

# Common Interest

The Official Publication of CAI-Connecticut

Vol. XIX: Issue 4 • 2024

*Inside:*

## How to Handle Insurance Increases

## Who Pays? Liability and Insurance for Property Damage

## Master Insurance Policy Costs

## The Crisis in Insurance Premiums A Manager's Perspective

## Managing Financial Risk: Reserve Studies, Lending and Insurance

*...and more!*

  
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**Who Is CAI?**

The Connecticut Chapter is one of 63 Community Associations Institute chapters worldwide. CAI-CT serves the educational, business, and networking needs of community associations throughout Connecticut. Our members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to associations. The Connecticut Chapter has over 1,200 members including 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**

*“While there is little we can do to directly reduce premiums, we can take measures to soften the impact.”*

The focus of this issue is insurance. Throughout these pages you will find many excellent recommendations for how to manage the many major challenges in insurance both structural and financial. The importance of having a good strategy in place cannot be overstated. In this message, I wish to offer some insights of my own.

As an attorney, my clients are increasingly asking me what they can do to lessen or prevent the rising costs of master insurance policies. The experts tell me that this is cyclical and the market will correct itself in the future.

While there is little we can do to directly reduce premiums, we can take measures to soften the impact. Here are several steps that may help:

- 1. Adopt and Enforce Maintenance Standards:** Ensure your community has properly adopted maintenance standards. If these standards have not been reviewed recently, I highly recommend having your attorney review them. We have learned a lot since we first started implementing maintenance standards and updating them can mitigate risks. Don't forget to let your attorney know if there is a specific type of loss/damage that may be specific to your community. For example, ice damming.
- 2. Amend Governing Documents:** Consider amending your governing documents to ensure you have the necessary tools in place to limit your exposure to paying deductibles and other short-falls in insurance coverage. This proactive measure can save your community thousands of dollars and help avoid claims.
- 3. Increase Owner/Occupant Awareness:** Provide additional notices to owners and occupants, reminding them of common concerns within your community. For instance, if your association has a history of wood rot (whether the claim is insurable or not), remind owners of what they can do to help reduce it or at least identify it early on.

Taking these steps can help reduce the number and size of insurance claims. Just like auto-insurance, less claims help keep premiums from unnecessarily rising. ■

**NOTICE TO ALL  
CAI-CT MEMBERS**

**Annual Meeting September 17, 2024**

CAI-CT will hold its Annual Meeting on September 17, 2024 at 9:00 am via ZOOM. Election of officers and board members will be held at this time. If you have any questions or wish to make a nomination, please contact us at 860-633-5692 or [www.caict.org](http://www.caict.org).

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## From the Chapter Executive Director

**"Olympism seeks to create a way of life based on the joy found in effort, the educational value of a good example and respect for universal fundamental ethical principles."**

~ Pierre de Coubertin  
(primarily responsible for the revival of the Olympic Games in 1894)



Kim McClain

Courtesy CAI-CT.

It's time for the Olympics again! Given that my husband trained with the USA Olympic Fencing Team many years ago, the Olympics are must see TV in our house. We are in constant amazement about what the Olympians can achieve. The most important takeaway is the absolute dedication of all those athletes. Regardless of whether they walk away from the Olympic stadium with medals or not, they all deserve our awe and respect for all their hard work and talent.

Not only do we get to see many of the competitions in the comfort of our own homes, but we will also get to take some peeks into the host city, Paris. C'est bon! No doubt, there will be many opportunities to view the sights, food and architecture of the City of Light. I hope you take the opportunity to tune in too!



mikeorlov/Stock/Getty Images Plus

You will note that many articles in this issue are devoted to the topic of insurance. There is a myriad of issues regarding insurance, not the least of which is the current spike in rates. Our experienced authors provide some very important insights into how your association can manage these insurance challenges. And, you will observe, as is so often the case, a difference of opinion in the value of reserve studies as they relate to insurance and planning overall.

