or arbitration before they can sue each other in court.

The biggest exception to the board's usual prerogative to stay out of inter-resident disputes is a federal regulation, 24 C.F.R. §100.7, which



shironosov/Stock/Getty Images Plus

can force a homeowner's association to act against discrimination. The regulation says that a residential association must "take prompt action to correct and end a discriminatory housing practice by a third-party, where the [association]... had the power to correct it... depend[ing] upon the extent of the [association]'s control [over that person's] conduct." Although interpretations of this regulation are mixed and situations vary greatly, it may mandate that a board exercise whatever powers it has under state law to stop racial, sexual, religious, or other kinds of harassment or discrimination between residents once the board becomes aware of it. This can include levying fines and denying privileges against a resident targeting someone based on their race, religion, or sex, or even evicting an abusive tenant, as long as the behavior is actionable under the association's rules and legal powers.

Feuding owners will often request copies of the association's records relating to each other or the association's interactions with them, often in an effort to find "evidence" against them or to find fault with the board's response. If a unit owner requests copies of records, the board must provide them within five days, with certain exceptions. The board need not create records on demand, only allow an owner to see and copy existing records. In Connecticut, boards have discretion to decide whether or not to provide copies of "individual unit files other than the requesting owner" or anything related to existing or potential litigation, arbitration, mediation, or administrative proceedings.

Associations should work closely with their attorneys when deciding whether and how to respond to disputes between two residents. Staying out of it is often a good idea, but some laws may require otherwise, and some voluntary intervention might prevent bigger issues down the road. ■

*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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## Connecting our CAI-CT Community Annual Conference & Expo



Only one year ago, we were ready to go for our popular Annual Conference & Expo. We eagerly awaited our big day – until the world turned upside down. Fortunately, in 2021 we were able to create an event – while very different from the bright, sunny expo hall of the Aqua Turf – which brought our community together in new and meaningful ways.

No traveling allowed us bring in speakers from afar. The CEO of CAI, Tom Skiba, joined us from Virginia and provided some very powerful messages about why and how it's vital to be connected to the CAI community to keep from reinventing wheels and finding support on so many common issues. Jim Slaughter, Esq., CCAL offered his experience and wisdom from North Carolina. His presentation about Parliamentary Procedure took what can be a dry topic and made it into an education program filled with great insights and plenty of humor. Given the tremendous positive feedback we have received, it would appear that most of you agree.

Nearly 350 people registered to attend the conference & expo. It was truly great to see so many of you! It is important to acknowledge the commitment and positive spirit of our many exhibitors. All of those companies took a gamble with us to be a part of the expo. They spent a great deal of time learning how to get the best use out of the Hopin platform and to offer some terrific info and fun in their booths. If you haven't connected with them yet, please reach out to them to find out how their services can help your community. They have all demonstrated their commitment to our members and look forward to working with you.

Our Conference Committee worked harder than ever to make this event come together. We are so grateful for their dedication!

### 2021 Conference & Expo Committee

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**And finally, we wish to thank our CAI-CT Connection Champions who helped to support this great event. (Please see page 30 for the list.)**



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| <p><b>12:30 pm</b></p> <p>Loans<br/>Bill Ward, Esq.</p>      | <p><b>1:00 pm</b></p> <p>Minutes<br/>Ron Barba, Esq.</p>      |                               |



## Financially Speaking...



Daniel Levine, CPA

### Special Assessments for Loans

By Daniel Levine, MBA, CPA

When it comes time to make substantial capital repairs in a common interest community, sometimes an association makes the decision to finance the work instead of drawing down their own reserves or levying a short-term assessment to absorb the cost. When an association decides to borrow, an association may create a long-term special assessment with similar attributes as the borrowed amount to help facilitate re-payment of the obligation to the bank.

This article will take a brief look at these types of assessments and highlight some observations relating to them.

#### How Assessment Work

Most loan assessments operate very similar to other assessments levied for community maintenance. As a result, when an association conducts a special assessment for a loan, that assessment should be levied in accordance with the membership interest table in their documents.

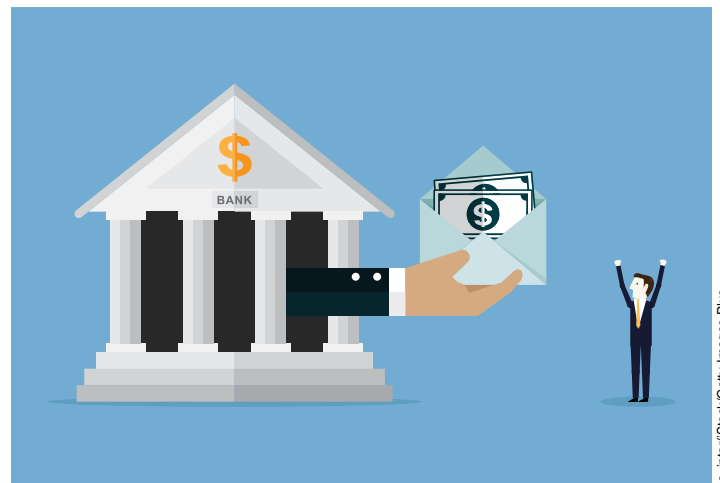
This theory is applied once the full extent of the borrowing is known. As the purpose of the assessment is to repay what is borrowed, the amount borrowed is the amount of the special assessment. The next step is then to take the total amount borrowed and multiply it by each unit's interest in the community so an association can allocate the loan cost to each unit.

However, this only represents allocation of principal and does not factor into the equation interest expense which is the cost of borrowing and is also part of what a unit is responsible for. This interest cost depends on the interest rate as well as length of the loan and is an important component in determining a correct monthly payment for each unit.

