

Common Interest

The Official Publication of CAI-Connecticut

Vol. XIX: Issue 6 • 2024



CONNECTICUT CHAPTER

community
ASSOCIATIONS INSTITUTE

Inside:

12th Annual LEGAL SYMPOSIUM

**Key Provisions in
Management Contracts**

**Lesser Known
Accounting Services**

**Community
TRANSITION
Guidance**

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RFisher@milfordbank.com

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- | | |
|--|---|
| Kim McClain
<i>Chapter Executive Director</i>
kim@caict.org | Ellen Felix
<i>Director Program Operations</i>
ellen@caict.org |
|--|---|

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 over 240 property managers, over 150 businesses, and over 800 community association volunteers representing over 80,000 homeowners.



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



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

President's Message



Charles Ryan, Esq., EBP

“At CAI-CT, we are looking forward to many excellent education programs.”

By the time this is printed, summer will be a memory, and the schools will be back in session. I hope everyone had a great summer and is ready for the Fall.

At CAI-CT, we are looking forward to many excellent education programs. Our Condo Inc. program is designed to elevate board members’ skills in handling the ever-increasing challenges of running a community. Those who have attended the program tell us how much they appreciate all of the insights and helpful strategies we offer to make their volunteer jobs a little less daunting. Our next session could not be more timely or convenient as it is a three-part live webinar with plenty of opportunity to ask your questions. I always look forward to presenting at these programs. I hope I will see you for my session on October 19. The first session begins on October 5. No worries if you can’t attend any or all of the sessions. Everyone who is registered will receive the recordings. Register today at: www.caict.org

Additionally, I am thrilled to announce our 12th Annual Legal Symposium which will take place virtually on October 24th. This event promises an exceptional lineup of Connecticut’s top professionals offering invaluable insights and knowledge. Speakers will dive deep into an array of hot topics such as cameras and drones, rule drafting/enforcement, property use restrictions, exterior modifications, document enforcement, insurance, and more. The event will conclude with a legal panel giving attendees a chance to have their legal questions answered.

Lastly, please don’t forget to comply with the Corporate Transparency Act. The deadline to do so without penalty is approaching quickly. For more information go to: <https://www.caionline.org/Advocacy/Priorities/CTA/Pages/default.aspx>

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CONTENTS

- 3 President's Message
- 4 CED Message
- 5 Upcoming Events
- 5 Statutory Snippet
- 6 Legally Speaking
- 6 Legally Speaking
- 7 New & Renewing Members
- 8 Financially Speaking
- 12 12th Annual Legal Symposium
- 16 Community Transition Guidance
- 18 Manager's Column
- 20 Environmental Tip
- 22 Technical Explanations
- 24 Best Management Fee, Best Service, or Both?
- 25 Classified Advertising
- 27 Index of Display Advertisers

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From the Chapter Executive Director

**“Success is where preparation
and opportunity meet.”**

~ Bobby Unser



Kim McClain

Courtesy CAI-CT

You will note that several of the articles in this issue discuss transitions or planning. New associations are still being developed all over our state. It is vitally important that the new boards are prepared to take over the operations of their association. Needless to say, it is essential that they have a full understanding of what their roles as board members entail. We often hear that board members have served on other boards — often in other states — or they think they know enough about running an association because they have been the head of a company, and they adamantly insist they do not need any further knowledge about how Connecticut common interest boards should function. Yet, laws are ever changing and new tools become available — how does one keep up without connecting through learning opportunities? Condo Inc. is your best option for finding what you need to know in one place. The program also complies with state law, Public Act 06-23 which states that community association board members should be educated.

Here at CAI-CT we have experienced a transition of our own. We recently moved our office to a new location. We made a strong effort to downsize as we carefully evaluated items that might have been handy to have pre-pandemic but no longer serve any major purpose. Our new space is sunny with great new neighbors. We had a few stormy days during the move, but we see smooth sailing ahead!

On the topic of sailing ahead... it's never too soon to make sure you are planning to attend our Annual Conference & Expo on March 15, 2025. Our theme will be nautically related, we will be setting our course for a great day. Our Conference Committee is excited about the variety of education programs we will offer. If you are a service provider, grab your booth now. Space is selling fast. Join us!

There is lots to explore in this issue!

Enjoy! ■

**Please note our
new address:**

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**CONDO INC. — WEBINAR SERIES
(Hosted on Zoom)**

Saturday, October 5, 12, 19 • 9:00 - 11:00 am

Do you serve on the board of your association? Are you considering serving? Whether you are a seasoned board member, a recently elected board member or unit owner seeking to understand more about how an association runs, Condo Inc. is the course for you! Scheduling conflict? Register anyway, and we'll email you the recording afterward!

\$30 - CAI Members / \$45 - Non-Members

CEO CAM Council (Hosted on Zoom)

Tuesday, October 15 • 1:00 - 2:00 pm

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

**12th Annual Legal Symposium
(Hosted on Zoom)**

Thursday, October 24 • 1:00 - 6:00 pm



Legal experts will present on a variety of current hot topics important to Connecticut Community Associations. Topics & Speakers can be found on pages 12-15 of this issue.