Don't forget to register early for Summer Sizzler. We're planning lots of fun around the event of the summer. We've sold out the past few years, so don't delay! Capture the gold in some of our games and/or enjoy a great time on the edge of the Long Island Sound.

Allez!  
Enjoy the Summer!

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## People in the News...

**Bouvier Insurance** Celebrated their 65th Anniversary on May 3rd with their valued employees and families! Congratulations Bouvier Insurance on 65 Years of service to our communities!



Courtesy CAI-CT.

Nicole Bouvier Pilon, Rob Bouvier and Rich Bouvier, CIC, CIRMS



**Share Your News With Us!**

Email your industry-related news to [kim@caict.org](mailto:kim@caict.org).

# UPCOMING CAI-CT EVENTS

## CEO CAM Council – Hosted on Zoom

Tuesday, July 16 • 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 Trends from the Experts. Hear from some of the key professionals in the insurance industry about current trends in insurance and what we can expect in 2025.

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

### 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

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## FALL FUN & Vendor Fair

Wednesday, September 25 • Education 3:00 pm - 5:00 pm

Networking 5:00 pm - 7:00 pm

Hops on the Hill, South Glastonbury



Best Practices for Creating Your Budget— How to make a budget, and resources to develop a functioning and realistic budget.

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### Service Providers:

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

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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 (On-line Webinar)

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 to be announced September 1st.

*(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](http://www.caict.org) for more information.*

## 27th Annual Conference & Expo

Saturday, March 15th



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Visit [www.caict.org](http://www.caict.org) for more information.



## THANK YOU NEW & RENEWING MEMBERS

### Welcome New Members

#### Associations

Chippenwood Estates Condominium Association  
Kensington Acres North Owners Association  
Poet's Landing Association, Inc.  
River Mead Association  
Christina Cola

#### Individual Managers

Mia Hawkins

#### Management Companies

Birchwater Property Management

#### Business Partners

Expert Cleaning, LLC

### Thank you renewing Members

#### Associations

Brookwoods II  
Edgewater Association, Inc.  
Four Beaches Condominium Association  
Fox Meadows Condominium Association  
Lakeside Commons Condominium Association  
Mountain View Condominium Assn. of Meriden, Inc.  
Oldefield Farms Homeowners Association, Inc.  
Prosperity Park Condo Association  
Ridgewood @ Middlebury  
South Village  
Strawberry Fields Condominium Association, Inc.  
Twin Lakes Condominium Unit Owners Association  
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Bouvier Insurance  
GAF Roofing Material Manufacturer  
Greater New York Insurance  
SmartStreet powered by BANC of California



## Legislative Update

**The 2024 legislative session began on February 7 and adjourned on May 8, 2024. Below are highlights from the 2024 Connecticut State Legislature:**

### HB 5168 AN ACT CONCERNING SOLAR INSTALLATIONS IN CERTAIN COMMON INTEREST OWNERSHIP COMMUNITIES.

This bill aimed to facilitate the installation of solar power generating systems in single-family detached units within common interest ownership communities, including condominiums and cooperatives. Financial burdens for installation and maintenance would be placed on the unit owner installing the panels and contained requirements for insurance on the part of unit owners. The bill contained language allowing boards to vote to opt out of the requirements of the bill, provided the vote took place before January 1, 2027. The Connecticut LAC supported this bill, as it aligned with CAI's Conservation, Sustainability, and Green Issues Public Policy.

*Status: Unsuccessfully DIED in Senate.*

### HB 5152 AN ACT CONCERNING RENTERS IN COMMON INTEREST OWNERSHIP COMMUNITIES.

This bill would prohibit associations from implementing rules and regulations which effectively prohibit the renting of more than 50% of units within a community.

The LAC opposed this bill.