To arrive at a specific unit owner's monthly fee, an association has to take each unit's share of the borrowing and apply the interest rate associated with the loan to create an amortization table. This table will reflect how much the monthly payment amount should be as well as how much of each payment represents principal or interest when applicable.

#### Receiving Payoffs

With these types of assessments, if the association can pay down the loan faster, they generally extend this option to the unit owners still involved in the assessment. When a unit pays off their portion of the



*“To arrive at a specific unit owner’s monthly fee, an association has to take each unit’s share of the borrowing and apply the interest rate associated with the loan to create an amortization table.”*

assessment it is important for two things to happen. First, the association needs to calculate the payoff amount. This represents the unit owner's share of the loan that is still outstanding. This amount does not include any future interest obligations. The second is to make sure that the payoff amount, when received, is applied to the outstanding principal of the association loan. These two items can represent potential pitfalls an association can fall into if not careful.

By not considering the fact that the unit owners in an assessment have an interest component to their payoff, an association may overcharge a unit to payoff their portion of the assessment. There are times where a payoff may be accidentally calculated by taking the remaining months in an assessment and multiplying it by the monthly amount paid by a unit owner. However, this is not corrected due to the interest component of the monthly payment.

When calculating a payoff for a unit, an association should look to that unit's specific amortization schedule and find what the remaining principal is on that unit's specific share of the borrowing. Including

*[Continues on page 14.]*

## Business Partners – CONNECT with CAI-CONNECTicut

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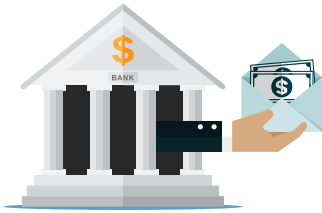
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**FINANCIALLY SPEAKING...from page 12.**

any additional interest beyond the payoff date will overcharge the unit. It is also important to note that the other units remaining in the association will not have any change to their assessment amount. This is because their portion of the loan remains outstanding and therefore should continue to be amortized and paid off.

Once a correctly calculated payoff is received then an association should have in place procedures to turn this payment over to the loan



*“The other concern here is that if the association does not apply a payoff to a loan, they could pay more in interest than they normally would when properly applying a payoff.”*

lender as soon as possible. This is for a few reasons, the first being that once paid over to the bank, ideally the loan will be re-amortized and therefore the association’s monthly payment to the lender will

change because of the payoff. If this is not done and the loan payment remains consistent, an association will be paying more to the lender each month than it is collecting via the owners still in the assessment. This could potentially lead to cash flow issues in the long run or a timing issue where the loan is paid off, but unit owners are still in an assessment.

The other concern here is that if the association does not apply a payoff to a loan, they could pay more in interest than they normally would when properly applying a payoff. Since interest is calculated on the outstanding principal balance of the loan, having an incorrect higher principal value could lead to additional cost.

**Conclusion**

Special assessments to help deal with financing costs are a common occurrence in community associations. Despite being something that may occur in the ordinary course of business, an association should be aware of their mechanics and the potential pitfalls that occur with them. ■

*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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Ronald J. Barba, Esq.

## New Fair Housing Protections for the LGBTQ Community and Based Upon Gender Identity

By Ronald J. Barba, Esq.

Although many community association boards and owners do not yet know, condominiums, cooperatives, planned communities and the like are subject to the protections of the Fair Housing Act (FHA). The Fair Housing Act, 42 U.S.C. 3601 et seq., prohibits discrimination by direct providers of housing whose discriminatory practices make housing unavailable to persons because of race or color, religion, sex, national origin, familial status, or disability. For the first time, LGBTQ Americans will be protected under the FHA. The U.S. Department of Housing and Urban Development (HUD) on February 10, 2021 announced that it will administer and enforce the Fair Housing Act to prohibit discrimination on the basis of sexual orientation and gender identity.

For many years now the Connecticut Commission on Human Rights and Opportunities (CHRO) has pressed the rights of those in the protected classes. Often unsuspecting boards would receive notices of complaints issued through the CHRO by unit owners claiming discrimination. While some are sued as a sword to disincentivize Boards from enforcing association rules, others are legitimate complaints based on actual violations of the FHA. All too often the discrimination is not based in willfulness, but simple ignorance of the law. Those mistakes can amount to costly fines and settlements and mandated education programs for those very same boards. Hopefully, this article will waken Boards to the new reality associated with protections afforded to the LGBTQ community and the previously established protections for so many others.

HUD's Office of Fair Housing and Equal Opportunity (FHEO) issued a memorandum stating that HUD interprets the Fair Housing Act to bar discrimination on the basis of sexual orientation and gender identity. HUD declared that it would begin enforcing the FHA to prohibit discrimination on the basis of sexual orientation and gender identity, a new move that will extend civil rights protections to millions of LGBTQ Americans.

Association Boards should interpret these announcements to mean that transgender individuals could use the bathroom for the gender they identify with. An additional unisex bathroom (available to whoever wishes to use it) might be worth the cost to avoid problems, but that could also raise issues beyond the obvious determination of cost. Would a unisex bathroom be singling out transgender people for different discriminatory treatment? One transgender member may want it but another may feel it is discriminatory if the association creates any rule singling out who may use what bathrooms.

Are individual or unisex restrooms better for transgender people than segregated bathrooms? Transgender people should not be singled



*“Transgender people should not be singled out as the only people using any particular restroom.”*

out as the only people using any particular restroom. But providing individual and/or unisex restrooms is not a bad idea, because they do provide more options for Transgender and Gender Non-Conforming (TGNC) people, as well as for people with young children and people with disabilities who need help from someone of a different gender.

