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



Charles Ryan, Esq., EBP

“The truth is our community’s strength and effectiveness multiply through shared knowledge.”

As a lawyer, I often find myself reflecting on a piece of wisdom that influenced my career. It was during law school that the late Professor Santoro told me, “Chas, you don’t know what you don’t know.” This statement seemed simple at the time and, but I never forgot it. Over the years, its meaning and significance became clearer to me the longer I practiced law.

This simple yet profound insight underscores the importance of continuous learning and growth, principles at the core of CAI-CT. Our mission has always been centered around educating our members and empowering them with the knowledge and tools necessary to navigate the complexities of Community Associations. From understanding the intricacies of fair housing laws and staying abreast of legislative changes in Hartford to adopting best practices and now, in 2024, grappling with the implications of the Corporate Transparency Act.

As hard as we try to educate everyone, the reach of our efforts has its limits. The truth is our community’s strength and effectiveness multiply through shared knowledge. This is where we need your help. Think of the countless owners, association board members, and vendors that you encounter. How many of them are not members of CAI-CT? How many of them don’t know what they don’t know and could benefit from CAI? I challenge everyone to take the initiative and introduce just one or two non-members to CAI-CT before the next magazine arrives. The more we are able to educate those who live in and work with Common Interest Communities, the better our communities are. While none of us know everything, we can all recognize that you don’t know what you don’t know. ■

Be sure to update
 your board’s member names, titles (President, Vice President, Treasurer, Secretary, and Board Member), and contact information to ensure your board members receive all the latest CAI member benefits!

Update today:
ONLINE at www.caionline.org
EMAIL addresschanges@caionline.org
MAIL to CAI, P.O. Box 34793,
 Alexandria, VA 22334-0793

Have your community association board members changed since last year?

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From the Chapter Executive Director

**We do not inherit the Earth from our ancestors;
we borrow it from our children."**

~ Native American Proverb



Kim McClain

Courtesy CAI-CT

The proverb wisely reminds us that we do have an obligation to take care of our environment so that we do not leave it in worse shape for the next generation and beyond. A similar concept seems to apply to living in a community association. Your roofs, landscaping, paving, etc. are there for you to enjoy today, but it is also the obligation of current homeowners to take care of it all for the benefit of future owners. A reserve plan and adequate funding of the plan are the important components for enhancing the value of your community.

May Is 'Gardening for Wildlife' Month." An increasing number of association board members have reported that they are adding pollinator gardens/areas to their landscaping. As we have seen in these pages in the past, these plantings not only help to support the birds and the bees, but also add vibrant colors and beauty to the community. Has your community added any pollinator garden areas recently? Please let us know – and send pictures! We'd love to include a shout out for your efforts in the magazine.

We will be planning for our 2025 education programs soon. As always, we are interested in knowing what the burning issues are facing your community. We received some great ideas from our Annual Conference evaluations, but we are seeking additional inspiration. Please let us know what you would like to see us cover next year. Perhaps an Advanced Level Condo Inc.? More programs about reserves? Please zap me an email: kim@caict.org.

Happy Spring! Enjoy nature!

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more information.**

Fairfield County Knowledge & Networking CAI-CSI — Uncovering the Keys to Managing Risk at Community Associations

Wednesday, May 22 • Education 3:00 pm - 5:00 pm/
Networking 5:00 pm - 7:00 pm
Zody's 19 Hole, Stamford



The Case: You have been enlisted to help our team of experts navigate a condo claim in this difficult insurance market!

The Mission: should you choose to accept it, is to assist our claim "victim" in resolving a property damage incident with the insurance carrier. From the board member and property manager to the insurance broker and attorney, join us for a fun afternoon of interactive role-playing as we unearth the clues to employing successful community association risk management practices.

Board Members & Managers:

\$30 - CAI Members (when you sign into your profile before registering)

\$55 - Non-Members

Service Providers:

\$100 - CAI Members (when you sign into your profile before registering)

\$125 - Non-Members

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

Annual Golf Tournament

Tuesday, June 18, 2024 • Registration at 11:00 am, Lunch 11:30 am,
Shotgun 1:00 pm, Banquet 6:00 pm
The Farms Country Club, Wallingford

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

Visit www.caict.org for information on golf and sponsorships.

CEO CAM Council – Hosted on Zoom

Tuesday, July 16 from 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.

Summer Sizzler Knowledge & Networking

Thursday, August 1 • Education 3:00 pm - 5:00 pm/
Networking 5:00 pm - 7:00 pm
Amarante's Sea Cliff, East Haven



Insurance & Budgets. We will be returning to our favorite shoreline location – Amarante's – for another great Summer Sizzler party on the deck. Don't miss it!

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Visit www.caict.org to register.



Statutory Snippet

Conflict of Interest

Connecticut adopted a law placing expectations and restrictions on executive board members of condo associations. The law makes it illegal for an executive board member or an individual seeking election to such a board from accepting any item of value in exchange for good favor.

Many condo associations are structured as non-stock corporations. As an officer, board members are obliged to discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and to do so in a manner in which s/he believes to be in the best interests of the association.

Source: CT Department of Consumer Protection: condominium FAQs.