*Status: Successfully DIED in Committee.*

### SB 144 AN ACT CONCERNING RESERVE FUNDS IN COMMON INTEREST OWNERSHIP COMMUNITIES.

This bill required that no later January 1, 2025, and to be repeated annually, association boards would conduct a study of reserve funds, determine the amount of funds necessary to maintain an adequate level of reserves and make recommendations concerning the allocation of funds necessary to maintain an adequate level. The LAC opposed this bill, as it contained language which did not align with CAI's Reserve Study and Funding Public Policy. The LAC is working with legislators to introduce a new reserve study mandate bill next legislative session that better aligns with CAI's public policy language.

*Status: Successfully DIED in Committee.*

## GET INVOLVED IN CAI CONNECTICUT ADVOCACY EFFORTS!

CAI keeps track of legislation throughout the year, so you can stay informed. You can check the legislation that CAI is monitoring around the clock.

### Support and Donate Today!

CAI depends on professional lobbyists funded by community associations, businesses, and individuals to create the best public policy for the community association industry in Connecticut. To support their efforts, visit [caionline.org/lacdonate](http://caionline.org/lacdonate) and select "Connecticut."

Help Shape Future Legislation Join our CAI Advocacy Ambassador program and become a part of the movement to create positive change. Your voice matters, so sign up now to make your mark! ■



dkfielding/iStock/Getty Images Plus

## ENVIRONMENTAL TIP

*Farmers' Markets are Fun!* Summer is the best time to visit one (or more) of the many great farmers' markets throughout our state. Lots of great freshly picked produce and all kinds of other items are there to explore. Buying local helps to reduce green house gas emissions from transportation and also the benefit of fresher food. The best part is that your purchases support the local economy and our farmers. No farms no food isn't just a bumpersticker.



FG Trade/E+/Getty Images Plus



## Statutory Snippet

**Did you know?** Connecticut law states that all community association board members and their managers should receive education about association operations (*Editor's Note: Condo Inc. is the education program offered by CAI-CT*). Public Act 060-23 states:

The executive board of each association of a common interest community, or an officer designated by the executive board, shall encourage each member of such association, including the officers and members of the executive board, and any managing agent of such association or person providing association management services to such association, to attend, when available, a basic education program concerning the purpose and operation of common interest communities and associations, and the rights and responsibilities of unit owners, associations and executive board officers and members. The executive board, or any such designated officer, may arrange to have any such program conducted by a private entity at a time and place convenient to a majority of the members of such association. All or part of any fees for such program may be designated as a common expense of the association and paid from association funds in such manner as may be determined by the executive board and approved by the association, consistent with the bylaws of the association and chapter 828 of the general statutes.

# Summer Sizzler!

## INSURANCE TRENDS FROM THE EXPERTS

Good for  
2 CEUs.

Thursday, August 1, 2024

**EDUCATION:**

3:00 pm - 5:00 pm

**NETWORKING:**

5:00 pm - 7:00 pm

Amarante's Sea Cliff,  
East Haven

**Board members and Managers are encouraged to attend. This event is not to be missed!**

Join us for a conversation with leading community association leaders on current trends in the insurance market. Where we are going in terms of rates, underwriting, re-insurance, and their visions as we move into the 4th quarter and 2025 for community associations within our state. We will be joined by Community Association Underwriters (CAU) Vice President Marketing, Douglas "Doug" Henken, Greater New York Insurance President and Chief Executive Officer, Elizabeth "Liz" Heck and Philadelphia Insurance Senior Vice President, Robert "Bob" Morgan.

**After the education program, join us for our Olympic style networking event!**

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**Board Members & Managers:** \$30 - CAI Members\*  
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\*When you sign into your profile before registering.

**To register visit [www.caict.org](http://www.caict.org).**

## Legally Speaking...



Adam Cohen, Esq.

### Who Pays? Liability and Insurance for Property Damage

By Adam J. Cohen, Esq.

Probably the most commonly asked question that condominium attorneys get is who is responsible to pay for repair and maintenance costs. The answer is usually more complicated than the person asking about it expects.