As time passes, the law and guidance for the reasonable accommodation of the LGBTQ community will develop. At this early stage, the proper approach is for Boards and the community as a whole to educate themselves about the mandates of the Fair Housing Act. Boards should also assess the logistics of the community's amenities and plan to make whatever adjustments can be made to avoid the presumption of discrimination. Pool facilities, clubhouses, locker rooms and other common element amenities should be carefully examined to determine what modifications can be made to meet the law's mandates. Budgets should be reconsidered, and funds raised for those modifications. Lastly, boards should take the lead in educating association members about the existing fair housing laws and the new protections emerging from it. ■

*Ronald J. Barba, Esq. is the Managing Partner of Bender Anderson & Barba, P.C. Ron is a frequent speaker at CAI-CT education programs. He serves on our Legislative Action Committee and is a member of our Golf Committee.*



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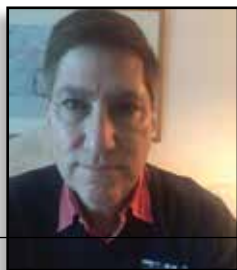
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## Manager's Column...



Rich Wechter, CMCA

### Being Practical, Part LXIX A Demand for Civility

By Rich Wechter, CMCA

In this column, we tackle various topics of interest with the intent of imparting practical advice. This issue's column looks at a most timely and important topic: the utter breakdown in civility in this country and how such breakdown impacts community associations. Community associations are a microcosm of our country and, as we have noted previously, are part government, community and corporation. Given the intricate composition of a community association, it is not surprising that the breakdown in civility generally, is found in community associations. We will explore the problem in depth and offer solutions to combat this behavior.

#### Setting the Table on this Topic

P.M. Forni, a professor of early Italian literature who became an exponent of civility wrote: "When the healthy pursuit of self-interest and self-realization turns into self-absorption, other people can lose their intrinsic value in our eyes and become mere means to the fulfillment of our needs and desires." One cannot look past the last few years in our nation's capital to see evidence of an enormous breakdown in civility. The level of venom and anger has, for the most part, paralyzed our government and placed the two political parties at each other's throats. Most people have turned off their televisions and smart devices and given up reading newspapers due to this current climate. In the world of community associations, such breakdown in civility is found in many examples.

#### The Breakdown in Civility

We offer just a few examples of such breakdowns at community associations which we believe are just the tip of the problem.

1. Personal animus between board members who have different styles and philosophies on how associations should be governed and how boards should function. This can and has led to both verbal and physical assaults at board meetings.
2. Communications by unit owners and residents both verbal and in writing (usually by e-mail) in which vendors, their employees and agents are called idiots, morons and a whole number of other names that are not suitable to be repeated in this column. While constructive and even passionate criticism is appropriate and welcomed, when such communications cross the "civility" line, the complaining unit owner or resident causes problems in addition to any legitimate underlying issue that generated their unfortunate and inappropriate comment.



skynesher/E+/Getty Images

*"This can and has led to both verbal and physical assaults at board meetings."*

3. Communications from unit owners and residents to the management company venting on matters that the management company simply communicated to said unit owner or resident at the direction of the Board. Unfortunately, the managing agent becomes the target of all the slings and arrows when it is simply the messenger for the Board. Once again, to keep this column rated "G," we will abstain from quoting any of such comments as we know that all who regularly read this column can read between the lines and guess what was communicated.
4. Vendors who either due to constant verbal abuse from residents at properties or just due to their personalities get into verbal altercations with residents which can get ugly.

#### How to Combat the Breakdown in Civility

We first offer the following Civility Pledge that has been prepared by the Community Associations Institute which not only should be adopted by all community associations but should also be disseminated to all unit owners and tenants in an effort to combat the breakdown in civility.

*[Continues on page 20.]*



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MANAGER'S COLUMN...from page 18.

### Community Association Civility Pledge

A commitment to fostering a climate of open discussion and debate, mutual respect, and tolerance between all who live in, work in, and visit our community.

1. We expect each individual, whether a resident, guest, board or committee member, community association manager, staff member, business partner, or contractor, to be accountable for his or her own actions and words.
2. We believe all interactions in the community should be civil despite any differences of opinion on a particular issue. We believe in finding common ground and engaging in civil discussion about community issues important to each of us.
3. We vow to respect all points of view and will strive to provide a reasonable opportunity for all to express their views openly - without attacks and antagonization. We agree to keep our discussions focused on the business issues at hand, as well as on the ideas and desired outcomes.
4. We urge all residents to be engaged and informed. Get to know your neighbors, your board members, and your community manager. Attend meetings, join a committee, or serve on the board. Understand the community's rules, regulations, and covenants, and the value they add. Ask questions, share your opinions, and vote.

5. We also encourage all residents to review Community Associations Institute's (CAI) Rights and Responsibilities for Better Communities. The principles laid out in the document can serve as important guideposts for all those involved in our community: residents, guests, board and committee members, community association managers, staff members, business partners, and contractors. Read more at [www.caionline.org/RightsandResponsibilities](http://www.caionline.org/RightsandResponsibilities).

6. We believe these commitments to civility, as well as engaged and informed residents, are a vital part of our shared goal of being a vibrant, thriving community.”