Legislative Update

At press time, the 2024 Legislative Session is only days away from adjourning. RB 5168 is the one remaining bill that concerns our members directly.

RB 5168 – AN ACT CONCERNING SOLAR INSTALLATIONS IN CONDOMINIUMS AND COOPERATIVES —

This bill clarifies previously enacted legislation of the installation of solar power generating systems. It would eliminate barriers to homeowners that wish to install residential solar panels on their single family detached unit. The bill includes language about the process of requesting approval from the association and other requirements concerning responsibility for the costs of installation, maintenance, uninsured losses, etc. The bill explicitly requires the solar panels to comply with all applicable state, federal, and local health and safety standards and requirements. Associations formed by January 1, 2025, may opt out of the bill's solar panel prohibition and requirements if they do so by December 31, 2026. This bill has passed in the House and has been sent to the Senate.

Please note that 2024 is an election year for the entire Connecticut General Assembly. Reach out to your elected members and let them know about the issues which concern you. Not sure who your reps are? Go to: <https://cga.ct.gov/asp/menu/CGAFindLeg.asp>

Stay informed about legislative action that could impact your community. Be sure to sign up for Advocacy Alerts. *It's easy and you can make a difference!*

Here is the link:

<https://www.caionline.org/Advocacy/TakeAction/Pages/VoterVoice.aspx>



THANK YOU NEW & RENEWING MEMBERS

Welcome New Members

Associations

Ballymeade Association, Inc.
Birchwood Commons Condominium Association
Carriage Crossing Association, Inc.
Deep Brook Harbor Homeowners' Association
Lake Hills Village Condominium
Long Hill Farm Association
Newfield Commons Condo Association
Parkview South Condominium Association
Silver Island Homeowners Association
Summit Master Association
Sunrise Hill Association, Inc.
Tyler Ridge Condominium Association
Villages at Loveland Hills
Webster Hill Estates
West River Village Association
Willow Springs Condominium Association, Inc.

Individual Managers

Denise Marcia Lecky
Tammy A. Papp
David St. Amant, CMCA
David M Wolber, CMCA

Management Companies

Paladin Property Management

Business Partners

A & A Pool Cleaning LLC
Bouchard Construction, Inc.
CertaPro Painters of Danbury, CT
Done Right Handyman Services
FiltH2Fresh Bin Cleaning Service
Philadelphia Insurance Companies
Pinnacle Financial Partners
Roc Brothers LLC
Rose Paving

Thank You Renewing Members

Associations

3300 Park Avenue Condominium Association, Inc.
Bishop Meadows
Bramble Ridge Association, Inc.
Bryewood Condominium Association, Inc.
Cedar Hollow Association, Inc.
Chateau Wood Condominium Association
Cold Spring Village
Copper Square Association
Country Walk Association, Inc.
Countryside Manor Condominium Association, Inc.
Essex Village Condominium Association
Fieldstone Village of Orange, Inc.
Franklin Square Condominium Association

Governor's Bridge Homeowners Association
Heatherwood Condominium Association
Hopmeadow Place Condominium
Kensington Woods Association, Inc.
Knollbrook Condominiums
L'Hermitage Condominium Association, Inc.
Linron Gardens Condominium Association
Long Hill Condominium Association
Montgomery Village
New Concord Green
Palmer Landing Community Association
Proprietors of Sterling Woods
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Riversedge Association, Inc.
Sea Scape
Southfield Green Condominium Association, Inc.
Spinnaker Association, Inc.
Summerwood Condominium Association, Inc.
The Atrium Of Portland
The Crossings Homeowners Association
The Fairways at Torrington Association, Inc.
The Gardens at Summerfield Condominium Assn.
The Meadows of Enfield Condominium Assn., Inc.
The Moorings II Association, Inc.
The Village at Crystal Springs Condominium Assn., Inc.
The Windingbrook Townhouse Association
The Woodland House Condominium Association
Westside Woods Condominium
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Individual Managers

Linda Magee Arvers, CMCA
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County Management Services, LLC
Empire Property Management Corporation
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Palmer Property Management
Premier Property Management
Propertyworx, LLC
SOMAK Property Management
South Shore Property Management, LLC

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BELFOR Property Restoration
CertaPro Painters
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Fairfield County Bank Insurance Services, Inc.
John C. Fiderio & Sons, Inc.
Mono-Crete Step Co of CT, LLC
Pilera Software
Pilicy & Ryan, P.C.
Pro-Klean Cleaning & Restoration Services
Pullman & Comley, LLC
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SOLitude Lake Management
Sweep Away Chimney Services LLC
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Legally Speaking...



Adam Cohen, Esq.

Connecticut Supreme Court Clarifies Maintenance Obligations

Major ruling distinguishes between mandatory and discretionary repairs

By Adam J. Cohen, Esq.

On April 2, 2024, the Connecticut Supreme Court issued a first-of-its kind ruling which clarifies the obligations of an association's board to perform maintenance and repairs of common elements. The ruling announces an important distinction between which kinds of repairs are mandatory and which are discretionary.