Whenever any property in a common interest community is damaged or requires maintenance or replacement, the obligation depends on the location and cause. Some parts of the buildings are the association's responsibility, while others are the unit owner's responsibility. State law provides default answers, but usually the specifics depend on the declaration's language about ownership boundaries, maintenance obligations, and liability allocations. Insurance may or may not cover the cost of the repairs. Sometimes the work must be performed by the association but its cost must be reimbursed by the unit owner or their insurer.

The association is required to maintain traditional property insurance coverage for direct physical loss to most of the community's common elements. Unit owners should, of course, separately insure their own units and personal items. The precise boundaries of the unit are governed by the declaration, but the unit often includes everything inward of the undecorated walls, floors, and ceiling. If the association is responsible, then the association's adjuster must inspect the damage. In such a case, the executive board rather than the unit owner should select the contractors, direct their work, and pay them directly with the insurance proceeds. Only when the unit owner is exclusively responsible should the unit owner control the repair project – either with or without the benefit of individual homeowner's insurance.

When a person or fixture that the association does not control causes damage only to a unit's interior or personal items, the association is not responsible and its insurance does not apply. The unit owner is individually responsible for repair or replacement, and should submit a claim to his or her own insurer or look to the person who caused the damage for reimbursement. This might include, for example, harm caused to a unit owner's laptop computer, carpeting, or furniture by another unit owner, a tenant, or a malfunctioning fixture or appliance. The association should really not be involved at all, except perhaps to punish a rulebreaker. But if the damage is unrepaired and threatens to cause harm to another unit or common element, the association may have the right to make the necessary repairs itself and charge that expense back to the owner enforceable as a lien against the unit.

In most other cases, however, the association and its insurance will probably have to become more directly involved at the outset. When a person that the association controls, or a defect in an area or fixture

*“Probably the most commonly asked question that condominium attorneys get is who is responsible to pay for repair and maintenance costs.”*



Genardi/Stock/Getty Images Plus

that the association is responsible to maintain, causes harm to anything in the community, the association is likely responsible. Based on the severity, nature, and cause of the loss, the association should promptly determine whether and how to submit claims against its property, liability, or other insurance policies. This might include, for example, water damage to a roof, ceiling, and carpet caused by shingle leakage. The unit owner remains responsible to notify the board immediately and take reasonable measures to prevent further damage, and liability might shift to a unit owner who makes the problem worse by failing to do so. Any portion of the loss that insurance does not cover (like deductibles, exclusions, and any overage) will usually be considered a general common expense payable by the association – unless the declaration or state law says otherwise, such as for foundations or other components the association is not obligated to insure or maintain.

There's a third scenario: damage to a common element caused by a person or thing the association does not control. When a unit owner, tenant, guest, or anyone they invite into the community causes harm to common elements, or to both common elements and a unit's interior or personal items, the association may still be responsible to make the repairs and submit a claim to its insurer. The difference is that the association may have the right to seek reimbursement from the person at fault for its out-of-pocket costs. The board can conduct a hearing to determine whether the loss was caused by the person's willful misconduct, gross negligence, or failure to comply with a written maintenance standard. If it was, then any portion of the loss that insurance does not cover can be assessed exclusively against the unit associated with the person at fault. This might include, for example, a tenant who turns the heat off in winter causing the pipes to freeze and burst, or a unit owner who causes a toilet to overflow and damage

the subflooring. The association often will not be responsible for damage beyond what its insurance covers, or could charge all deductibles, exclusions, and any other losses not covered by its insurance back to the owner enforceable as a lien against the unit. Since this may be impossible without a written maintenance standard in place, the importance of adopting rules which make clear how unit owners must take care to prevent such losses cannot be overstated.

Of course, every situation is different. Outcomes may turn on the provisions of specific laws, governing documents, and insurance policies, as well as the circumstances of the individual loss. The board must always work closely with its legal and insurance advisors to comply with its legal obligations and its responsibilities to all the 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.*



**Have your community association board members changed since last year?**

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

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## FinanciallySpeaking...



