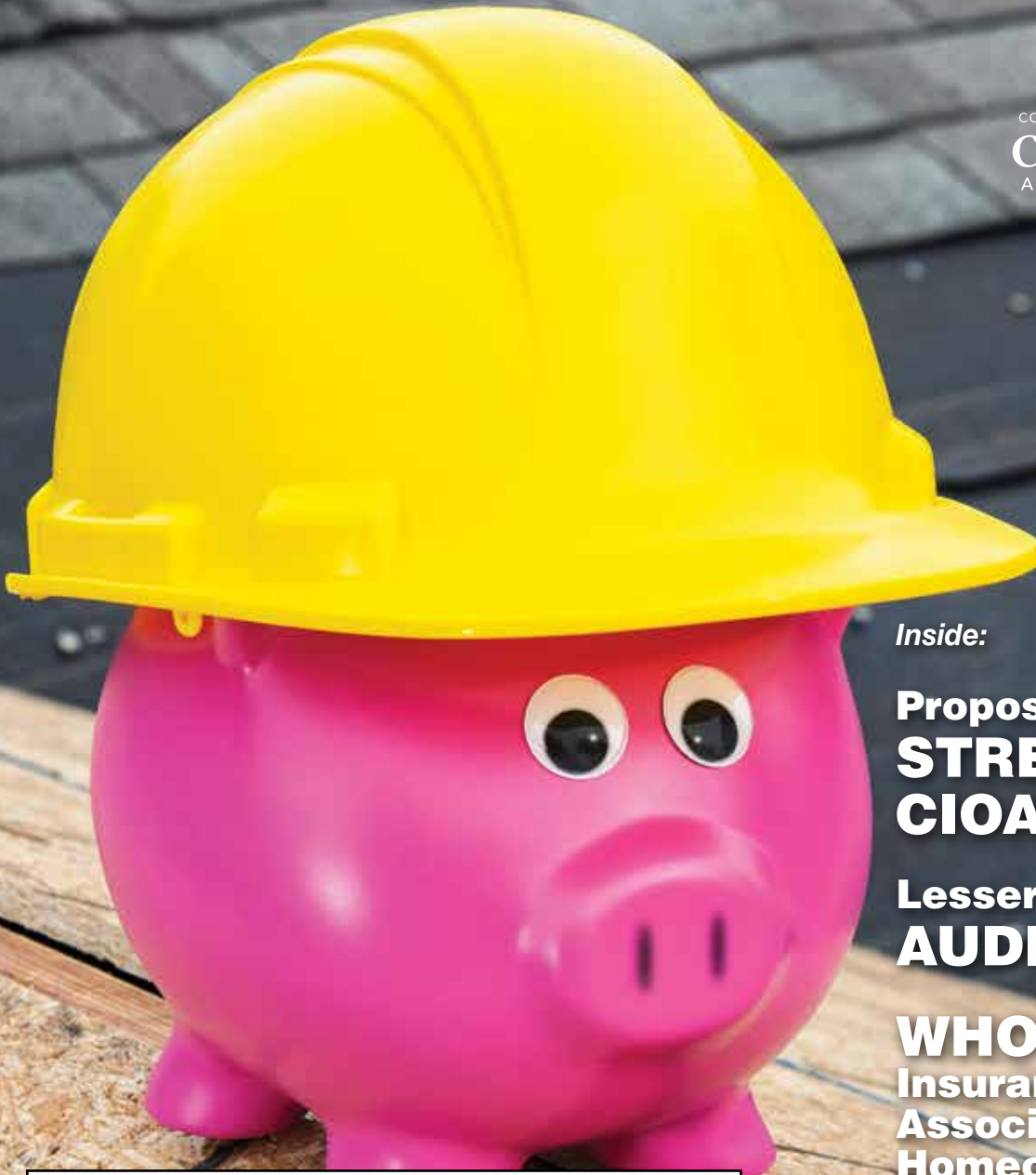


Common Interest

The Official Publication of CAI-Connecticut

Vol. XVI: Issue 3 • 2021



Inside:

**Proposed Legislation to
STREAMLINE
CIOA**

**Lesser Known
AUDIT ISSUES**

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Association or
Homeowner**

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RESERVES
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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

“CAI is transitioning back to more in-person events over the upcoming months, but we are retaining our virtual capabilities.”

Greetings — As I write this message we are in the midst of transitions in all aspects of our lives. One day the weather temperature is 70 degrees, the next day we have snow.

But closer to home, we also are transitioning from a COVID world to a new world in which COVID may not so dominate our lives as it has for more than a year. We discovered the advantages of a virtual trade show through the Herculean efforts of our committee and staff. Having said that and congratulated ourselves for the show, we earnestly hope that next year’s event will take place in person. CAI is transitioning back to more in-person events over the upcoming months, but we are retaining our virtual capabilities. Fingers crossed that the transition from the COVID world will remain a one-way trajectory, more or less.

Our own businesses and offices remain in a dynamic state. Many of us are working remotely and likely will continue to do so for a while. Many offices still afford the public only limited access. CDC guidelines are still the norm at most locales. Whether a return to old ways is rapid or protracted — or whether we return at all — remains to be seen. We certainly are not yet back to “normal.”