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

Scheduling conflict? — Register anyway, and we'll email you the recordings afterward! These webinars will be available on-demand following the live broadcast to those who register prior to November 1st!

Board Members, Managers & Unit Owners:

\$55 - CAI Members *(when you sign into your profile before registering)*

\$80 - Non-Members

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

**Jump Start January
(Hosted on Zoom)**

Wednesday, January 15 • 12:30 pm - 2:30 pm

Exclusively for Managers No need to leave your home or office. Connect through ZOOM! Start off 2025 with some great education opportunities!



\$30 - CAI Members / \$55 - Non-Members

27th Annual Conference & Expo

Saturday, March 15th • 8:30 am - 2:00 pm



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Statutory Snippet

What communication about the association budget can I expect from my condo association?

When the condo association adopts a budget, it has 30 days to provide a summary of the proposed budget to the common interest community and to set a date for a meeting to discuss the budget. At or prior to the meeting, the board is obliged to provide a reasonable opportunity for community members to voice their views.

Source: CT Department of Consumer Protection: Condominium FAQs

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

Especially for Board Members

**CONDO, INC.
The Business of Running Your Community**

Do you serve on the board of your association? Are you considering serving? Whether you are a seasoned board member, a recently elected board member or unit owner seeking to understand more about how an association runs, this course is for you!

Topics include:

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

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



WEBINAR SERIES

3 Saturdays

October 5th, 12th & 19th • 9am - 11am

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Visit www.caict.org to register.



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

Legally Speaking...



Adam Cohen, Esq.

Key Provisions in Management Contracts

By Adam J. Cohen, Esq.

When an association hires a management company, the law gives the parties broad flexibility on what the contract will say. They can agree to nearly any services to be provided, fee structure, and level of delegated authority they wish, consistent with the association's own governing documents. Under state law, the contract need only be in writing and provide that the manager: (1) is licensed and bonded, (2) will neither issue a check for, nor transfer the association's funds over, a specified dollar amount without written approval of one of the association's officers, and (3) will not enter a contract binding the association over a specified dollar amount without written approval of one of the association's officers except in an emergency.

The maximum dollar amount set for checks, transfers, and third-party contracts is often somewhere between \$500 and \$3000, and the contract may require the manager to solicit competitive bidding. When negotiating the amount to write into the contract, the association's board needs to weigh the level of control the board wishes to retain against the bother of constant approval requests for routine expenditures. Of course, the board should regularly review its financial records to ensure the manager is adhering to the dollar caps and spending the association's money wisely.

The law also says that management contracts are forbidden from saying two things: (1) that the association must also use the manager for other non-management or professional services; or (2) that the association will indemnify the manager for losses caused by the manager's own negligence or willful misconduct. Of course, the association can choose to use the management company or its affiliate for other services, such as repair jobs or accounting work, as long as the affiliation is disclosed. Indemnity clauses which say each side will reimburse the other for losses they cause are usually reasonable as long as they are mutual – that is, both sides agree to the same responsibility. The trickier issue is when neither side is at fault. Usually the association will agree to add the manager to its liability policy so that insurance will cover both of them against a lawsuit brought by a third party (like a vendor or unit owner), but what if the claim is excluded in the policy or denied by the carrier, and what about the deductible? The manager and association may wish to negotiate how to apportion those expenses, which can be significant.

Perhaps the most bitterly-contested management clauses are the ones which say how the management contract can be terminated. Most will say they renew automatically on an annual or some other



“Perhaps the most bitterly-contested management clauses are the ones which say how the management contract can be terminated.”

Yusuf Saibani/Stock/Getty Images Plus

basis unless the association cancels in writing – often with strict notice deadlines and penalties for terminating earlier. Managers are certainly entitled to rely on continuing the client relationship in which they've invested, but associations must also be able to release themselves from a manager who underperforms or does not get along with the board. A contract which allows either side to terminate with a reasonable amount of advance notice, perhaps 30 to 90 days at any point with or without cause, is generally fair.

A property manager can provide significant benefits to a community association because management companies have the expertise, staff, and resources to take care of both major projects and the community's day-to-day needs which the volunteer board may be less equipped to handle. Just like any contract, the more carefully the parties consider the potential situations which can come up during the relationship, the better that relationship will be. Associations should work closely with their attorneys to make sure their management contracts include the terms the law requires as well as the services and protections the association will need to best serve their unit owners. ■

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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Thank You Renewing Members

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FinanciallySpeaking...



Daniel Levine, CPA

Lesser Known Accounting Services

By Daniel Levine, MBA, CPA

When most associations seek to engage an outside accountant, the service that they will primarily request is either income tax preparation or a financial statement audit. However, there are many other services that an outside CPA firm can perform, some of which may be a better fit for an association's needs as compared to these two levels of service. This article will look at these accounting services and provide an overview of what they are and when they would be an applicable option to the association's needs.