For decades, the condominium in this litigation had been grappling with foundation settlement issues caused by the original developer's improper design which caused drywall cracks and other minor problems in a small number of units. The association itself obviously had nothing to do with designing or constructing the foundation, and most units were completely unaffected, but the board had always been transparent with the residents about the situation. For decades, the board repaired the resulting damage as it occurred, until engineering reports concluded that the settling had subsided. Nevertheless, two unit owners sued the association, developer, municipality, and others on a variety of legal theories. The lower courts threw the case out under a three-year statute of limitations and because the community's declaration only required the board to repair common elements the association was required to insure, which excluded foundations.

The Supreme Court agreed that most of the claims were filed too late, but reversed the lower courts on the portions of the complaint which accused this condominium of violating its own governing documents by not making the repairs. While the declaration said only insured common elements had to be repaired, the bylaws said the association was generally responsible for repairing the others. The Supreme Court reconciled these clauses as meaning that the association must always fix those common elements which must be insured, but as for the rest, the function was instead discretionary – that is, costs and benefits of the work were proper considerations. So, the Court held, the law would not obligate the association's board to make repairs which it fairly determined would be unwarranted or unreasonably expensive.

The Court went on to follow previous rulings that declarations and bylaws are essentially contracts which are governed by a six-year statute of limitations, and that the plaintiff's lawsuits were started within that deadline as measured from the time the condominium ceased foundation repairs. Importantly, the Court did not hold that the association had done anything wrong. Instead, the Court concluded that the plaintiffs could proceed with their litigation to attempt to prove that the association did not properly exercise its discretion in ascertaining what level of repairs was reasonably sufficient. Notably, neither the foundations nor this litigation itself has prevented sales and leases of this condominium's units at normal market rates.



DNV59i/Stock/Getty Images Plus

This Court ruling is extremely important because nearly all associations in Connecticut have clauses in their governing documents very similar to the condominium in this lawsuit, as does Connecticut's Common Interest Ownership Act (CIOA). It will usually mean that boards will be required to repair all common elements regardless of the cost or benefit of doing so, with the exception of "land, excavations, foundations and other items normally excluded from property policies" for which they can exercise some discretion. Although that discretion is susceptible to challenge in court, the Supreme Court noted that, as it has held in the past, the discretion is very broad and will not be second-guessed by judges except in extreme cases. Just as importantly, the Common Interest Ownership Act also allows maintenance responsibilities to be allocated in essentially any way the declaration says – such as by eliminating the association's duty to make certain repairs or by requiring the benefitted unit owner to reimburse the cost. In other words, an association can protect itself from accusations of not following its governing documents by amending what those documents say.

Association boards should take three lessons from this ruling. First, they should carefully scrutinize their declarations and consider amending them to make as clear as possible what kinds of maintenance and repairs must be done, by whom, and who foots the bill. Second, when considering repairs to foundations or other common elements which need not be insured, the board should thoroughly research and document the costs and benefits involved so it can prove that its discretion was exercised reasonably. Finally, unless exempt from insurance or otherwise stated in the declaration, common element repairs are generally going to be mandatory – and disgruntled owners will have up to six years to sue if they aren't done. ■

The author is corporate counsel for this association but did not represent it in this litigation.

Adam J. Cohen is an attorney with the Law Firm of Pullman & Comley, LLC headquartered in Bridgeport, Connecticut. As the Chair of its Community Associations Section, he represents and gives seminars to condominiums, tax districts, and other communities in matters ranging from amendments of governing documents to revenue collection strategies and commercial disputes. He is also general counsel to the Connecticut Tax Collectors Association.

Financially Speaking...



Daniel Levine, CPA

Prepaid Expenses

By Daniel Levine, MBA, CPA

Many associations operate under the accrual method of accounting. This method of accounting focuses on recording transactions not just when cash deposits or disbursements are made, but when revenue is earned, and expenses are incurred. As a result, there are many more types of balance sheet accounts involved in the accrual method of accounting to be able to follow these rules which at times can complicate the understanding of the reports. This article will delve deeper into one of these accrual basis accounts: Prepaid expenses and will highlight what they are, various ways they can be created, and how the board should interpret or address them in their reporting.

What are Prepaid Expenses?

While accounting can be overly complex sometimes, thankfully some items are exactly how they sound, and this is the case for prepaid expenses. They are essentially expenses that you have prepaid and means that the association has had an outlay of cash prior to receiving the benefit of what they spent the money on. Prepaid expenses are recorded on the balance sheet until the association receives the service that they've paid for. Once the service has been provided, then the prepaid expense is removed from the balance sheet and incorporated into the income and expense report as an expense. Therefore, it is important to understand and account for prepaids correctly as they have a direct impact on the association's net income for the year.

How can Prepaids be Created?

As stated earlier, prepaids come about mostly from timing differences, however larger prepaids could come about from larger contract negotiations and payment plans.

Looking at simpler prepaid expenses first, the easiest example is typically the snow removal or landscaping contract. For example, an association pays at the end of December for its January snow removal. This prepayment should not be included in the expenses of December. It should stay on the balance sheet reflecting that the service is prepaid and then be expensed into the income statement in January once the service is provided by the vendor. The reason for this is, say the vendor doesn't actually perform this service, the association would be due a return of its money. By not expensing this payment, the association has avoided a potential distortion in December net income.