We next offer a few additional suggestions to combat the breakdown in civility. They include the following:

1. Disseminate information that clearly and succinctly sets forth who is responsible for various activities and the manner of that responsibility. Ignorance of such matters is sometimes the catalyst of uncivil remarks.
2. Provide a high brow reply to any uncivil remarks. The longer that such uncivil remarks can fester and remain unanswered, the longer and harder the civility breakdown will continue. We do, however, recognize that some people will never accept that their comments and actions are inappropriate and unacceptable.
3. Back-up your fellow board members, managers and vendors who are just doing their jobs.

[Continues on page 34.]



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William Ward, Esq.

## Resale Certificates – *Disclosing Future Capital Projects and Current Violations*

By William Ward, Esq.

This article focuses on two issues facing Associations when preparing the Resale Certificate. What information should be disclosed concerning upcoming projects, which have been discussed, but not approved? Whether the Board is obligated to disclose that the current owner is in violation of provision(s) of the Declaration, Bylaws, Rules, Policies, or Maintenance Standards?

A frequent scenario occurs when the Association approves a special assessment for a capital project discussed at Board meetings or owners' meetings shortly after a new owner purchases a unit, but which was not approved by the Board of Directors prior to issuance of the Resale Certificate. The new owner objects to paying for failure of the Board of Directors to disclose the upcoming project in the Resale Certificate, which immediately creates an adversarial relationship with the new owner.

The statutory provisions in C.G.S. 47-270 are clear and unequivocal. The 17 categories of information are factual recitations designed, amongst other purposes, to allow a potential Buyer the opportunity to evaluate the financial stability of the Association, inform the Buyer of all amounts due and owing to the Association for the Unit being purchased, and disclosing known violations. The Resale Certificate protects the Association because the Buyer is bound by all information disclosed in the Resale Certificate including being liable for payment of all amounts assessed against the unit and correcting existing violations. The Buyer has five days, excluding Saturdays, Sundays, and legal holidays (seven days if sent by registered or certified mail) to void the purchase contract (hereinafter the "right to rescind") after receipt of the Resale Certificate and the required documents.

C.G.S. 47-270(a)(4) governs capital expenditures. It requires disclosure of:

"(4) a statement of any capital expenditures in excess of one thousand dollars approved by the executive board for the current and next succeeding fiscal year."

Though the Board, and/or the unit owners, may have discussed an upcoming capital project for months, C.G.S. 47-270(a) does not permit the Board of Directors to disclose those discussions to a potential Buyer since that information is not in one of the 17 statutory categories. If a Buyer exercises its right to rescind the Seller may sue the Association for the loss suffered from the cancelled sale (reduced sale price, cost of paying the expenses of the unit until sold, legal fees, etc.) due to tortious interference with contract because of the disclosure of non-statutorily required information.

The Seller must allege and prove that the Buyer rescinded the contract as a result of the illegal disclosure of the future capital project



*"If a Buyer exercises its right to rescind the Seller may sue the Association for the loss suffered from the cancelled sale..."*

and prove the Seller's loss. If proven, then the Association would be responsible for the loss suffered by the Seller. Even if the Seller does not sue the Association, it can cause friction and discord in the Association.

To avoid such lawsuits, or claims, I recommend that the Board of Directors, when considering a capital project in excess of one thousand dollars which have not been approved, send a letter to all owners informing them that the Board of Directors is unable to disclose information about the anticipated capital project without their permission, instructing the owners to disclose to potential Buyers the capital project being discussed, and request that a Seller include the information known about the anticipated capital project in the listing agreement and contract of sale. Another alternative is for the Board of Directors to ask for written permission from a Seller to disclose the information in the Resale Certificate.

Assuming a Seller complies, there is full disclosure to the potential Buyer of the anticipated capital project, which the Board of Directors could not have legally disclosed, and the anticipated cost will be negotiated into the sale price. If it isn't negotiated into the sale price and the Buyer objects after closing, the Board has written verification that it notified all owners that it was unable to disclose the information, the Seller was informed of that fact and, therefore, the Buyer's

*[Continues on page 22.]*

**RESALE CERTIFICATES...from page 21.**

dispute is with the Seller not the Association. Being a big fan of belts and suspenders, I also recommend sending a letter to the Seller, with a copy of the original letter, reminding them to disclose the discussions of the upcoming capital project to the Buyer whenever the Association receives a request for a Resale Certificate. By following the above recommendations, the Board of Directors will protect the Association from liability and minimize potential discord in the community.

Another common scenario involves a unit with a violation, which occurred without approval of the Board of Directors such as finishing a basement, extending a deck, modifying a bathroom involving electrical or plumbing, unauthorized work to the interior of the unit, or other violations of the documents. C.G.S. 47-270(a)(13) requires:

“(13) a statement disclosing the effect on the unit to be conveyed of any restrictions on the owner’s right to use or occupy the unit or to lease the unit to another person.”

If the Board is aware of a violation, my opinion is that it should be disclosed. Arguably an uncured violation is allowing a use of the Unit in violation of the condominium documents. For example, if the Seller constructed a bathroom without permission or permits, the Board of Directors could order that it be removed and, therefore, the Buyer would be unable to use it. If the Board of Directors has actual notice or knowledge, then the violation must be disclosed in the Resale Certificate pursuant to Section 13 of 47-270(a) in order for the Board of Directors to be able to take enforcement action against the Buyer post-closing if the violation is not cured prior to the sale. By disclosing it in the Resale Certificate the Buyer has notice of the violation and can negotiate with the Seller to cure the violation and/or negotiate the purchase price.

Without actual notice or knowledge, the Board of Directors has no ability to disclose the violation in the Resale Certificate. Without disclosing the violation in the Resale Certificate, it will be very difficult for the Board of Directors to take any enforcement action post-closing. The Board of Directors has the burden of proving the violation and when it occurred. If it cannot prove that the violation did not exist when the current owner purchased the unit, it is unlikely a court would validate any enforcement action unless it involved a significant safety or health hazard, or a code violation.