Review

A step down from an Audit, the first service we will look at is a financial statement Review. This service has a different set of standards that govern an outside practitioner than an Audit which are called Statements on Standards for Accounting and Review Services (SSARS). These statements are set by the American Institute of Certified Public Accountants (AICPA) like those that are set for audits. Also similar to Audits, Reviews provide assurance on the financial statements of the association, however unlike an Audit which provides reasonable assurance, a Review looks to provide only limited assurance. The difference here being that limited assurance is not as comprehensive and is usually appropriate when the risk of material misstatements in the financial statements is already low. This is because the scope of testing and type of evidence obtained to provide assurance in a Review is much different than an Audit.

An Audit looks to take advantage of third-party corroboration to the assertions in the financial statements. Reviews on the other hand obtain their support via internal inquiry and analytical procedures. Analytical procedures are when a practitioner uses analytical data, forecasts, industry data, and historical data to develop expectations about what they think a number should be. For example, an analytic procedure to test if an association's common charge income line is reasonable would be to take each individual unit's fee and multiply them by twelve. On the accrual basis of accounting this should be the income on the income statement, and it should be close, if not equal, to the budget. Deviations from this expectation could mean there is a potential misstatement in the financial statements. If there is, then a more detailed analysis can be done to determine if there should be a correction made.

Practitioners during a Review level service also make use of inquiry to help develop expectations about the year. Inquiring of management or the accounting department about the fiscal year can help develop procedures that will be applied or help tailor what the practitioner

"...similar to an Audit, a Review requires that the practitioner be independent with regard to the client."



focuses on during the rest of the Review. However, as stated earlier, this differs from an Audit, where while the same procedures are done, Audits will have the additional step of independent corroboration of information to support inquiries. Whether that's contract review, invoice vouching, or confirming directly from a third-party.

Lastly, similar to an Audit, a Review requires that the practitioner be independent with regard to the client. This means that the practitioner does not make any management decisions or have a personal stake in the client they are performing the work for.

Reviews are typically a good fit for an association that is a bit more budget conscious but still wants a third party to apply procedures to their statements and have some assurance relating to the numbers.

Compilation

A Compilation is a step down from a Review. Unlike an Audit or a Review, a Compilation provides no assurance about the financial statements. Very limited procedures are applied to the numbers and the focus of this engagement is the compiling of the association's financial statements from their internal documents, with or without the financial statement disclosures.

[Continues on page 10.]

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FINANCIALLY SPEAKING...from page 8.

As a result of this step down in assurance, the work involved in a compilation mostly comes from putting together the financial statements unless there is an obvious error noticed when preparing the information. Due to the reduction in work on the practitioner, the cost for a compilation is less than that of a Review or and Audit.

Similar to a Review, the standards that govern how a Compilation level service is performed are SSARs as promulgated by the AICPA. Unlike a Review, a practitioner that is looking to perform a Compilation is not required to be independent with respect to the client. This is noted as part of the accountants' report that is included with the financial statements.

A Compilation is typically engaged in by an association looking to have a formal set of financial statements but also has strong internal and quality controls in place so that there is a comfort level that the numbers present fairly when generated internally.

Agreed Upon Procedures

Unlike the previous two services mentioned, another service that outside accountants can be engaged for is known as Agreed Upon Procedures. This service is governed by Standards for Attestation Engagements (SSAEs) and like a compilation there is no formal assurance provided as part of this service.

This service looks to obtain a report on fact based results of applying

certain procedures. This will vary by engagement and the procedures are determined by the practitioner and the client who both agree to them, thus the name Agreed Upon Procedures. The ultimate deliverable from this service is the result of the procedures vs something like a formal financial statement akin to a Review or Compilation.

Like a review, independence is required by the practitioner that is performing this service.

This service is utilized by associations that may not want a full blown audit, but have a specific issue that they would like addressed. Typically this can be to address a particular complicated transaction, or if a management transition resulted in errors that need to be corrected. The fee will vary depending on the type of procedures and amount of work that has to be done.

Conclusion

As can be seen by the above, there are a variety of service types an association can engage an outside accountant to perform in relation to their financials. The scope and purpose of each varies and can be used by an association to address specific to more general needs. These services may allow an association to answer technical matters to have better financial information while still managing to control costs. ■

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 serves as the Chair of our Publications Committee and is an active participant in CAI-CT related programs and can be found presenting frequently.



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12th Annual Legal Symposium

Thursday
October 24, 2024
12:30 - 5:30 pm

Virtual location:
ZOOM EVENT
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Earn Additional Credits — This collection of sessions will be available on-demand for 60 days following the live broadcast to those who register prior to October 24th! View sessions you missed and earn additional continuing education credits. Restrictions apply.

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Register at
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All proceeds to benefit legislative advocacy for Connecticut Community Associations.

12:30 PM - VIRTUAL VENUE OPENS

Visit with fellow attendees in one of our Conversation Cafés

1:00 PM - WELCOME & LEGISLATIVE UPDATE 2024/LEGISLATION ANTICIPATED 2025

Scott J. Sandler, Esq., CCAL - Sandler & Hansen, LLC

1:15 PM - SESSION 1

Camera & Drones - False Sense of Security & Privacy

Speaker: Kristie Leff, Esq. — *Bender, Anderson & Barba, PC*

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

When you install a surveillance camera, you're buying security in exchange for privacy—but not always your own. With security systems outside your home, the people appearing most will likely be others in your community who have no say in whether their image is captured. Also, there is a danger in relying solely on cameras as they can make people complacent and neglect other important aspects of security. We will cover some of the pitfalls of allowing drones and security cameras on association property.