Another common example of prepaids comes from insurance policies the association has. Most policies require some large down payment and then payments occur over an additional few months. However, the policy will typically cover an annual time frame.



"This article will delve deeper into one of these accrual basis accounts..."

Meaning the association has prepaid its carrier for its coverage. As a result, prepaid insurance is recorded to reflect the fact that the association has prepaid its carrier. This prepaid is reduced each month that the association maintains its policy being brought to zero by the end of the current policy period and being created again when the new policy period starts and a down payment is made again.

Similar to insurance deposits, deposits for maintenance or capital projects could also have a prepaid component. If the work was not started the same month as the deposit, then the deposit should be a prepaid expense. Consequently, if a deposit is for a certain percentage of the job and that percentage of work isn't completed by the end of the period, then the whole deposit shouldn't be expensed, instead the association should only expense the portion of the deposit related to the completed work while the remainder stays as a prepaid.

Moving onto a more complicated situation, some associations engage in a multiple year payout for work. For projects that cross fiscal years, an association simply can't just assume that the payments correspond to the completion of the project. A board should take care when undergoing a large project to understand how much of the project is complete and whether that is correctly mirrored in installment payments or is different. If an association has paid too much as compared to the percentage of work done, then a prepaid will result. If an association has paid too little as compared to the percentage of work done, then a payable should be created to add more expense to the year as compared to what was paid.

The association should engage in careful analysis of its larger projects or contracted services in order to be able to understand whether or not the financial statements are correctly reflecting a project's expenses.

How Should a Board Address Prepaid Expenses?

For accrual method transactions, prepaid expenses have simpler oversight required than other types of transactions such as leases of contract liabilities. However, there are some basic lines of inquiry or investigation that a board should do. Namely, those in charge of governance should include in their review of monthly information an analysis of prepaid expenses. First a board should review their balance sheets for any prepaids that may already be listed. Understanding what is there and if it is accurate is the first step to determine if there should be an adjustment. Prepaids rarely remain at a consistent balance on the balance sheet and therefore adjustment may be required if that has been the case.

The next step should be for the board to review its major projects and payment terms to see if any part of a current project is prepaid. If so then the income and expense statement should be adjusted to reflect the prepaid portion of the project with adjustment in subsequent periods to remove this prepaid expense back into the income statement, but in the correct period of when the work was completed.

Conclusion

While not a frequent occurrence, when operating an association's day-to-day business prepaids nevertheless do occur. Understanding what the records are indicating by the existence of a prepaid expense or understanding that a portion of a project may need to be reflected as prepaid are important to ensuring the financial statements remain accurate. ■

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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Dermot Woods

7 Reasons Why it's so Important to Keep Dog Waste Off Your Properties!

By Dermot Woods

Maintaining clean and waste-free environments in condo complexes and commercial properties in Connecticut is vital for both the property's condition and the well-being of the community. Here are some compelling reasons why property managers and association boards should prioritize picking up dog waste in these settings:

1. Minimizing Disease Exposure:

Dog waste may contain harmful microorganisms like E. coli and Salmonella, posing a risk of serious illness, particularly to children. Additionally, diseases like parvovirus, which has a high mortality rate among dogs, can spread through fecal matter, potentially affecting both pets and humans.

2. Protecting Local Water Sources:

Dog waste left on the property can contaminate local water tables, especially during precipitation events like rain and snow. The contaminants present in dog feces, such as nitrogen, can harm wildlife and aquatic vegetation over time.

3. Preventing Parasitic Infections:

Dog feces can harbor parasites like roundworm and hookworm, which can transfer to humans and pets if left untreated. These parasites can cause inflammation and skin irritation, emphasizing the importance of promptly removing dog waste from the property.

4. Avoiding Toxicity:

Dog waste contains toxins that can harm the soil, affecting the health of lawns, flower gardens, and even vegetable gardens on the property. Regular waste removal helps maintain a healthy soil environment and prevents toxic chemical leaching.

5. Enhancing Curb Appeal:

Accumulation of dog waste can damage the property's landscaping and reduce its visual appeal, negatively impacting the property's exterior charm. Additionally, the presence of waste can create unpleasant odors, deterring both residents and visitors.

6. Preventing Pest Infestations:

Excess dog waste attracts pests such as insects, mice, and rats, which can pose a nuisance and potential health risks to residents and tenants.



"Dog waste may contain harmful microorganisms..."

humonai/Stock/Getty Images Plus

Proper waste management helps minimize pest infestations and maintain a hygienic environment.

7. Upholding Community Standards:

Neglecting to pick up dog waste can lead to complaints from neighbors and potential violations of HOA or community rules, resulting in fines or penalties. Maintaining a clean and orderly property is essential for fostering positive relationships within the community.

To ensure a clean and safe environment, property managers should provide adequate waste disposal options such as poop bag stations and outdoor trash cans, making it convenient for residents and tenants to dispose of their pet's waste responsibly. Pet waste station installation, maintenance and scooping services can be provided by local companies. By implementing these measures, property managers can contribute to a healthier and more pleasant living and working environment for everyone in the condo complexes and commercial properties they manage. ■

Dermot Woods is owner and operator of Newington, CT based pet waste removal service The Scoop Master. The Scoop Master provides professional scooping services, pet waste station installation and maintenance to all commercial and residential properties in Hartford County.