The Legislative Action Committee has been busy, on several fronts. Perhaps when this issue of *Common Interest* reaches you, we will know the outcome of our efforts. On one front we are advocating making permanent those procedures that the Governor’s Executive Order allowed on a provisional basis – virtual meetings and the like that hold the promise of permanent efficiencies in how communities are governed. Statutory changes in these matters will afford Boards much more flexibility. The interesting question is whether Boards will transition back entirely to their old ways of conducting business or adopt some or all of procedures that have been available and utilized during the COVID era.

But no issue has occupied the time and attention of the Committee, Boards, staff, managers, vendors, lawyers and owners alike as have swimming pools. I don’t have a crystal ball and certainly am not offering any predictions or advice. I am suggesting only that the transition in the operation (or non-operation) of swimming pools and amenities is still in limbo. Stay tuned! ■

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From the Chapter Executive Director

“First, have a definite, clear practical ideal; a goal, an objective. Second, have the necessary means to achieve your ends; wisdom, money, materials, and methods. Third, adjust all your means to that end.”

~ Aristotle



Kim McClain

Courtesy CAI-CT.

As people are emerging from their winter hibernation, no doubt more of the nooks and crannies in communities are being noticed especially if they are in obvious need of repair. So, what's a board or manager to do? There is no time like NOW to have those important discussions about the need for what is on the list of upcoming capital improvement projects and how they will be funded. In the words of Aristotle, does your community have the wisdom, money, materials and methods to get those projects accomplished? The housing market in Connecticut is super-hot. Is your association a 'drive by' due to deferred maintenance or is it a 'let's take a closer look and maybe buy' community? Curb appeal is more than some nice words in a real estate listing. Is your community doing its best to improve property values?

We don't need to gaze too deeply into the condo crystal ball to know that Electric Vehicles (EVs) will be more prevalent in your parking lots. EV charging stations are being created all around us. Eversource is planning a vast network of charging stations throughout New England. Is your community ready for the surge in EVs? Our program on June 24th in Stamford will help you start to plan for the need for power from your owners. Check our website for more details: www.caict.org.

Now that more businesses are opening and jobs are returning, hopefully the number of owners struggling with paying common charges, etc. is diminishing. However, if staying current with payments is still an issue for some unit owners, there is a program that can help them keep from losing their homes. Please see the article on page 19 for more details.

Fling open those windows, bask in the warmth of the sunshine! Spring has arrived. Enjoy! ■

Website Insight



Did you know, archived editions of *Common Interest* magazine are available on our website, www.caict.org? Each edition is an exact copy of the print edition. Published 8 times per year, *Common Interest* keeps you current with important issues and interesting topics concerning community associations in Connecticut.

Please note: The entire contents of *Common Interest* are protected by copyright. Reproduction in whole or in part without written permission is expressly prohibited. Please contact Kim@caict.org for more information. ■

UPCOMING CAI-CT EVENTS

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

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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

Stamford, CT

Electric Vehicles – Plug Into the Future

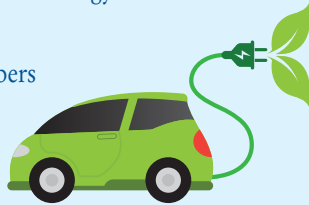
Electric vehicles (EVs) are economical, environmentally friendly options for drivers and are quickly becoming the future of transportation. The sales growth of EVs indicates that they will soon be a part of everyday life for many Americans living in community associations. Managing the increasing demand 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

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Statutory Snippet...

Special Assessments

The board may adopt a special assessment (i.e. funding in addition to the annual budget) of up to 15% of the annual budget. If more than 15% of the budget a vote of unit owners is required except for emergency special assessments which may be adopted by a two-thirds vote of the board. C.G.S. 47-261e(b) and (c).

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

Legislative Update

There are only a few weeks remaining in the 2021 Legislative Session. Thanks to the guidance of our lobbyist team and our Legislative Advocacy Delegates, we have made some progress on the legislation we have been supporting.

HB 6538 - AN ACT MAKING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT

This bill has passed the House and is on the calendar for the Senate.

HB 6665 - AN ACT CONCERNING THE REMOVAL OF RESTRICTIVE COVENANTS BASED ON RACE AND ELIMINATION OF THE RACE DESIGNATION ON MARRIAGE LICENSES

Our amendment to this bill which allows for the removal of such restrictive discriminatory covenants without the need for a majority vote to amend the documents for this purpose is now part of the bill

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

This bill did not make it out of committee. ■

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Doral Farm Homeowners Association
The Renaissance of Danbury Condominium Association
Windermere East Owners Association

Individual Managers

Darci Angarano
Joseph Kelly

Management Companies

Felner Corporation

Thank You Renewing Members

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Cedar Hollow Association, Inc.
Chapel Hill Condominium Association
Chateau Wood Condominium Association
Countryside Manor Condominium Association, Inc.
The Crossings Homeowners Association
Dartmoor West Townhouses Association, Inc.
Essex Village Condominium Association
The Fairways at Torrington Condominium Association, Inc.
Franklin Square Condominium Association
The Gardens at Summerfield Condominium Association
Gloria Commons Homeowners Association, Inc.
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Jefferson Woods Community Inc.
Kendall Green Condominium Association
Lambert Common Association, Inc.
Long Hill Condominium Association
Palmer Landing Community Association
Parkview South Condominium Association

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Westside Woods Condominium
Westwood Condominium Association, Inc.
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Wolfpit 27 Condominium Association

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Wednesday, June 24, 2021

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

Stamford, CT

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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

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Legally Speaking...