Rule Drafting and Enforcement Considerations

Speaker: Christopher Hansen, Esq. — *Sandler & Hansen, LLC*

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

This will be a discussion about things to consider when drafting rules for a community including how enforcement of such rules might play out and what pitfalls might come up along the way. Also, we will include some discussion about the process for adopting rules.

CIOA Real Estate Landmine Detection

Speaker: Brian R. Smith, Esq. — *Robinson + Cole, LLP*

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

This session will explore the issues that arise when there are restrictive covenants affecting the use of the real property owned by the Association or by individual unit owners. These covenants range from use and design restrictions to conservation easements and seemingly everything in between. Examples include litigation that has erupted over restrictions on size and location of swimming pools and to a finding of an overburdening of a right of way to an Association's beach and play area over a unit owner's parcel. The foregoing examples and others will help to describe how the laws are applied when issues arise in Associations concerning these frequently troublesome encumbrances.

2:10 PM - BREAK**2:15 PM - SESSION 2****Deck Expansion and Enclosure, Reassigning Parking, and Other Issues that Should be Easy but are Not.****Speaker:** Scott J. Sandler, Esq., CCAL – *Sandler & Hansen, LLC***Moderator:** Karl Kuegler, Jr. CMCA, AMS, PCAM – *Imagineers, LLC*

Associations are often faced with owners who would like to add or modify an exterior element or amenity, swap parking spaces, or want to place a satellite dish on the building. While these may seem like simple requests, there are often embedded legal issues that only the lawyers know about, which can impact how the association responds to the request.

Realities and Limits of Document Enforcement, from Hearing to Fines to Lawsuit**Speaker:** Gregory McCracken, Esq. – *Jacobs, Walker, Rice & Barry, LLC***Moderator:** Kim McClain – *CAI Connecticut*

Must a hearing be held regarding violations. YES! We will delve into the details about the requirements of fundamental fairness, proof, amounts of fines, and preparation for litigation.

Community Association Insurance — A New Paradigm One Year Later**Speakers:** Dave Pilon, CIRMS – *Bowvier Insurance*
Rich Wechter, CMCA – *Westford Real Estate Management, LLC***Moderator:** Mark Sperry – *Fernwood Estates Association, Inc.***Part 1:** The Insurance Market – Where Do We Stand Since 2023?**Part 2:** The Reaction by Community Associations to The Insurance Market**Part 3:** Recommendations On What Can Be Done Going Forward to Better Protect Community Associations from this Insurance Market**3:10 PM - BREAK****3:15 PM - SESSION 3****Bill's Top Five****Speaker:** Bill Ward, Esq., CCAL – *Ackerly & Ward***Moderator:** Karl Kuegler, Jr. CMCA, AMS, PCAM – *Imagineers, LLC*

There are basic misconceptions about what is needed or how to handle issues that occur frequently.

1. Requirement of a legally adopted collection policy and why.
2. Meeting minutes – a record of actions taken.
3. ESAs (Emotional Support Animals) and service animals are not pets.
4. Termination without cause in management agreements – why it's necessary.
5. Voting by ballot without a meeting – An explanation of the requirements.

Settling and Mediating Disputes and Lawsuits in the Condo World**Speakers:** Michael Feldman, Esq., *Kristen Greene, Esq.*, and Kasey Procko Burchman, Esq. – *Feldman, Perlstein & Greene, LLC***Moderator:** Rich Wechter, CMCA – *Westford Real Estate Management, LLC*

This seminar will discuss the process of settling and mediating disputes before a lawsuit is filed or during litigation. We will examine issues with contractual provisions requiring mediation and how the board can comply with its documents and the Common Interest Ownership Act while working with counsel to resolve disputes and/or litigation.

Now What? The Latest on the Corporate Transparency Act and Potential Impacts**Speaker:** Ron Barba, Esq. – *Bender, Anderson & Barba, P.C.***Moderator:** Ellen Felix – *CAI Connecticut*

While many questions remain regarding the legitimacy of the Corporate Transparency Act, we do know this: If not revoked and if no changes are made, community association board members will be required to register with the federal government. This legal requirement could have a chilling effect on volunteerism. Come ready for an overview of the act, its requirements, the consequences, and what may happen next. Plus: Find some strategies that keep volunteers engaged in board service.

4:10 PM - BREAK**4:15 PM - SESSION 4****Legal Panel**

Join our panel of experienced legal professionals as they discuss critical issues and answer your questions. This event provides an invaluable opportunity to understand the nuances of the legal system and receive expert advice.

Speaker Information on the next page.