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Spring Fling is Blooming!

Spring Fling explored a new venue this year – Quirk Works Brewing and Blendery in Danbury. It was a cool spot and seemed to be a good fit for our event.

Our speakers did an excellent job of explaining the “7 Things You Must Know” as a manager or board member. There were lots of good questions!

Our speakers are an incredibly valuable component of the success of our events. Thank you to our Spring Fling presenters:

Christopher K. Leonard, Esq., Gregg A. Brauneisen, Esq., John A. Bowser, Esq. of Collins Hannafin, PC and Ari Hoffman, Esq. of Cohen and Wolf, PC and Frank Pingelski, EBP of Tooher-Ferraris Insurance Group

Our committee is a terrific group of dedicated volunteers. Thanks for making this event a great experience!

Chair – Carrie Mott, EBP – *Bouvier Insurance*

Vice Chair – Jillian Judd, Esq. – *Pilicy & Ryan, P.C.*

Suzanne Berry, CMCA – *Imagineers, LLC*

Kelly Montesi, CMCA – *REI Property & Asset Management*

Jean Craemer – *Fairfield County Bank Insurance*

Sean Seagrist – *Crystal Restoration Services of Connecticut*

Natasa Bavrlic, CMCA, AMS – *Superior Community Management, LLC*

The Spring Fling Committee will be meeting soon to begin planning for 2025. We would love to welcome new committee members!

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Jonathan Chappell, Esq.

CONFLICTED?

By Jonathan Chappell, Esq.

The term “conflict” or “conflict of interest” is seemingly referred to frequently in various scenarios. One example, a unit owner says: “Mr. X (a board member) is obviously in favor of hiring Mr. Y (a contractor) because he is a very close friend. Mr. X has a conflict and can’t vote to choose his buddy, right?” Whether there is actually a conflict of interest, depends. You might be surprised that many common scenarios where this term is referred to do *not* involve a so-called “legal conflict.” My goal is to give you some guidance, but, as always, you should bring your specifics to your counsel.

Fiduciary Duty

I will first use this opportunity to discuss a related issue. Frequently, both directors and unit owners state that a board member owes the association a “fiduciary duty.”

However, if your community has already transitioned from declarant control, i.e. if your board was elected by the unit owners, the board member does not owe a fiduciary duty. Rather, subsection 47-245(a) of CIOA states that board members not appointed by a declarant shall exercise the degree of care and loyalty to the association required of an officer or director of a nonstock corporation, referring you to Chapter 602 of the General Statutes (“Nonstock Act”). Note that an overwhelming number of associations were created as nonstock corporations, and the Nonstock Act applies to nonstock corporations even if CIOA may not.

What is a Conflict?

The same subsection of CIOA says a director is also subject to conflict of interest rules of the Nonstock Act.

The starting point is the definition of “director’s conflicting interest transaction” in § 33-1127(1) which is defined as follows:

[A] transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, (A) to which, at the relevant time, the director is a party, (B) respecting which, at the relevant time, the director had knowledge and a material financial interest known to the director, or (C) respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.

Note the words underlined are also defined by the Act.

What is clear is that the Nonstock Act is focused on *financial gain*, i.e. a “material **financial** interest,” which is: “a **financial** interest in a transaction that would reasonably be expected to impair the objectivity of the director when participating in action on the authorization of the transaction.” The key issue is whether a potential financial, mone-

“The key issue is whether a potential financial, monetary gain...would cause the average/ reasonable person to have trouble deciding what is best for the association...”



milaso/Stock/Getty Images Plus

tary gain (hence, the bold), would cause the average/reasonable person to have trouble deciding what is best for the association, as opposed to what is best for his/her (or related person’s) bank account.

Another important consideration is who is a “related person”:

(A) The director’s spouse, or a parent or sibling thereof; (B) a child, grandchild, parent or sibling of the director, or the spouse of any thereof; (C) an individual (i) living in the same home as the director, or (ii) a trust or estate of which a person specified in subparagraph (A) or (B) of this subdivision or clause (i) of this subparagraph is a substantial beneficiary; (D) an entity, other than the corporation or an entity controlled by the corporation, controlled by the director or any person specified in subparagraphs (A) to (C), inclusive, of this subdivision; (E) a domestic or foreign (i) business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the director is a director, (ii) unincorporated entity of which the director is a general partner or a member of the governing body, or (iii) individual, trust or estate for whom or of which the director is a trustee, guardian, personal representative or like fiduciary; or (F) a person that is, or an entity that is controlled by, an employer of the director.

This includes some obvious individuals (relatives), but also certain businesses.

Sufficient “control” over a company qualifying as a related person is also defined:

[Continues on page 16.]

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CONFLICTED?...from page 14.

(A) having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through membership or the ownership of voting shares or interests, by contract, or otherwise, or (B) being subject to a majority of the risk of loss from the entity’s activities or entitled to receive a majority of the entity’s residual returns.