The reverse is also problematic. The Board of Directors should be very wary of attempting to enforce a known violation when the current owner sells unless it is by written agreement with the current owner that the violation will be cured prior to the sale of the unit, or it is disclosed in the Resale Certificate. Failing to enforce a known violation, which is not disclosed in the Resale Certificate, and opting to enforce it post-closing has very little chance of success.

To minimize potential issues with Buyers in connection with the above issues, or other potential issues, (including the failure to amend your Declaration and Bylaws to conform to the 2010 and subsequent amendments to the Common Interest Ownership Act) I recommend that all Resale Certificates contain the following disclosures in bold lettering at the end.

This Resale Certificate complies with the provisions of C.G.S. 47-270(a) of the Connecticut Common Interest Ownership Act. Only the information required by C.G.S. 47-270(a) is provided. The Association disclaims any duty to disclose or to certify any other information.

The information contained herein is valid as of the date of this Resale Certificate. The Association does not have any obligation to furnish updates to the Resale Certificate if any of the information disclosed herein changes after the date hereof unless requested in writing prior to the date of closing.

Please note that as of July 1, 2010 through the date of this Resale Certificate, many provisions of Connecticut’s condominium statutes were amended. The Association’s Declaration and Bylaws do not reflect these changes yet. Please consult with your attorney if you have questions about the amendments in the condominium statutes.

Association living has enough challenges, especially considering the unique issues COVID-19 thrust upon you. The above recommendations are designed to minimize potential disputes and to avoid creating adversarial relationship with new owners. Though it requires extra work on behalf of the Board, it is far less than the time and potential cost of resolving a post-closing claim. ■

*William Ward, Esq. is the Owner of the Law Firm Ackerly & Ward. Bill is a frequent speaker at CAI-CT education programs. Bill served on the CAI-CT Board of Directors and is currently a member of our Legislative Advocacy Committee and Golf Committee.*

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**ENVIRONMENTAL TIP**

*Spring Cleaning*



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## Prolonging Your Pond's Retirement

### *Proactive solutions to help extend the lifespan of your waterbody*

By Gavin Ferris

The very first fish I remember catching was a bullhead catfish. It was in a small pond in my grandparents' HOA community that is still there today. Well, sort of. Though the pond had once been deep enough for fishing and stormwater collection, its depth is now best measured in inches rather than feet. The cattails that were once clustered near the outflow are now abundant throughout the pond. Today, the waterbody resembles the nearby wetland more than it does a pond. In the 55 years of its existence, no measures have ever been taken to mitigate against the process of succession.

Lake and pond succession is the natural lifecycle of any waterbody. The very tributaries that supply a waterbody with its water also carry sediment, which over time accumulates and decreases the water depth. Aquatic weeds and nuisance vegetation decompose and create additional organic sediment. And the shallower the pond becomes, the more vegetation it produces—accelerating the aging process.

The speed at which a lake or pond becomes a marsh depends upon several different factors. Some of these factors can be controlled; others can be mitigated. But it is a future that all waterbodies will face at some point in their lifespan. This is why proactive management is not only beneficial, it's key to preserving the health, function and beauty of our freshwater resources.

A common tool recommended to HOA/condo communities is a beneficial vegetative buffer comprised of native flowering plants and grasses. A vegetative buffer that is allowed to grow 3-5 ft out from the shoreline can help significantly reduce the amount of surface runoff, sediment and pollution entering a lake or pond during rainstorms. Establishing similar erosion controls around streams and tributaries is also a wise precaution against transported sediment. Organic matter accumulation can be further prevented in the waterbody by applying nutrient remediation products, which process excess nutrients before they can be used to fuel algae and aquatic weeds, and introducing supplemental bacteria and enzymes, which aid in the decomposition of vegetation and bottom muck.

Another consideration relating to decreased water depth is the increase in temperatures. Shallower water warms faster, leaving it prone to excess algae growth, increased submersed and emergent vegetation growth, and oxygen depletion. Lake and pond aeration can help mitigate these issues and help slow the accumulation of organic matter. Beneficial dissolved oxygen can be produced by several types of pond aeration systems, which your aquatic management professional may recommend depending on your goals and the characteristics of your waterbody. Floating fountains provide effective circulation in shallow ponds, while submersed aeration systems oxygenate deeper waterbodies from bottom to top. And new technologies like nanobubble aeration treatments can be used supplementally alongside these systems to provide additional natural benefits, including toxic cyanobacteria con-



ej99/istock/Getty Images Plus

*“Shallower water warms faster, leaving it prone to excess algae growth, increased submersed and emergent vegetation growth, and oxygen depletion.”*

trol and the elimination of pollutants while encouraging the growth of native wildlife and vegetation.

Eventually, the line between a pond and a wetland becomes a little blurry; after all, a wetland without vegetation is, well, just mud. Some forms of vegetation, like cattails and Phragmites, not only thrive in late-successional ponds, but actually speed the rate at which succession occurs, so removing these nuisance plants is especially important. At the same time, it is just as important to establish and promote healthy native wetland plants in order for any form of aquatic ecosystem to persist. The species best for your situation will depend on your location and your ultimate aesthetic and functional goals.