Adam Cohen, Esq.

Proposed Legislation to Streamline CIOA

By Adam J. Cohen, Esq.

Connecticut's General Assembly is considering legislation to make modest revisions to the Common Interest Ownership Act which, if passed, will help streamline some of its requirements.

House Bill 6538, "An Act Making Revisions to the Common Interest Ownership Act," was proposed in response to a number of requests from association property managers, lawyers, and other industry professionals. Perhaps the most significant change it would make is to make it easier for associations to hold unit owner meetings by telephonic, video, or other conferencing process. CIOA currently allows unit owner meetings to be conducted this way only if the declaration or bylaws specifically allow it. This legislation would reverse that rule, and allow remote owner meetings unless the declaration or bylaws prohibit them. The Governor has, by executive order, temporarily authorized associations to do this during the pandemic, but this amendment to CIOA would make the change permanent. The legislation would also extend the ability to conduct voting electronically (currently reserved for votes by referenda) to live meetings, whether conducted in-person or remotely.

The legislation would also modify the rules for unit owner access to the association's records. Currently, a written request to inspect or copy most kinds of records must be granted within five calendar days. Many associations, especially self-managed ones, can find it difficult to research and respond to significant requests by that deadline. House Bill 6538 would allow all associations up to 30 days to provide access to their records as long as the owner is offered, within 5 business days of the request, at least two dates within those 30 days for inspecting or copying them. The bill's language may be amended to also allow the association to simply give copies to the owner within that extended timeframe.

The last set of changes this legislation would make relates to notices of board hearings conducted at a unit owner's request or when deciding whether the association will sue an owner. CIOA currently requires boards to send the owner notices before and after the hearing by both first-class mail and return-receipt mail. This legislation



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"The Governor has, by executive order, temporarily authorized associations to do this during the pandemic, but this amendment to CIOA would make the change permanent."

would eliminate the return-receipt mail requirement, so that regular mail would be sufficient. It would also clarify that the 30-day deadline for sending the outcome notice is calculated from the last day of any multi-day hearing.

House Bill 6538 has a very good chance of being enacted into law this year. If your board has an opinion on this legislation, contact your representatives in Hartford well before the legislative session ends on June 9. ■

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.

Financially Speaking...



Daniel Levine, CPA

Lesser Known Audit Issues

By Daniel Levine, MBA, CPA

In the state of Connecticut there are many, many associations of different size and financial reporting needs. Depending on the size of an association and the complexity of financial reporting many may not have an audit service performed every year but instead elect to only conduct an audit every so often.

There is nothing inherently wrong with this approach, but when an association who hasn't had an audit every year elects to have one done, there are additional factors that come into play to perform the service that make the engagement potentially more complicated.

This article will seek to highlight a few of these potential complications for associations to consider prior to having the service performed which can help an audit be performed efficiently and cost effectively.

Opening Balance Analysis

The first complication when an association doesn't have an audit every year is the impact it has on the starting numbers of the year under audit. When an association has not had an audit conducted on the most recent preceding fiscal year, the current year audit must include in its audit plan analysis of this information. For example, for an association looking to have an audit done for it is 12/31/20 fiscal year will also have the ending balances of 12/31/19 analyzed as part of the audit service.

The reason for this stems from what the objective of an audit is. An audit is done to provide assurance that the financial statements are free of material misstatements. To be able to provide such assurance, an auditor needs to know whether the starting numbers are creating a misstatement in the current year. If they are, then appropriate adjustments to these starting numbers is required so the impact on the year of the audit is no longer an issue.

As a result of these additional procedures, it will be important for records from both fiscal years be made available to the auditor. If they are not this can cause further complications as the next section will highlight.

Scope Limitation

To be able to provide an opinion on the financial statements an auditor must collect audit evidence to support the financial statement assertions that are under audit. If sufficient, relevant audit evidence is not able to be obtained, then the auditor encounters what is known as a scope limitation.



PeopleImages/E+/Getty Images

“To be able to provide an opinion on the financial statements an auditor must collect audit evidence to support the financial statement assertions that are under audit.”

Scope limitations can prevent an engagement from being completed as the auditor cannot provide an audit opinion on transactions that have no audit evidence to review. For an association that doesn't have audits every year, it becomes important to make sure that documentation is maintained and consistent every year. Prior to having an audit done an association should have an understanding of the association's accounting internal controls and what support is kept in its files for transactions occurring during the year. This will ensure that when an association decides to have an audit all the documentation is available and there is no scope limitation. This can be an issue when an association changes its professional property management company.

Management Transition

For associations that have audits every so often, there is usually a triggering event that occurs for the board to decide to have the service. A common one is a management transition. When switching professional property management companies, a board may conduct an audit to ensure the accounting for the association is consistent between both companies.

This type of transition can make an audit more challenging due to the implications it has when coupled with the requirements of the previous two sections.