How about some examples? Understand that this is a very fact specific. What may be a clear example of a conflict: A director voting to approve his own company (he owns it 100%) to perform a \$1 million

roof project. This director would clearly gain financially. Towards the other end of the continuum, a director’s spouse owns 5% of a painting contractor that submitted the lowest bid. Is the amount of money she may get make her unable to be objective? Does she have sufficient control of the company? What about Mr. X (above)? Merely based on being “a friend”

does not likely create a conflict, as there may not be any financial interest to cloud the director’s judgment.



“Generally, a conflict of interest does not necessarily mean that the proposed action cannot be done.”

What if there is a conflict?

Generally, a conflict of interest does *not* necessarily mean that the proposed action cannot be done. However, sometimes though not a true conflict, perhaps it may be close enough or otherwise make something a bad idea for the association.

If there is a conflict, to avoid potential negative consequences, the association must proceed with the appropriate process to approve the potential transaction. While space does not permit a detailed discussion, generally this requires the complete disclosure of the details of the conflict and recusal of the individual(s) with the conflict (including from a vote).¹

What can we do to try to avoid?

Perhaps some potential conflicts may be avoided or at least preemptively accounted for. Does your board gather information from its elected directors? It seems additional, non-invasive questions might help (e.g. names of family members, occupants, occupation, etc.). When a potential conflict arises, additional information will likely be needed to sufficiently disclose.

Not every decision that looks that appears “wrong” is an actual conflict of interest. If there are any questions, it is best to get advice of counsel prior to making a decision. ■

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.

End Notes:

¹ See C.G.S. §§ 33-1129 and 33-1130.

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Doug Newman, CMCA

Connecticut Condominium Association Insurance Deductibles

By Doug Newman, CMCA

When I discuss Condominium Association Insurance, I must preface the discussion by saying that I am not a licensed insurance agent and I always advise that a licensed agent be consulted. Additionally, it is very important to review the association's governing documents as they pertain to insurance and to consult an attorney too.

As per Connecticut's Common Interest Ownership Act (CIOA) the common interest community insures the individual unit's improvements and betterments. Improvements and betterments are items such as sheet-rock, trim, molding, flooring, cabinetry, counter tops, etc. Essentially all items other than personal property. Since the association insures these items, it has the responsibility to restore them if damaged accidentally (an insurable loss). This is a bit counter intuitive; why should the association insure improvements inside the unit that it has no control over? Legislatively, it works this way in Connecticut and in other states too.

Because the association has the responsibility to restore the improvements and betterments, it has risk exposure. To reduce the exposure, it is my strong opinion to raise deductibles from \$2,500, \$5,000 or \$10,000 to at least \$15,000 or \$25,000 (or even \$50,000) to shift risk exposure from the association to the unit owner which encourages them to "have skin in the game" when it comes to filing claims. It is also extremely important to adopt well-written Maintenance Standards, which should be done with the advice of an attorney well-versed in CIOA.

The purpose of increasing the deductible amount is to shift risk exposure and financial responsibility from the association to the unit owner where 99.9% of all insurance claims tend to originate and 99.9% tend to be water-related which are preventable with proper inspections, maintenance, and best practices. With a higher deductible, the association will reduce both the frequency and dollar amount of claims so the Association's loss history will remain untarnished and future premium increases, which are compounded year-over-year, minimized. A clean loss history better positions the association in the marketplace and makes it more attractive to other insurance carriers who would like to compete for their business.

Insurance premiums are largely determined by the Total Insured Value (TIV) or the replacement cost value, plus a risk factor. Insurance

underwriters would much prefer to see one larger-sized loss every 10+/- years versus a dozen of smaller-sized claims over that same period of time. More claims, or the higher the frequency of claims, equates to higher risk. Higher risk equates to higher annual premium increases.

Today I recommend that our client associations have a Master Policy deductible of \$25,000. I will provide two scenarios illustrating an identical loss, one with a \$10,000 deductible and the other with a \$25,000 deductible. Please keep in mind that every claim situation is unique and the following serves as illustrative purposes only.

Scenario A - \$10,000 Deductible

The refrigerator's water supply line splits and runs for a few days while the unit owner is out of town. The cost of the mitigation services and to replace the flooring is \$26,000, the association files a claim. The unit owner is responsible for the \$10,000 deductible,


which is covered through their HO-6 homeowner's policy, and the association's insurance carrier pays out the \$16,000 difference. The association then has \$26,000 and restores the unit.

Scenario B - \$25,000 Deductible

The refrigerator's water supply line splits and runs for a few days while the unit owner is out of town. The cost of the mitigation services and replacing the flooring is \$26,000. The unit owner is responsible for the \$25,000 deductible, covered through their HO-6 homeowner's policy, and the association (the board) then pauses and debates if it should file a claim or not since the claim proceeds will only be \$1,000. It decides to write a check for \$1,000 and now has the \$26,000 to restore the unit and the loss history is not dinged. Either way, this shifts \$25,000 of the loss, instead of \$10,000, from the Association to the unit owner, which is where conventional logic says it belongs anyway due to a loss that they could have prevented.

It is important that deductibles keep up with the inflation that we have seen in building values and as such, I strongly recommend all of our client association master policies have a \$25,000 deductible. I also strongly recommend they adopt very well-written maintenance standards and to reiterate; the motivation for increasing the master policy

[Continues on page 27.]