One concern I often hear from community managers, especially those with aging ponds and shallow stormwater retention areas, is the production of mosquitoes. Certainly, shallow productive habitats are more conducive to mosquito breeding than are open water ponds. As long as sufficient water remains to sustain them, a population of fish, even minnows, will prevent mosquitoes from proliferating. Amphibian and insect predators like salamanders and dragonflies are also adept at controlling mosquitoes and can be promoted with appropriate native vegetation.

Proactive management strategies can be incredibly impactful in community waterbodies, especially when introduced early on in the lake or pond's lifespan. Eventually, though, decisions must be

made about the future of a waterbody. For stormwater basins and other ponds that must meet design specifications in order to fulfill their intended function, sediment removal or dredging may eventually become a requirement. While dredging can be a tremendously expensive endeavor, a well-designed custom management plan that includes strategic hydro-raking can help prolong the need to dredge by 10 years or more and will allow your community to plan for the expense gracefully.

Aging is inevitable, even for your waterbody. It is up to us to decide if and how to intervene in that process. ■

*Gavin Ferris is an Ecologist at SOLitude Lake Management, a freshwater management firm that provides sustainable solutions for lakes, stormwater ponds, wetlands and fisheries.*

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**Joel W. Meskin, Esq.,  
CCAL, CIRMS,  
MLIS, EBP**

# To Open or Not To Open Pools, and Other Common Amenities *That is The Question*

Prepared by Joel W. Meskin, Esq., CIRMs, CCAL Fellow, MLIS, EBP

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| <b>CLOSE –<br/>Impact on Association Assets</b>   | <b>OPEN –<br/>Impact on Association Assets</b>  |
|---|---|
| <p>If the Pool is kept closed, or is closed, the potential claim against the board is a unit owner going into court seeking an injunction to have the common element such as the Pool, Gym, Clubhouse, Sport Courts and Playgrounds.</p> <p>Since there is no D&amp;O Coverage because of the Absolute Bodily Injury Exclusion, there is no insurance to fund the association, board or CAM's defense. Accordingly, the risk is having to pay this defense. Since this was done after board discussion and consulting attorneys and insurance professionals, a court is more likely than not to uphold the board's decision as being made in Good Faith and protected by the Business Judgement Rule.</p> | <p>If the BOD assumes a liability that it is not required by the governing documents or statute to assume, it should not assume that risk on behalf of a Not for Profit budget driven entity.</p>   |
|   | <p>Associations are Not for Profit BUDGET DRIVEN entities. By opening up the pool or other common amenities, with no insurance coverage and no budget line item for these uncovered liabilities they do not need to assume, this leads to busting the budget. These assumed liabilities are not budgeted and other budget items will need to be tapped causing the board to possibly breaching their fiduciary obligation or good faith owed to the association.</p>          |
|   | <p>There is no D&amp;O coverage if the board is challenged to Open</p>  |
|   | <p>A governmental order does not give the board, the BOD or the CAM immunity for the consequences of opening the pool.</p>  |
|   | <p>How will the monitor compliance with the Order's restrictions such as the number of people at the pool, social distancing problems and who gets to be part of the % allowed to be at the pool (first come first serve, a lottery)</p>  |
|   | <p>If there is no insurance, the BOD on behalf of the Insured will need to take money to fund its defense or indemnity (paying a settlement or judgment) out of operating funds, reserve funds (to the extent permitted), by special assessment or by taking out a loan. There is a good chance that the decision to keep the common amenities open at this time may impact the association's insurance because of its decision to do so putting it judgment in question.</p> |



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*Joel Meskin, Esq., CIRMS, CCAL Fellow, MLIS is Vice-President of community association products with McGowan & Company, Inc. Joel is a popular speaker at CAI-CT programs. He also has some adorable grandchildren.*



## Community Association Civility Pledge

**A commitment to fostering a climate of open discussion and debate, mutual respect, and tolerance between all who live in, work in, and visit our community.**

Community associations are comprised of people with different ideals, preferences, and values. The Community Association Civility Pledge provides a framework for effective community conversations.

How we talk about things matters. While we may be able to share our views with people who already agree with us, sharing our opinions while leaving room for someone else's viewpoint can be challenging. How can we seek to listen to those who hold different beliefs? How can we respectfully disagree?

Community association boards are regularly faced with challenging and complex issues that can spark strong emotions. A critical responsibility of a board leader is to facilitate community conversation about these important issues. By adopting the Community Association Civility Pledge, community association boards commit to embracing principles that establish a framework for effective community conversations.

Community association boards use this framework to lead their communities through conversations about difficult and complex issues and harmonizing feedback from residents resulting in decisions that are informed and well balanced for the community as a whole.

CAI strives to promote harmony, community, responsible citizenship, and effective leadership with this initiative. In the process, we make life better for the millions of people living in community associations around the world.

### How Can You Make It Happen?

**Adopting the Civility Pledge starts with YOU!**

**Download and Adopt the CAI Civility Pledge**  
[www.caionline.org/CivilityPledge](http://www.caionline.org/CivilityPledge)



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## ELECTRIC VEHICLES Plug Into the Future

**Wednesday, June 24, 2021**

**Education 3:00 pm - 5:00 pm**  
**Networking Party 5:00 pm - 7:00 pm**

Location: TBD

Electric vehicles (EVs) are economical, environmentally friendly options for drivers and are quickly becoming the future of transportation. The sales growth of EVs indicates that they will soon be a part of everyday life for many Americans living in community associations. Managing the increasing demand for EVs will require associations to consider electricity capacity, charging stations, association policies, and innovative management strategies.

Learn what your community association will need in order to keep pace with this expanding and evolving technology!