From the point of view of a beginning balance audit:

- As stated before, an auditor will need to have access to the fiscal year immediately preceding the audit year to ensure it does not impact the audit.
- When transitioning management companies, accounting reports are then split between the old and new management company to be able to see all the transaction detail for the year.
- Therefore, having or maintaining access to the previous system or copies of reports will be important to be able to conduct the audit of opening balances for which the new management company would have no additional details.

From the point of view of a scope limitation:

- If the transition to a new management company is not smooth or a document inventory is not taken. This can lead to a scope limitation.
- Different management companies store records differently. Understanding how physical or electronic records are being shared and stored with the new management company will be important to ensure the auditor has available access to the documents.

[Continues on page 10.]


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FINANCIALLY SPEAKING...from page 9.

→ If all reports are not obtained from the previous management company this can lead to an issue where the auditor doesn't have the level of detail needed to be able to conduct the audit and will need to contact the previous management company for more information.

Conclusion

For an association looking to conduct an audit for the first time, or after a long break from having the service done, they should keep in mind that the audit will be more complicated due to the potential procedures that become involved under the auditing standards. Prior to obtaining proposals, an association should develop an understanding of how their records are maintained to make sure these additional audit challenges can be met. ■

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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ENVIRONMENTAL TIP

The Connecticut Department of Energy and Environmental Protection (DEEP) has some great tips for preserving and protecting the environment. Check out the list on their website: <https://portal.ct.gov/DEEP/About/Earth-Day/Environmental-Tipstps://portal.ct.gov/DEEP/about/earth-Day/Environmental-Tips>

Since we are upon celebration season, here's an idea about prioritizing connection over consumption. When setting up a gift registry for a wedding, graduation or birthday, or other special event, encourage the use of SoKind - the "alternative" gift registry.



Have your community association board members changed since last year?

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William Ward, Esq.

Who Pays — Insurance or Association or Homeowner?

By William Ward, Esq.

The responsibility for payment of repairs when common elements and personal property are damaged is often unclear to associations. The upstairs unit has a water leak damaging the unit below. The roof leaks and damages personal property. Water seeps into the finished basement damaging carpeting and wallpaper. If the loss is less than the Association’s master insurance policy deductible and the owner caused the loss, does that allow the Association to assess the cost of repairs to the owner?

The following is a road map of the analysis necessary whenever repairs are necessary.

Association Insurance Covers the Loss.

The first step is *always — always — always* — determine if the loss is covered by your Associations’ master insurance policy. C.G.S. 47-255 not only delineates the insurance coverage required of Associations, but mandates that the Association’s insurance policy is primary. Even if the unit owner’s homeowner’s policy covers the same loss, the Association’s insurance policy is primary and must be used first. That is true even if the damage is caused by acts of the owner - the Association’s insurance policy coverage must be exhausted before seeking any monies from the owner. The only exception is discussed below.

To determine coverage, it is necessary to verify the cause of the loss. DO NOT AUTOMATICALLY FILE A CLAIM. Provide the details of the cause of the loss to your insurance agent and ask the agent’s opinion if it will be a covered loss under the policy. Though the ultimate determination is made by your insurance carrier, your agent is your insurance expert experienced in the terms and conditions of your policy. If your insurance agent’s opinion is that it is a covered loss, the determination of whether to file a claim is dependent upon:

- The cost or repairs;
- The Association’s deductible;
- Number of claims filed by the Association; and
- Financial resources of the Association.

For example, if the Association’s deductible is \$10,000 and the cost of repairs is \$12,000 then it probably does not make economic sense to file a claim for only \$2,000 and increase your loss claim history. If the loss is less than the Association’s deductible, then you would not file a claim and the Association pays for the repair pursuant to C.G.S. 47-255(d) subject to the following exception.

The Association is able to assess the deductible and unreimbursed portion of the repairs under C.G.S. 47-257, or the total cost of the



AndreyPopov/Stock/Getty Images Plus

“To determine coverage, it is necessary to verify the cause of the loss.”

repairs if the cost is less than the deductible, after Notice and Hearing under any of the following conditions:

- The damage is caused by willful misconduct;
- The damage is caused by gross negligence; or
- The damage occurred due to the failure to comply with a legally adopted maintenance standard.

Let’s assume a pipe burst which causes damage to common elements, the unit, and personal property because the unit owner failed to maintain the temperature in the unit at 55 degrees during the winter, which was a violation of the Association’s adopted maintenance standard. After the Board conducts a Hearing and determines that the heat was off when the pipe burst inside of the unit, then the Board is able to assess the Association’s deductible against the unit owner (usually \$5,000 - \$10,000). The unit owner provides the notice of decision to its homeowner’s insurance carrier and the homeowner’s carrier will pay the amount assessed against the owner minus the owner’s homeowner’s policy deductible, which is usually only \$250 - \$500.

Association’s Insurance Does Not Cover the Loss and the Owner Caused the Loss.

Under these circumstances, it is a document interpretation issue. Most condominium documents contain a provision allowing the

[Continues on page 14.]





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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.

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WHO PAYS...from page 12.

assessment for the cost of repairs for damages caused by the negligence of an owner after Notice and Hearing. That allows the Association to make the repairs to the common elements and then assess the cost to the owner. After assessment to the owner's account, if payment is not made, the account should be turned over for collections.

Association's Insurance Does Not Cover the Loss and Neither the Association Nor the Unit Owner is Negligent.