"The purpose of increasing the deductible amount is to shift risk exposure and financial responsibility from the association to the unit owner..."

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Manager's Column...



Rich Wechter, CMCA

Being Practical, Part XCIII

Bringing Local Government to Community Associations

By Rich Wechter, CMCA

In this column, I tackle various topics of interest with the intent of imparting practical advice. In this issue's column, I wish to discuss a topic that is extremely important to community associations: the interaction between community associations and local governments. Community associations have many occasions when residents or the Board itself need to communicate with various departments in the local government. The departments of local government that are more likely to be contacted are the Clerk's Office, Building Department, Planning & Zoning, Public Health Department, Public Works Department, Tax Assessor, Fire Department and Police Department. The people working in these departments may be your neighbors, or at the very least, fellow condominium owners who share many of the concerns and issues that community association board members and residents have. This article offers a few suggestions on how to best communicate with and seek the wisdom of these civil servants who are the backbone of any municipality.

A. Setting the Table on this Topic

It is common practice for all of us to focus on national or state issues in our daily affairs. The internet and the various left- and right-wing cable networks, commentators and newspapers leave very little room for local matters. However, as was ably stated by Valerie Jarrett, "When you are in local government, you are on the ground, and you are looking into the eyes and hearts of the people you are there to serve. It teaches you to listen; it teaches you to be expansive in the people with whom you talk to, and I think that that engagement gives you political judgment." Pete Buttigieg, the current Secretary of Transportation and former mayor of Fort Wayne, Indiana noted, "In local government, it's very clear to your customers—whether or not you're delivering. Either that pothole gets filled in, or it doesn't. The results are very much on display, and that creates a very healthy pressure to innovate."

B. How to Best Communicate With and Bring Local Government to Community Associations

I note a few suggestions on how to best communicate with and bring local government officials to community associations:

1. First, learn who all of the players are in the local government in which your community association is located. This also includes special districts (taxing and water as prime examples).
2. Obtain good contact information for these individuals.



Kevin Alexander/George/Stock/Getty Images Plus

"This article offers a few suggestions on how to best communicate with and seek the wisdom of these civil servants who are the backbone of any municipality."

3. Learn as much about them as you can - from the internet and from individuals who have dealt with them.
4. Have a full understanding of the duties and responsibilities of these individuals.
5. Ascertain the best manner of communication with these individuals.
6. Prepare succinct and accurate communications with these individuals. Long back and forth communications are not desirable. These individuals are not waiting for your communications. Respect their time and they will respond in kind.
7. Communicate firmly but professionally in all contact with local governmental officials.
8. Develop long-term relationships with local government officials. You want to impress upon them the fact that your community association wants to be a partner, not an adversary on all matters.
9. Don't over promise on anything you cannot deliver on.

10. Meet with local government officials either at the property or at their office, especially in matters involving property improvements/repairs/projects.
11. Invite local government officials to board or unit owner meetings when appropriate (whether in person or virtual). It is a great learning opportunity for all involved in your community association and for the local official as well. So many questions of boards and residents can be answered when local governmental officials attend such meetings.
12. Keep in touch with these local government officials. You do not want them to conclude that you are just a one-tune player in the community.

C. Conclusion

The late Speaker of the House, the legendary Thomas (“Tip”) P. O’Neill famously noted that all politics is local. Local government is the backbone of all communities in this country. Community associations must remember this when trying to operate and most importantly, proceed with projects in their respective communities. Local authorities can greatly help community associations and their residents in so many ways. I hope this article has been helpful dealing with this topic. ■

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: *Navigating Differences:* Reserve Studies and Structural Integrity Reserve Studies

By Melissa Yocum

The core purpose of any reserve study is the same – to serve as a capital expenditure forecasting tool and reserve funding plan to offset such expenditures. These resources provide knowledge on the true cost of ownership for your community and aim to ensure the physical well-being of your association. However, there are some key differences between a typical reserve study and a Structural Integrity Reserve Study (SIRS).

While reserve studies are legally required only in some states, they are recommended for all associations by the Community Associations Institute’s Reserve Study Standards.

The core difference between services is in the name — structural

integrity. SIRS were mandated and developed to ensure associations with buildings three stories or higher are up to par with structural integrity and safety standards. While a regular reserve study focuses on all of an association’s reserve components, a SIRS focuses on eight key structural reserve components.

However, it’s important to note that the legality of SIRS establishes a baseline for the service and different firms conduct them in various ways. Some firms may offer a SIRS at the baseline level, covering just the required components, while other firms may offer SIRS alongside or combined with traditional reserve study components, beyond the statutory list. For example, a SIRS conducted by Reserve Advisors

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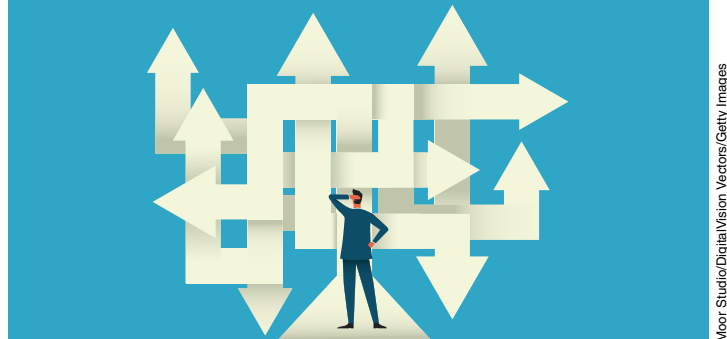
SIRS COMPONENTS (STRUCTURAL)