Speaker: CT DEEP Staff

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J. Chase Edwards,  
LEED GA

## TECHNICAL EXPLANATIONS

By J. Chase Edwards, LEED GA

### Green Construction: *Reconnecting with Nature*

From the first form of shelter to modern society, the built environment has come a long way. However, this has come with a cost to both the environment and the quality of life. As more buildings begin to be built around the world, natural context begins to become overtaken. Limiting greenspace for individuals to enjoy while taxing the environment with increased emissions and pollution. Though, with the implementation of sustainable alternatives (in new construction and existing properties) life within nature can be restored and a future on earth can be preserved.

Globally, the built environment and construction sector accounts for nearly 40% of the total greenhouse gas emissions. This includes but is not limited to, material extraction, material transportation, machinery usage, and operational usage (energy, cooling, heating, etc.). In addition, buildings contribute pollutants into local waterways through stormwater runoff. To combat these environmental issues, cities such as Toronto, Canada have reformed building bylaws to require a greener approach within new construction. For example, buildings with a certain amount of roof area are required to designate 20-60% of roof space to a green roof. However, older buildings nearing the age of renovation can also implement many strategies to bring nature closer to their occupants. These strategies (listed below) improve the quality of life, longevity of life, and comfort for building occupants while improving building performance.

#### 10 Sustainable Strategies:

##### Automatic Illumination

- Install automatic light sensors to reduce the buildings overall energy consumption.
- Recommended use: corridors, parking structure, etc.

##### Efficient Fixtures

- Install efficient fixtures to reduce the overall energy and water consumption used within the building.
- Recommended use: light fixtures, toilet faucet, mechanical systems, etc.

##### Foliage:

- Naturally shade windows/glazing using coniferous trees to reduce energy consumption.
- Recommended used: southern facing windows (Northern Hemisphere)



Photo by J. Chase Edwards.

*“...older buildings nearing the age of renovation can also implement many strategies to bring nature closer to their occupants.”*

##### Grey Collection system

- Install a grey collection system to harvest reusable grey water and reduce potable water consumption.
- Recommended use: irrigation purposes, toilets

##### Indoor Greenery:

- Installation of greenery or a greenspace within a building promotes air quality and morale of occupants.
- Recommended use: lobby space, gathering space, community area, etc.

##### Permeable Paving

- Install permeable paving in lieu of regular hardscape to limit stormwater runoff from entering waterways.
- Recommended use: sidewalk, patio, etc.

### Photovoltaic Paneling

- Install solar panels to harvest sunlight (renewable energy) and reduce the buildings overall energy consumption.
- Recommended use: south-facing sloped roofs (Northern Hemisphere), low-sloped roof.

### Skylights

- Install skylights to utilize natural daylight as illumination and reduce the buildings overall energy consumption.
- Recommended use: northern facing roof surface (Northern-Hemisphere)

### Solar Heating

- Install a solar heat collection system to naturally heat your building during the cold winter months and reduce the buildings overall energy consumption.
- Recommended use: southern facing roof surface (Northern Hemisphere)


### Sustainable Materials and Finishes

- Utilize renewable and/or sustainable materials and finishes to reduce off-gas and embodied carbon while promoting the health of the building occupants and the environment.
- Recommended use: carpet, furnishings, paint, etc.

With the environment on the brink of maximum wear and tear, the future of the built environment starts now. Furthermore, It is understandable that implementing all the above may not be feasible within your next project. However, employing just one sustainable strategy mentioned can go a long way when reducing global emissions and improving the well-being of the building occupants. ■

*Chase Edwards is a Project Manager with the Falcon Group. His experience includes managing and overseeing small scale repaving projects, balcony reconstruction and roof truss repair projects to ensure top standards.*

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**Y**ou 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>.

### Do Vandalized Vehicles Parked in Common Area Bring HOA Liability?

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

Dear Mister Condo,

Our small HOA requires vehicles to be garaged at night with few exceptions made for vehicles too big to fit in garage. Given these vehicles are parking outside in the homeowners’ driveways located on common area, would the HOA or homeowner be responsible if the vehicle was broken in to or damaged?

**Mister Condo replies:**

D.M., HOAs are not typically held accountable for crimes that are committed on their common grounds. After all, they are not the police and have no authority to detain or deter criminals. That being said, contacting your local police department and asking them to attend a meeting to educate unit owners about how they can protect their property might be helpful. Privately held automobile insurance is the likely source for any relief from such break-ins. I hope your HOA doesn’t experience such problems regularly but I do hope the HOA takes steps to try and deter crime for the sake of all residents. 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! ■

## Rights And Responsibilities

### Principles for Homeowners and Community Leaders

More than a destination at the end of the day, a community is a place you want to call home. There is a difference between living in a community and being part of that community. Being part of a community means sharing with your neighbors a common desire to promote harmony and contentment.

This goal is best achieved when homeowners, non-owner residents and association leaders recognize and accept their rights and responsibilities. In all cases, this entails striking a reasonable, logical balance between the preferences of individual homeowners and the best interests of the community as a whole. It is with this challenge in mind that Community Associations Institute (CAI) developed Rights and Responsibilities for Better Communities.

Community associations exist because they offer choices, lifestyles, amenities and efficiencies that people value. Yet, with all of their inherent advantages, community associations face complicated issues, none more common than the challenge of balancing the rights of the individual homeowner with those of the community at large. Managing this critical and delicate balance is often the essence of effective community leadership.

By encouraging community associations to adopt Rights and Responsibilities for Better Communities, CAI strives to promote harmony, community, responsible citizenship and effective leadership. In the process, we make life better for the more than 60 million Americans who live in community associations.