Again, this is a document interpretation question. Review the relevant provisions in your condominium documents. All items, which the owner is responsible for repairing, are made at the owner's sole cost. All items, which the Association is responsible for repairing, are made at the Association's sole cost.

One of the most common misperceptions is that when the damage is caused by exterior water intrusion, then the Association is automatically responsible for the repairs. That is not the case. If the Association's negligence caused the damage, then the Association is responsible for repairs to the common elements and the unit. If the Association was not negligent, then the repairs mandated in your condominium documents to be made by the owner are made by the owner and those mandated to be made by the Association are made by the Association.

An example is a water leak through the roof. If the roof is a 20-year roof and a leak occurs in the 10th year, unless there is evidence the Association was somehow negligent (for example – the association had knowledge of the leak and did not fix it, allowed someone on the roof who caused damage, a significant storm caused large limbs to fall on the roof, but did the association failed to inspect or repair the damage, etc.) then the Association makes repairs to the common elements (usually the roof and interior walls) and the unit owner makes repairs to the unit. The same is true of basement leaks. Unless there is prior knowledge of exterior leaks, which the Association fails to repair, then the first leak to occur does not obligate the Association to replace carpeting, furnishings, etc.

In summary, always first determine if the loss is covered by the Association's master insurance policy since it is primary and must be used regardless of whether the owner caused the damage or not. That can be accomplished by contacting your insurance agent prior to filing a claim with your carrier. If the loss is not covered by the Association's master insurance policy, it becomes a document interpretation question. The responsibility for the repairs is as mandated by the maintenance, repair, and replacement provisions of your documents or by a provision allocating responsibility based upon the actions of the owner. ■

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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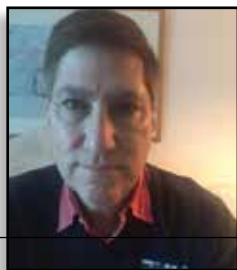
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Manager's Column...



Rich Wechter, CMCA

Being Practical, Part LXX

A Demand for Personal Responsibility

By Rich Wechter, CMCA

In this column, we tackle various topics of interest with the intent of imparting practical advice. Our last column looked at a most timely and important topic: the utter breakdown in civility in this country and how such breakdown impacts community associations. We now examine a companion topic of equal, if not greater importance: the lack of personal responsibility in community associations by unit owners and residents. As we noted in our last article, community associations are a microcosm of our country and are part government, community, and corporation. Given the failure of personal responsibility generally, it is not surprising that the lack of personal responsibility is also found in community associations. We will explore this problem and offer solutions to increase personal responsibility.

A. Setting the Table on this Topic

John G. Miller, who has written about personal accountability noted “There’s not a chance we’ll reach our full potential until we stop blaming each other and start practicing personal accountability.” This quote sets forth a well-known problem in community associations: the lack of personal responsibility of many who have neither the time nor the desire to jump in and contribute to the community, or to handle things themselves. It should be noted at the outset, that community associations have many unit owners and residents who accept personal responsibility and look to themselves and not to others to handle those matters that are their responsibility. These individuals are generally self-starters, who offer their time to benefit their communities, including those who do not hold positions on either the board or even a committee. Unfortunately, these individuals are the exception and not the rule in community associations. Thus, many community associations are faced with residents who fail to step up to help their communities as well as residents who fail to perform even the simplest tasks or duties.

B. Examples of Lack of Personal Responsibility

To avoid making this article longer than “War and Peace,” we note just a few examples of the lack of personal responsibility at community associations by unit owner and residents.

1. Expecting the association to take care of what under most association governing documents is a unit owner responsibility. This is evidenced by requests to the association to replace unit windows, skylights, doors, and HVAC units, among other things, at association time and expense. A simple review of an association’s governing documents would avoid the need for such a request.



“...many community associations are faced with residents who fail to step up to help their communities as well as residents who fail to perform even the simplest tasks or duties.”

2. Failing to pay common charges and special assessments in a timely manner and forcing the association to spend countless hours and money chasing after unit owners.
3. Failing to take care of their unit. This is evidenced by torn or missing window treatments, old and dysfunctional windows, old water heaters and plumbing fixtures.
4. Conducting themselves in their unit as if no one is living within miles of their unit. This is evidenced by excessive noise and failure to keep their unit clean.
5. Failing to clean up after their dogs and failing to honor leash rules. This is one of the most common acts of selfishness seen in community associations.
6. Failing to vote or attend board or unit owners’ meetings. In the era of Zoom meetings, when residents can join these meetings by video and/or audio means, there is no excuse for failing to participate in the governance of an association.

[Continues on page 18.]



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MANAGER'S COLUMN...from page 16.

7. Failing to provide homeowner census information. Property managers lose sleep at night, especially in the winter when they cannot track down the owner of a vehicle blocking snow removal.
8. Failing to ensure that tenants of unit owners have seen and read the association's governing documents and are abiding by same.
9. Failing to honor vehicle and parking rules.
10. Upon finding that a unit owner, their tenant or a resident of a unit has violated an association rule, they choose to deflect their personal responsibility by citing to claimed violations by others in the community association, including, on many occasions, the resident that has accused the unit owner/tenant/resident of the subject rules violation.