LEGAL SYMPOSIUM SPEAKERS



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



Kasey Procko Burchman, Esq. — Feldman, Perstein & Greene, PC. Kasey Burchman received her undergraduate degree from New York University (B.A., 2001), and graduated from Quinnipiac University School of Law, cum laude (2004). She joined the firm in January 2005. Kasey focuses her practice on civil litigation representing both plaintiffs and defendants at both the trial and appellate court levels. She has extensive experience in representing condominium associations in litigation relating to contract disputes, unit owner disputes and construction defects. She also has experience in litigating personal injury cases for claimants and defendants, insurance companies in complex coverage disputes and individuals in property disputes, including adverse possession and prescriptive easement claims. She represents businesses and corporations in connection with business disputes, factoring agreements and collection claims.



Michael Feldman, Esq. — Feldman, Perstein & Greene, PC. Michael has been practicing in the area of civil litigation since his admission to practice in 1981. In 1994 he became board certified as a Civil Trial Advocate by the National Board of Trial Advocacy. Mr. Feldman was selected to *Connecticut Super Lawyers*®* for business litigation in 2007. He has tried many cases and successfully represented clients in a wide variety of complex business, insurance, condominium and personal injury matters.



Kristen Schultze Greene, Esq. — Feldman, Perstein & Greene, PC. Kristen has been practicing in the area of civil litigation since joining the firm in 1998. Kristen has successfully handled numerous trials, including jury and courtside, as well as appeals to the Connecticut Appellate Court and Connecticut Supreme Court.



Christopher E. Hansen, Esq. — Sandler & Hansen, LLC. Chris is a partner with Sandler & Hansen, LLC. Chris has been representing community associations for over fifteen years and focuses on drafting, amending and interpreting governing documents, commercial financing of community association capital improvement projects, alternative dispute resolution and the enforcement of governing documents. Chris has served as Vice President of the Board of Directors of the Connecticut Chapter of Community Associations Institute (CAI-CT) as well as chair of CAI-CT's Legislative Action Committee. Chris also chaired CAI-CT's Annual Conference and Expo for several years and is a regular speaker at CAI-CT events.



Kristie Leff, Esq. — Bender, Anderson & Barba, PC. Kristie is a distinguished professional known for her expertise and accomplishments in the legal field. As a Partner, she holds a pivotal role in her current organization, leveraging her extensive experience and insights to drive success. Kristie's proficiency spans across two key practice areas. Homeowner Associations (HOA) are one of Kristie's specialties, and she demonstrates a deep understanding of the intricate dynamics that govern these communities. Her meticulous approach and comprehensive knowledge contribute to the effective management and resolution of various issues within the realm of HOAs.



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



Dave Pilon, CIRMS — Bouvier Insurance Dave has been with Bouvier Insurance for over 19 years and serves the insurance needs of over 200 community associations throughout southern New England & New York. A former CPA, Dave has earned CAI’s Educated Business Partner credential and is a member of the CT chapter’s Legislative Action Committee.



Scott J. Sandler, Esq., CCAL — Sandler & Hansen, LLC Scott is the managing partner of Sandler & Hansen, LLC, located in Middletown, Connecticut. His firm provides high quality legal services to condominium and homeowner associations throughout Connecticut. Mr. Sandler is a fellow of the Community Associations Institute’s College of Community Association Lawyers. He serves as the chairman of the Legislative Action Committee of the Connecticut Chapter of the Community Associations Institute. He is a member of the Institute’s Government & Public Affairs Committee. Mr. Sandler served the Institute as president of its Connecticut Chapter from 2008 through 2009. Mr. Sandler also represented the Chapter when he served on the Connecticut Law Revision Commission Study Committee, which adapted the 2008 revisions of the Uniform Common Interest Ownership Act for use in Connecticut.



Brian Smith, Esq. — Robinson + Cole, LLP Brian concentrates his practice in land use and real estate matters, and he handles litigation related to these topics. He is the chair of the firm’s LandLaw Section. Brian represents municipalities, developers, and neighbors in land use, planning, wetland, and coastal resources issues. He regularly appears before local land use and wetland boards and commissions in Connecticut, and before state and federal permitting agencies, in order to help his clients gain the necessary approvals for their projects.



William W. Ward, Esq., CCAL — Ackerly & Ward, P.C. — Bill is a graduate of Fairfield University (B.A. 1978 – cum laude) and the Columbus School of Law at The Catholic University (J.D. 1981), where he was a member of the Law Review. He clerked for the Honorable C. Murray Bernhardt in the United States Court of Claims (1981 – 1983). He serves as a Special Master for the Connecticut Superior Court. He served as a member of the Board of Directors from 2013-19 and also serves on the Legislative Action Committee for CAI-CT. He was also a member of the Connecticut Bar Association’s committee, which drafted the Connecticut Common Interest Ownership Manual – Second Edition. Mr. Ward has provided legal services to community associations for over 30 years. His practice concentrates on common interest communities, common interest community developments, real estate, probate, and civil litigation.



Rich Wechter, CMCA — Westford Real Estate Management, LLC. Rich is Senior Vice President at Westford Real Estate Management, LLC. Rich is a member of the Legislative Action Committee and Golf Committee and is also a member of the Legal Symposium Task Force.

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Jonathan Chappell, Esq.

Community Transition Guidance

By Jonathan Chappell, Esq.