#### Let Rights and Responsibilities Help Your Community

The process of formally adopting Rights and Responsibilities will give communities an excellent opportunity for the kind of dialogue that facilitates awareness, builds consensus and promotes greater community involvement.

Once adopted, Rights and Responsibilities will serve as an important guidepost for all those involved in the community—board and committee members, managers, homeowners and non-owner residents. The document will also serve as an excellent tool to educate new homeowners and residents about their own rights and responsibilities.

As greater numbers of associations adopt Rights and Responsibilities—and adhere to its principles—there will be less potential for conflict within communities. Ultimately, this will improve the image of managed communities across the nation, leading more people to understand the nature and value of community association living.

Adopting Rights and Responsibilities can also create positive publicity for your community—and reduce the kind of negative publicity often created by conflict.

#### How You Can Make it Happen

Adopting Rights and Responsibilities for Better Communities is easy!

- Download the Rights and Responsibilities document.
- Distribute the document throughout your community, announcing and publicizing where and when adoption will be considered.



**CONNECTIONS CHAPTER**  
**community**  
ASSOCIATIONS INSTITUTE

## Condos and Constitutional Law – Flags and Free Speech

Monday, June 14, 2021, 12:30 -1:30 pm

**Political signs, flag poles, community bulletin boards — what rules can be imposed?**

**Good for 1.0 Continuing Ed Credit**

**Speaker:**  
**Michael S. Karpoff, Esq.,**  
**Hill Wallack, LLP, Princeton, New Jersey**

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Community associations have significant discretion because they aren't government entities and, as such, aren't bound by the same constitutional restrictions. Since a community association is private and not an official form of "government," federal First Amendment freedom of speech protections typically don't apply to private association restrictions or covenants that may limit such rights. Our speaker will explain how the Constitution affects rules in condos and HOAs.

- Explain why this is important to your community and the benefits it can create.
- Review and discuss the merits of the principles at an open meeting of your board.
- Solicit input from homeowners.
- Have your board vote to adopt a resolution endorsing Rights and Responsibilities for Better Communities. The principles will be more meaningful to homeowners and community leaders if they are formally adopted.

Like many worthwhile endeavors, community living cannot be free of conflict. Utopia does not exist. With all of their inherent advantages—and there are many—community associations often face difficult issues. While adopting Rights and Responsibilities will not eliminate all conflict, its adoption can stimulate communication, promote trust and cooperation, clarify expectations and build a greater sense of community. CAI urges you to take advantage of this opportunity.

Rights and Responsibilities, developed as an ideal standard to which communities could aspire, is a goal-based statement of principles designed to foster harmonious, vibrant, responsive and competent community associations. The principles were not designed to be in complete harmony with existing laws and regulations in 50 states, and in no way are they intended to subsume existing statutes. Where there are inconsistencies, community associations should adhere to the spirit and letter of all applicable laws. If you have a question, we suggest you consult with your attorney. ■



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[Continues on page 34.]

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**MANAGER'S COLUMN...from page 20.**

4. Avoid escalating a situation with one who is uncivil. Approach but do not cross the line of civility in your efforts to defuse a situation.
5. Utilize the feature in Zoom to mute anyone who acts in an uncivil like manner.
6. Always remember the famous line from the late Daniel Patrick Moynihan "You are entitled to your opinion. But you are not entitled to your own facts."

**Conclusion**

It would be unrealistic and overreaching to suggest that community associations can accomplish what governmental bodies are unable to achieve: a civil existence between people of differing opinions. We would be quite naïve to suggest this. However, we do believe that community associations should draw a line in the sand and declare that they will be moving in a direction toward this goal. If that can be accomplished, then it is a great day for any such community association. We hope that this article will aid property managers and association board members in this effort. ■

*Rich Wechter, CMCA is Senior Vice President at Westford Real Estate Management, LLC. Rich also serves as a Delegate on the CAI-CT Legislative Action committee.*



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We are now approaching the beginning of our second pool season in the midst of an unprecedented pandemic. As pool professionals we are always looking to seek the latest information from various state and federal agencies so we can continue to serve and educate the swimming pool community. What we do know is the science to protect your pool and the know how to keep your pools safe and problem free. We are strongly recommending that the pools be opened on schedule one of two ways.

Option one would be to fully start and balance the pool and have it ready to go as things continue to change. This would also provide the aesthetic value and the state of mind of residents to see some peaceful blue normalcy.

Option two would be to start the pool so the circulation system can run and recover the pool. This will allow the pool to stay healthy and keep the fence jumpers out... I'm sure many of you have some stories about that. When the ok is given to allow bathers in to the pool area the cover can be quickly removed and will be ready to go.

The other option you have is to leave the pool closed entirely for the season. This is definitely the worst option to maintain the condition of the pool. I know I have personally worked with many of you and we all know the expensive renovations, repairs, and work that have gone into these pools. We need to protect these pools and ultimately the investments made by our communities.

**DO NOT DRAIN YOUR POOL!!!** Pools should never be drained without contacting a licensed pool professional first.

#### Water Balance:

Without proper chemical balance the water can either become acidic, corrosive, basic, and aggressive also the pH and calcium levels will not be controlled. This can rapidly deteriorate the pool, anything from damaged and stained plaster, scale formation, paint failure, and damage to the tile and structure. The chlorine should also be maintained to keep the water clean and in balance. Also, without any sanitizer you are very likely to experience major algae, biofilm, insects such as mosquitoes, and bacteria.

What we are recommending is going to save these pools from costly repairs down the road. Let's not forget to protect our community's investments, and remain problem free for years to come.

Keith Anderson, CPO, CSP, CBP, SPB, SP-1  
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