C. How to Encourage Personal Responsibility

We offer a few suggestions to encourage personal responsibility by unit owners and residents:

1. Publish the key rules of an association on a regular basis.
2. Be consistent in the application of association rules. Do not give any unit owner a winning argument that the board plays favorites.
3. Disseminate information that clearly and succinctly sets forth who is responsible for various activities and the manner of that respon-

“We would be quite naïve to think that someone who has lived their entire life ducking personal responsibility will suddenly have an epiphany when moving into a common interest community...”

sibility. Ignorance of such matters is sometimes the catalyst of lack of personal responsibility.

4. While not popular, enforce rules including the imposition of fines and other remedies available to an association.
5. Educate, educate, educate all community association residents on common interest living and the need to take personal responsibility.

D. Conclusion

We would be quite naïve to think that someone who has lived their entire life ducking personal responsibility will suddenly have an epiphany when moving into a common interest community and learn how to accept personal responsibility. However, we do think it is possible to reach those individuals who can listen to reason and understand and accept what they are responsible for in a 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.

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Resources for Assistance in Paying Condo Mortgages



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Connecticut homeowners facing foreclosure have options and resources. If loss of work, insufficient income, overwhelming medical bills, or other financial challenges are putting unit owners at risk of losing their homes, there are no-cost services available for households in jeopardy of foreclosure. Earning more could be the solution to avoiding foreclosure.

If unit owners are behind on their mortgage payments, resources are available to help understand the options to stay in their home. As soon as you realize you have a problem making your monthly mortgage payment, reach out. If you are 60 days behind on payments, you can enroll in the Mortgage Crisis Job Training Program (MCJTP). A MCJTP Counselor will work to help customize a solution that's right for your individual situation.

There are clear links between training, employment and housing stability. The MCJTP has helped Connecticut residents stay in their homes since 2008 by enhancing job skills to improve earning potential and the ability to sustain a mortgage with affordable monthly payments. They work in partnership with Judicial Mediators, the Connecticut Housing Finance Authority and HUD approved housing counseling agencies.

The staff meets with people across Connecticut. Counselors provide one-on-one consultations to identify in-demand training opportunities to help you increase your job skills, advance your career and become more financially stable.

This no-cost program offers virtual services such as:

- Assess your situation, learn about resources, and supports available.
- Access financial and credit counseling workshops.
- Identify skills needed to advance in a career or transition to a new occupation.
- Assistance with your resume, cover letter, and interviewing skills.
- Employment search support.
- No-cost Job training scholarships that lead to certification or licensure.

Eligible applicants must be 60 days or more past due on a mortgage for their primary residence in Connecticut and have an annual household income under \$120,000 or demonstrate an imminent need for program services.

The program is offered at no cost through The WorkPlace in partnership with the Connecticut Housing Finance Authority, Capital Workforce Partners, and Connecticut's workforce system.

For more information: <https://www.workplace.org/mortgage-crisis-job-training-program/>



Andrew Amorosi,
P.E., R.S.

TECHNICAL EXPLANATIONS

By Andrew Amorosi, P.E., R.S.

Underfunded Reserves: *A Community's Nightmare*

The primary purpose of a capital reserve funding analysis is to offer recommendations as to the amount of monies an association or other form of ownership should fund on a yearly basis for the future replacement of commonly owned elements of a single or multi-family development. The analysis and recommendations are important in that they help to avoid possible future special assessments of the individual unit owners. The analysis should be in the best interest of the community, period. The analysis should take into account the site specific existing conditions, their useful life, and the realistic replacement costs based upon actual material costs and the site specific individual item's method of reconstruction.

The primary purpose of a capital reserve funding analysis is **not** to attempt to reduce or maintain a community's monthly maintenance fees.

Unfortunately, and far too often, associations are finding themselves in an underfunded position at the time of the inception of a replacement project. Whether reconstructing roadways, sidewalks, roofs, or other aspects of the community, the association relies on the funding that has been recommended and established over the useful life of the item. The association schedules and bids the reconstruction project only to find that the proper funds are not available. The recommended reserve funding useful life was not accurate, the item's replacement cost was wrong and/or the unit quantities were smaller than what was actually constructed. This results in special assessments, community dissension, lost property value, and ill feelings toward the management company, board members, and residents.

The problem always seems to be that the original and/or updated analyses were not realistic, not site specific or not accurate. Errors or deficiencies in either the original capital reserve analysis or, many times, the updated analysis can cause this dreaded position.

This unfortunate situation is, many times, the result of how these analyses are taken for granted by the expert preparing the study. Typically, site specific and qualified inspections and recommendations are not performed. The errors or deficiencies typically occur in the most important aspects of these studies and are as follows:

Useful life

Every item listed in the funding table or schedule has a useful life associated with it. The useful life indicates the lifespan that the item should attain prior to its replacement, assuming it was installed prop-



erly. Standard useful lives are, often times, based solely upon standards used in the engineering industry. These standards are typically taken exclusively from information listed in life cycle analysis publications and/or manufacturers specifications.

This can result in underfunding.

Site specific useful lives must be used. Actual conditions must be inspected and changes (reductions or increases) must be made to the projected useful lives as conditions change. In addition, aesthetics usually play a part in the replacement of an element. Structurally, an item may be sound, although the association may consider that the aesthetics of that particular item detract from the community, therefore requiring replacement prior to the item reaching its full useful life as determined by the manufacturer or an industry standard.