Many reading this article are likely in communities that have already transitioned to unit owner control. Those who have not or did so recently should certainly continue. This is a reference for others, including managers and others who may be asked about this process.

What is Transition?

The transfer of the operation of a community from the declarant to owner-elected board of directors. This process is found in subsections 47-245 (d) through (h) of the Common Interest Ownership Act (“CIOA”), and likely your governing documents.

Know When Transition Happens/Happened:

Section 47-245(d) of CIOA states when, as a matter of law, transition happens, whether a declarant or the community is aware or not, “no later than the earliest of:” (1) 60 days after the conveyance to unit owners other than the declarant of 60% of units that the declarant reserves the right to create; (2) two years after all declarants have ceased to offer units for sale; and (3) two years after any right to add the new units was last exercised.

The policy is that control of the community should be turned over to the unit owners within a reasonable time after the declarant stops building and selling units, even if it has the right to build or sell more units.

Owners Should Prioritize Before Transition (if possible):

Every community will likely be different. Has the declarant completed the common elements? Are there obvious construction defects? Is the declarant not giving the owners access to records? “Where is all our money going/gone?” The focus in your community will guide you to decide how to proceed.

Owners Should Assemble Their Transition Team:

Leading your team will be the board of directors. Also, based on your community’s focus, you may consult or hire contractors/vendors (in no particular order):

A. Board Members:

The owners should know who among them will be ready, willing, and able to be an effective board member, and how many individuals are needed. Some associations have established transition committees to create a checklist of what the owners must or at least should do before, during, and after transition.

B. Contractors/Vendors:

The owners, based on the community’s priorities, should consider whether it should hire (in no particular order):



studocallus/E+/Getty Images Plus

“Has the declarant completed the common elements? Are there obvious construction defects?”

i. Attorney

The attorney should review the existing documents for concerns and for those that apply to day-to-day governance. The attorney can also assist the association in determining whether it has any viable claims against the declarant or the declarant appointed directors, whether these claims are worth pursuing, and if the statute of limitations might apply.

ii. Manager

Hiring a professional manager may be the most important decision the association makes. Most managers have been on both sides of transition and will be aware about how to get what is needed to quickly begin assisting the board to operate the community. For example, the association will be given control over the association bank accounts and the manager will be able to setup the accounts so that incoming common charges are credited to the paying owner and that the association quickly is able to pay its bills.

iii. Accountant

CIOA requires that the declarant, at its cost, provide the association with an audited financial statement at the time of transition. Many developers resist paying for the audit and, sometimes, even the declarant’s own accountant will not have enough information to certify an audit. The association should hire an accountant who is knowledgeable about community associations.

[Continues on page 27.]

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Manager's Column...



Rich Wechter, CMCA

Being Practical, Part XCV Board Members and Unit Owners — A Most Difficult Relationship

By Rich Wechter, CMCA



“Unit owners communicate directly with board members at most associations by e-mail, text messages and social media.”

In this column, I tackle various topics of interest with the intent of imparting practical advice. In this issue's column, I address the relationship between board members and unit owners, which over the thirty plus years that I have been involved in community associations has evolved into a place far beyond what I experienced in the early 1990s and not for the better in the opinion of this author.

A. Setting the Table on this Topic

The world of 2024 is a far different place than the world of 1993 when I first became a board member. E-mails were just beginning to be used thru AOL. The telephone was the most direct form of communication. Letters were the standard for providing formal notice to unit owners on various matters involving a particular unit. Responses from unit owners and from the Board would be received in a more laid-back manner. While some unit owners were more insistent than others in demanding quick responses from boards and management companies, that was the exception and not the rule. I do not mean to suggest that everything was happy and wonderful with respect to the relationship between board members and unit owners back in the early 1990s. Personal confrontations between the parties did occur at board meetings, at association amenities and just about anywhere on or off association property. Yet, for the most part, there was a higher level of civility and regular order back then. Now, flash forward to the Year 2024 and we have a completely different environment. Unit owners communicate directly with board members at most associations by e-mail, text messages and social media. If a unit owner doesn't like what they are being told or just has a beef with a board member, the public outrage rivals what we see out in the political world. Unit owners expect

to have running dialogues with board members who are volunteers and have a life outside of their membership on their Board. It amazes me that there still are unit owners willing to serve on boards. However, I am concerned that this insistence on direct and constant communication beyond reasonable expectations is having a chilling impact on board service and will result in lower board participation from otherwise competent and valued unit owners, all to the detriment of their respective associations. Accordingly, I offer some specific examples of this deteriorating relationship and some suggestions on how to address this matter.

B. The Deterioration of the Board and Unit Owner Relationship: Examples

I offer just a few examples of how the relationship between board members and unit owners has deteriorated over the years.