- Roof
- Structure, including load-bearing walls and other primary structural members and primary structural systems
- Fireproofing and fire protection systems
- Plumbing
- Electrical systems
- Waterproofing and exterior painting
- Windows and exterior doors
- Any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the item

RESERVE STUDY COMPONENTS (NON-STRUCTURAL)

- Elevators
- HVAC
- Interior renovations
- Paving
- Pools & sports courts
- Landscaping & irrigation systems
- Other amenities

“The core difference between services is in the name — structural integrity.”



Moor Studio/DigitalVision Vectors/Getty Images

includes all reserve components in the report, separated into structural and non-structural funding plans.

Non-structural components, while not legally required to be included in a SIRS, still pose a significant financial impact on your association, with many associations spending more than 50% of their overall reserves on non-structural items. Additionally, if you’re still relying on a previous traditional reserve study it’s important to note that, depending on the provider, it may not include out-of-sight items like plumbing, waterproofing, and electrical systems, all of which are costly to maintain or replace. These items are included in a SIRS for good reason, but non-SIRS components can be equally costly and should be kept in mind. When collecting bids for a SIRS, ask if and how the provider incorporates non-structural components to make the choice that best suits your community’s needs.

In Florida, for example, the legislation requires full funding for the required SIRS components, but funding for non-structural com-

[Continues on page 24.]

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Reusable Bags

Commit to bringing your reusable bags to the store. If you forget, turn around and go get them! After forgetting them once, you won't do it again.

Although single use plastic bags have been banned in Connecticut since July, 2021, one can observe lots of people having their purchases placed in paper bags rather than reuseable ones all the time.

While paper bags have some advantages over plastic bags with respect to sustainability, they are very resource-heavy to produce: Manufacturing a paper bag takes about four times as much energy as it takes to make a plastic bag, and the chemicals and fertilizers used in producing paper bags create additional environmental damage.

Regardless of whether a bag is plastic, paper, or another material, the most sustainable choice is the bag you already have. In every study and for every kind of bag, it was evident that reusing a bag as many times as you can reduces its impact on the environment. Overall, making the effort to reuse any bag that comes into your possession, and disposing of the bag responsibly, is key.



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TECHNICAL EXPLANATIONS...from page 22.

ponents can still be waived by a majority of the community's voting interests. However, because non-structural items can be significantly costly to maintain, it's important to understand if funding for non-structural items should be waived and the implications of doing so. Sometimes, associations will waive funding for non-structural and put all funding towards SIRS components. This can be because the immediacy of complying with legislation and catching up on funding for structural items seems overwhelming, especially if the association is already underfunded.

When it comes to cost, conducting a baseline SIRS including only structural elements may be cheaper, with fewer components to inspect

"Sometimes, associations will waive funding for non-structural and put all funding towards SIRS components."

and a shorter capital plan. Of course, this will always depend on the firm, and it's important to weigh the benefits of incorporating non-structural elements based on your association's needs and current financial status. Ask questions of the providers from whom you collect bids, and weigh each option against your association's current and future needs.

While there is some overlap in who can conduct reserve studies and SIRS, SIRS are legally required to be conducted by licensed engineers, registered architects, reserve specialists, or professional reserve analysts. For typical reserve studies (where state statutes do not require specific credentialed individuals), it is still considered best practice, with Community Associations Institute's Reserve Study Standards most highly recommending designated reserve specialists.

While SIRS and reserve studies have many similarities, their main differences are the scope of work (depending on the provider), the legal requirements of SIRS, and who is required or recommended to conduct them. A baseline SIRS will fulfill your legal obligations. Still, your community's physical and financial needs are unique so it's important to understand which SIRS option and provider will best set your association up for success. ■

Melissa Yocum is a Senior Account Manager with Reserve Advisors.

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deducible is to reduce risk exposure, the frequency, and dollar amount of claims to keep the loss history in check.

My opinion is not to penalize unit owners per se by shifting risk in their direction but rather to best advise our client Executive Boards to protect the association assets and manage annual insurance renewals as best as possible. Make no mistake, unit owners share in the responsibility to diligently follow all of the association’s maintenance standards and limit losses. If they do, all of the above becomes a moot point and remember the old adage; an ounce of prevention is worth more than a pound of cure! ■

Doug Newman, CMCA is President CPE Property Management Solutions. He is a member of the CAI-CT Managers’ CEO Council and serves on our Education Program Committee.

Fireworks Safety Tips for Pets



- Don't bring your pets to a fireworks display, even a small one
- If fireworks are being used near your home, put your pet in a safe, interior room to avoid exposure to the sound
- Make sure your pet has an identification tag, in case it runs off during a fireworks display
- Never shoot fireworks of any kind (consumer fireworks, sparklers, fountains, etc.) near pets

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