Often times, items are not individually (site specific) evaluated for remaining useful life. The consequence can result in a significantly higher actual replacement cost due to the accelerated (excessive) degradation of that item. The item should have been replaced or reconstructed before this accelerated degradation occurred. Qualified, periodic inspection is paramount in reducing this possibility.

Quantities

The quantities shown in the funding table or analysis are many times taken from site plans, architectural plans, or a previous funding table.

This can result in underfunding.

The quantities used in these studies should be verified by the as built

[Continues on page 22.]



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TECHNICAL EXPLANATIONS...from page 20.

conditions. This must be done for initial analysis and should always be field checked on subsequent studies. Failure to provide an association with the correct replacement quantities may result in a significant underfunded condition down the road.

Replacement costs

The replacement costs shown in the funding table or analysis are many times taken from an estimating book or, worse, an outdated estimating book.

This can result in underfunding!

While the unit costs provided in the funding table for the replacement of the capital reserve items should be based upon a number of sources, including published documentation on replacement costs, more importantly they should be based upon experience in site and building construction. The individual reconstruction or replacement of each item should be analyzed and the resulting unit costs should be adjusted accordingly. Individual (site-specific) characteristics affecting the unit's costs are different on every site and the replacement costs should be adjusted accordingly. Existing site conditions, the size and scope of the future replacement project, the job access locations, the site restoration costs and presence of existing components are all variables that affect the item's replacement costs. Many times the unit replacement costs shown in these studies barely cover the materials costs for the item.

This is an unacceptable philosophy and is by far the most glaring and unexplainable reason for underfunded reserves. This must be corrected.

Combine all three of these "mistakes" made by the professional during the funding analysis and the association's reserve funding could be at a disastrous level.

The cash flow analysis, be careful!

Your current reserve funding analysis may contain a twenty (20) or thirty (30) year cash flow analysis as part of the report. As discussed above, Reserve spending is dependent upon many variables. A reserve item's condition can change significantly over time due to deficient original construction or other variables (inferior materials, weather, vandalism etc.). The result is a remaining useful life that can be drastically reduced. Qualified inspections, realistic, site specific remaining life analysis and updating the reserve funding analysis every three (3) years will adjust these changing conditions and funding requirements.

Similarly, the replacement costs of a reserved item can change dramatically. Aside from the factors already mentioned, the costs of materials and labor are constantly changing. New materials and technologies appear

"Combine all three of these 'mistakes' made by the professional during the funding analysis and the association's reserve funding could be at a disastrous level."

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every day. Reserve funding updates should adjust the funding requirements accordingly. These variables also affect cash flow on a regular basis.

In addition, an association's actual funding can change drastically from year to year. Catastrophic events or unpredicted spending (snow removal, storm damage, etc.) does occur from time to time and may also affect cash flow.

For the above reasons, projecting cash flow over a thirty (30) year period is not meant to be a long term tool for an association to use. The expenditure costs demonstrate that the association's reserve funding is on course toward proper funding. The cash flow numbers are all relative and dependent on each other and an unchanging, perfect world. Compound any of the problems associated with the deficient funding analysis (discussed above) and the result is that the thirty (30) year cash flow projection is less effective as time passes. The consequence is an underfunded association and a potential financial disaster to its residents.

Please be aware, however, that the cash flow analysis is an effective tool for adjusting the yearly funding requirements as long as the reserve analysis updates are performed regularly and performed accurately as discussed above.

Avoiding the Nightmare

Any one of the above-discussed inaccuracies in a capital reserve study can cause incorrect funding for a community. A combination of the errors can be disastrous. Continued periodic reserve updates using actual site conditions and realistic replacement dates and costs is a much more effective way (if not the only way) to ensure that an association's capital replacement items are being properly funded. The qualified inspection of the items by a licensed professional engineer (P.E.) and the preparation of the analysis by a CAI reserve specialist (R.S.) ensures that an accurate evaluation is made. The periodic update allows for adjustments to be made for useful life, unit quantity, unit cost, or additional items to be funded as required to avoid the "nightmare" of the special assessment. ■

Andrew Amorosi, P.E., R.S is the managing principal with The Falcon Group for the preparation of Capital Reserve Studies and Transition or Engineering Reports for community associations and has achieved the CAI National Professional Designation as a Reserve Specialist (R.S.).



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>.

Condo Association Debt Numbers

T.C. from Hartford County, Connecticut writes:

Dear Mister Condo,

What % of condo associations have debt? Is it unusual or common to have debt to finance deferred maintenance? Is it 10 %, 50%, 90% or other? What % of a condo association's annual revenues should be used to service debt, i.e. what % of annual revenues should principal and interest payments be annually?