1. *Lack of Privacy of Board Members* — Once the e-mail address and/or phone number of board members has been disseminated to the community, board members no longer have any privacy expectations. Some unit owners expect to be able to have running e-mail and/or text dialogues with a particular board member.
2. *Social Media Sites* — With the popularity of social media sites, there is no filter on what is placed on these sites by unit owners who use these sites to shame, embarrass and bully board members. Some of these sites have even been set up by boards for important and pleasant purposes only to see these sites used as personal weapons by unit owners.
3. *Conduct at Board and Annual Meetings* — Even with the continued utilization of virtual meetings four years after the Covid-19 crisis began, the level of vitriol by unit owners at these virtual meetings toward board members continues to rise. Fortunately, the ability to mute or to remove a unit owner acting in this fashion at a Zoom meeting does help the situation.
4. *Time Management* — Board members are volunteers. They offer their time in an effort to better their respective communities. Unit owners who cross the line in their almost possessive like conduct with some board members destroy the ability of those board members to manage their own time.
5. *Impact on Board Members* — I would be crossing a line of credibility if I asserted that all board members always conduct themselves properly and dispassionately. This is a goal and not always reality. However, it is human nature for anyone, including a board member, to react negatively

[Continues on page 20.]

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MANAGERS COLUMN...from page 18.

to others who act inappropriately. Over time, board members take a beating from such conduct and most certainly are impacted by such conduct both personally and professionally. They did not sign up for this.

C. How the Board Can Address the Deterioration of the Board-Unit Owner Relationship

1. Do not use personal e-mails when conducting board business. Create board e-mails for the various positions (president, treasurer, etc.)
2. Do not give out your personal phone numbers. You do so at your own peril.

ENVIRONMENTAL TIP

Bring In the Houseplants

If your houseplants enjoy being outside in the summer, be sure to bring them in before it gets too cold. If you don't have any houseplants, maybe now is a good time to consider getting one or two. Not only do plants brighten up the interior of your home, but they may reduce stress and improve air quality. Since most of us in cooler climates open the windows less frequently in the winter, houseplants can do a lot to improve your indoor air quality.

Source: Earth911.com



3. Set strict rules for contact with unit owners. You are not on duty 24-7. You have not signed up for running dialogues with unit owners.
4. Publish communication guidelines so that everyone understands the rules of the road when it comes to communications between board members and unit owners.
5. Utilize the management company as the primary hub for communications.
6. Conduct the Open Forum portion of board and annual meetings in such a manner as to minimize inappropriate conduct by unit owners at these meetings.
7. Shut down or better control social media sites that are run by associations. This is not censorship, but, rather, properly running these social media sites for the good of the association, and not for the venting by particular unit owners.
8. Properly handle legitimate unit owner complaints and concerns. You can eliminate so many issues by doing this although there will be remaining unit owners who have not been happy from the day they were born. You cannot change that situation.

D. Conclusion

This is now the second consecutive article I have written where I have not offered at least one pithy quote due to the seriousness of this topic. I hope that everyone reading this article will take my comments seriously and act upon them promptly. ■

Rich Wechter, CMCA is Senior Vice President at Westford Real Estate Management, LLC. Rich is a member of the Legislative Action Committee, Golf Committee and Publication Committee and is also a member of the Legal Symposium Task Force.

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Melissa Yocum

TECHNICAL EXPLANATIONS:

Using A Reserve Study as A Budget Tool

By Melissa Yocum

With the budget season fast approaching, it's time to seriously consider your association's near and long-term financial needs, goals, and ultimately, its future. Capital planning is no easy feat, but having a continuous blueprint for the future is the key to a thriving community.

The primary purpose of a reserve study is to do just this. By conveying your community's capital planning needs to current and future boards, reserve studies support the Board's fiduciary responsibility to maintain and enhance the community's value. Following a reserve study's recommendations helps minimize the risk of additional assessments and bank loans to complete necessary capital projects for community components.

As recent economic events have and continue to force community leaders to focus on immediate business needs, there is an inherent risk of overlooking longer-term activities such as managing capital projects and reserve planning. If neglected for an extended period, failure to address critical projects and insufficient reserves can be catastrophic to a community's long-term health.

A current reserve study provides expert guidance on prioritizing capital projects and ensures community leaders allocate reserve funds for those of utmost importance, which is critical in today's economic climate. When conducted by a professional firm, a reserve study will account for environmental conditions that affect component useful lives and also utilize current local project costs to ensure the most realistic projection of near-term expenditures. Accuracy of expenditures is critical to ensuring that the supporting funding plan backs your long-term financial needs, and this accuracy is increasingly important during budgeting season.




“Following a reserve study’s recommendations helps minimize the risk of additional assessments...”

Associations suffering from inadequate reserve funds and those struggling to prioritize capital projects will benefit most from a current reserve study. The expertise and guidance received offer immediate support and alleviate many challenges associated with evaluating common property repair and replacement. There is always an element of unpredictability when managing a community, and having a current reserve study and adequately funded reserves helps associations weather increasingly challenging times.

When it comes to budgeting for your community association, you never have to go it alone. With an up-to-date reserve study in hand, you'll know exactly when to expect major capital projects, and how best to save reserve funds to complete them in a timely manner without deferring necessary maintenance. Put simply, reserve studies simplify budget season and budgeting in general for both the near and long-term future of your community. If your community needs a little extra support this budgeting season, don't delay commissioning a reserve study! ■

Melissa Yocum is a Senior Account Manager with Reserve Advisors.