Mister Condo replies:

T.C., that is a series of great and interesting questions, not just in Connecticut, but nationally as well. While most governance documents suggest that the association prepare and observe a Reserve Study and make regular Reserve Fund contributions, many do not. Even in states where there are additional laws supporting this practice, it is still fairly common for associations to get themselves upside down in the long run because they opt to underfund their Reserves or not fund them at all. Why? In a word, because the sweetness of low common fees outweighs the bitterness of paying more every month for maintenance that won't happen for years. Current owners don't care about repairs that will be needed years later, especially if they have no intention of living within the association a few years from now. I can't speak for the specifics in Connecticut but my guess is that the percentage of communities with underfunded Reserves is roughly 70%. Worse of that 70% underfunded, almost one half of those associations are so poorly underfunded (if funded at all), they will surely need to either borrow money or levy a Special Assessment just to make the known repairs that are coming due or have come due already. There are no "one size fits all" formulas to apply here. Each association is different and each requires its own Reserve Study (even if done in house by volunteers). Once the dollar amounts for future repairs are known, the common fees should be adjusted to save for that known expense. If an association decides to go the route of an HOA loan, as many do, all they are really doing is transferring the debt from the owners when the asset deteriorated and passing it on to future owners. Personally,

[Continues on page 26.]

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ASK MR. CONDO...from page 23.

I wouldn't purchase into a community that didn't have a strong Reserve Fund and plan in place. Without the funds available, the new owner is very likely going to pay for the previous deterioration of the common assets. It is patently unfair and a tremendous risk to the association. The FHA recognized this shortfall in condominiums many years ago when they started tracking Reserve Fund contributions in associations where the buyers needed FHA-backed loans. The FHA required the association to get certified and provide evidence that they were putting at least 10% of their annual dues into the Reserve Fund. In reality, most associations need between 20% – 30% to adequately fund their Reserves. So even though an association may be FHA-eligible and compliant with the 10% rule, that is no guarantee that there is nearly enough money being saved for major common element replacement. Roofs will fail, driveways will deteriorate, siding and windows will need replacing. It's not guesswork. Only proper planning and funding can make the association fiscally solvent. Anything less leads to the numbers and problems you may be seeing in your own association. All the best!

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Why Proactive Annual Lake and Pond Management is Better for the Environment and Your Wallet

By Marc Bellaud

We have all heard the adages about being proactive: “The early bird gets the worm” and “Never do tomorrow what you can do today.” These principles apply to nearly every facet of life, whether it’s our job performance, healthcare, financial planning, or in this case, lake and pond management. It’s no secret that taking care of our environment is important, but it goes beyond that. Science suggests that the preservation of our water resources is a key factor in our health and happiness; memorable experiences and time spent around the water lead to a greater sense of peace and connection to the world around us.

Much like the human body, when a lake or pond is ‘young,’ it typically requires less effort and funds to keep it healthy and functional. But a lifetime of neglect can lead to premature aging and serious imbalances. Without ongoing management, waterbodies become inundated with organic matter, sediment, debris, and other pollutants that cause aesthetic, ecological, and functional problems. These can arise in a multitude of ways, including recurring water quality issues, nuisance weeds and algae, and foul odors — and even scarier issues may lurk unnoticed beneath the water for many years before they manifest. When they do finally appear, it is generally a sign that the waterbody requires significant intervention.

- Disregarded plant matter and debris can clog and damage stormwater equipment and increase the risk of dangerous flooding
- Harmful Algal Blooms can create toxins that may harm aquatic animals, pets, and humans
- Invasive plants like Phragmites can take years of dedicated treatments to successfully eradicate
- Invasive animal species like armored catfish, bufo toads, and quagga mussels can out-compete beneficial native species and pose significant challenges and costs to remove
- Shoreline instability can cause expedite lake and pond “aging” and endanger others
- The accumulation of muck and sediment over time can reduce depth and volume — with costly and invasive dredging oftentimes being the only solution

The number of tools necessary to restore an imbalanced lake or pond depends on many factors, and the benefits can be fleeting if not done consistently. That’s why year-round maintenance is key. To begin developing an annual management program, aquatic specialists conduct preliminary assessments that examine the biological, physical, and chemical properties of the water. Detailed visual inspections and baseline water quality tests provide valuable insights into the overall health of the waterbody and establish an important foundation of data to inform future management decisions.



Shelly Bychowski/Stock/Getty Images Plus

“Without ongoing management, waterbodies become inundated with organic matter, sediment, debris, and other pollutants that cause aesthetic, ecological, and functional problems.”

Once preliminary assessments are completed, a customized management program can be designed. The most effective programs lean on cutting-edge technologies, comprehensive data collection, routine laboratory analysis, and premium services like nutrient remediation, algae ID, biological augmentation, oxygenation, and erosion control solutions that help stakeholders achieve the trifecta of health, functionality, and beauty. And these solutions are underscored by the guidance and expertise of scientists who specialize in freshwater management.

Lakes and ponds exhibiting more mild issues or those with budgetary limitations can still be supported by the basics like periodic visual monitoring, nuisance vegetation control, buffer management, and decorative pond dye. These ongoing efforts help lay the groundwork until more advanced solutions come into the picture. Consulting with your lake and pond management professional can help you make the most appropriate decision for your property and your wallet.

Lakes and ponds are an investment, but the upfront costs to kick-start your management program will help to reduce expenses that are often much larger and more concerning down the road. While every aquatic ecosystem has different needs, they all benefit most from comprehensive maintenance strategies supported by the most effective and sustainable technologies available to us. Like most other facets of life, when it comes to lake and pond management “an ounce of prevention is worth a pound of cure.” ■

Marc Bellaud, is an Aquatic Biologist and Director of Technical Services at SOLitude Lake Management.



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