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Doug Newman

Best Management Fee, Best Service, or Both?

By Doug Newman

I almost titled this article, How Much Do You Charge per Door as that question is asked much too often of management companies. When asked, I (and I think all) initially laugh internally and then give the proverbial lawyer’s answer; that depends!

Managing community associations in Connecticut today is becoming more and more challenging due to many factors. Infrastructure is aging, there is limited insurance supply (particularly for those with coastal proximity), inflation is impacting budgets, many association reserves are underfunded (if your association has a bank loan, then it was not funding reserves appropriately), neighbors are not necessarily neighborly, there are more and more pet (dog) issues, parking is becoming a challenge with more cars than complexes were originally designed for, there are ever changing state statutes and the new Corporate Transparency Act too.

Balancing the needs and service expectations of the board and unit owners against the management fee (price) is difficult as they are diametrically opposing factors. It is analogous to asking several hotel operators what the room rate is without asking if there is a 24-hour room service, a fitness room, or a concierge desk. While all provide internet access, a clean room, bed and fresh linens, the price will vary greatly based on the service levels offered. Staying with the hotel theme, does your community expect Ritz Carlton concierge service but is only willing to pay for a Holiday Inn room rate?

I love economics and particularly free markets; long live Milton Friedman! Economics 101 says that the cost and service are largely directly proportionate. If the cost (price or the fee) goes down, the service will go down too. Even if a management company is hungry for new business and gives great service at a below-market cost, word travels, demand for that company’s services will increase and they will



gustavofrazae/Stock/Getty Images Plus

“Economics 101 says that the cost and service are largely directly proportionate.”

eventually be in a predicament, increase the cost or decrease service levels. It is unavoidable market dynamics. While the old adage “you get what you pay for” is always true, because sometimes you pay a lot and do not receive the corresponding service, it usually is true.

Board members are volunteers who donate their valuable time to their association and community. Having quality management that does more, not less, is the most equitable thing board members should enjoy. If board members enjoy the ‘job’ and are willing to take on more work themselves, then seeking lower-cost management for the essential services may be a good choice. However, an incessant push for lower fees results in management companies having no choice but to cut services or outsource some functions to lower-cost providers that used to be done internally, quality suffers, work becomes sloppy, follow-up with unit owners becomes a challenge, and nobody is happy. It is not a positive for the board, unit owners, management, the association, community or the industry.

I think associations that expect a higher level of service and understand that they will be paying (more) for that higher service level, seemed to be the most satisfied. If I served as a volunteer as a community association board member that is what I would be looking for. The best service the association could find to meet our needs and expectations and being ready to pay for it. ■

Doug Newman is the founder and CEO/President of CPE Property Management Solutions based in Branford, CT. CPE specializes exclusively in the management of condominium associations and cooperatives. Doug currently serves on CAI-CT’s Education Committee.

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 Contact: Dan Levine, CPA
 E-mail: DLevine@TomKulCo.com
CAI-CT MEMBER

ATTORNEYS

Cohen & Wolf, P.C.
 Mark A. Kirsch, Esq.
 1115 Broad Street
 Bridgeport, CT 06604
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 Contacts: Scott J. Sandler, Esq., CCAL
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[Continues on page 26.]

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TRANSITION...from page 16.

iv. Engineer

Someone must establish whether there are any defects in the common elements or whether construction has been completed properly. An engineer can inspect and prepare a report. The association only has a limited time after transition to sue the declarant for defects or force the declarant to correct construction issues. Another very important role of the engineer is planning for future capital projects.

C. What Should We Receive After Transition?

Section 47-245(h) of CIOA provides what be turned over by the declarant to the unit owner-controlled association within thirty days after unit owners other than the declarant elect a majority of the members of the board. Section 47-245(h) requires “all property of the unit owners and of the association held by or controlled by the declarant” be turned over, including but not limited to the items specifically listed in the statute. Seems simple, but this includes the association’s money/bank account(s).

D. Review Contracts “Entered Into” By the Declarant Before Transition

Section 47-247 of CIOA allows a unit owner-controlled, residential association to terminate certain contracts “without penalty upon not less than ninety days’ notice.” Therefore, it is crucial to get these contracts quickly. These contracts include certain, “critical” agreements, management and employment contracts and a lease of recreation or parking areas for facilities, “any other contract or lease between the association and a declarant or an affiliate of a declarant, and certain “unconscionable or commercially unreasonable” contracts or leases.

Section 3-105 of the Uniform Common Interest Ownership Act, Note 2 explains: “[C]ertain contracts and leases [are] so critical to the operation of the common interest community and to the unit owners’ full enjoyment of their rights of ownership that they too should be voidable by the unit owners upon the expiration of any period of declarant control.” See also, Restatement (Third) of Property (Servitudes) § 6.19, Comment D (“The developer’s duty to turn over control can be thwarted if the developer obligates the association to long-term arrangements that effectively deprive the owners of control”).

Your community should have a transition plan in place before it actually should happen. The implementation of this plan should have your community prepared to succeed. ■

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

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