Daniel Levine, CPA

### How to Handle Insurance Increases

By Daniel Levine, MBA, CPA

As many associations are encountering, the insurance industry has been increasing rates for coverage at properties. Many complexes have found rate increases to be so substantial that figuring out ways to manage the increase for purposes of creating a reasonable budget has been a key discussion point. Increases in insurance are due to variety of issues ranging from broader macro level trends to the association's specific claim history. This article will look at insurance from an accounting perspective to highlight ways to help with insurance increases.

#### Budgeting for Insurance

This area will focus on the association's budget in two various ways, the first is the insurance line item itself and the second is insurance claims.

When looking at budgeting for insurance, if it is becoming a material line item, the association may decide to spend more time reviewing this line item for accuracy and challenge the assumptions that are used to create the budget line.

- What policies is the association renewing?
- Are these still valid?
- Are policies missing or can they be shopped around to another carrier?
- How does plan composition (deductibles/limits) impact pricing?
- Does the association have interest in creating an insurance committee that can spend the time to explore options while other budget areas are worked on?

These questions can help the association have a fresh perspective on the line item and not just carry over what has been done in the past if in fact it is no longer appropriate for the community and its needs.

The second budget line that is linked indirectly to the first is the budget for insurance claim repairs. Depending on deductibles and responsibilities of the association this line can and perhaps should be adjusted. If the association can mitigate premium increases by adjusting the deductible per claim up, the association may want to build into its budget a reserve that will allow it to handle additional claims. This reserve doesn't need to be present in every budget year. If no claims have occurred and the association has built up funds to absorb a deductible it may make sense to adjust remove this line from the budget. However, by not building a reserve, the association may run the risk of incurring the claim, and not having liquidity available to handle the deductible.



Additionally, a reserve for insurance claims may help the association self-fund minor claims. Self-funding may result in fewer claims being filed which will allow the association to be able to maintain a lower loss history and help mitigate insurance increases or a carrier not wanting to renew coverage at all.

#### Budget for Building Maintenance

As the saying goes, an ounce of prevention is worth a pound of cure. Preventative maintenance in this regard is a component in managing insurance rate increases. By maintaining the common elements of the association, unexpected repairs that result in claims can hopefully be mitigated.

When the costs for repairs increase, many associations opt to defer the work. This, however, can have a compounding problem whereby not fixing a problem today could result in a much costlier remediation in the future. Understanding this line item and how it's been created can be a helpful tool in reducing issues in the future. A deep dive into maintenance rates and material costs can help develop an accurate budget line that will keep the association in line with its maintenance standards.

#### Association Policies and Education

Like preventative maintenance, the association should review its policies and procedures as it relates to claims with its maintenance standards. Communicating what unit owners are responsible for and building in protections to the association that allow for deductible bill-backs may allow the association to absorb the cost of the claim more easily. Additionally, well communicated and thought-out standards can factor into more preventative maintenance from the unit owner

[Continues on page 31.]



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## Golf was Grand at The Farms

Although the temperature was rising to baking levels, a steady breeze and lots of hydration opportunities kept our golfers happy at our Annual Golf Tournament on June 18. Our attendees enjoyed the course and the excellent food. There were lots of smiling faces throughout the day. We did have a first though—a 3 way tie for Third Place. Despite the heat, the golfers had some pretty good scores out there.

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*More photos on the next page...*

*GOLF...from previous page.*







Jonathan Chappell, Esq.

## Master Insurance Policy Costs

By Jonathan Chappell, Esq.

This article is an attempt to discuss some of the “legal issues” pertaining to the escalating costs of an association’s master insurance policy. If you are a director, you very likely have seen rising costs, possibly even despite having a satisfactory claims history. Sadly, \$25,000, or even \$50,000 deductibles are no longer an aberration, and may be becoming the norm, possibly for less coverage. I also try to offer some suggestions to possibly alleviate these costs.

### A. Problems

#### I. Many Associations Must Insure the Units

Generally, the association is not obligated to maintain a unit.

However, subsection 47-255(b)(1) of CIOA may change this. That subsection states: “In the case of a building that contains units divided by horizontal boundaries described in the declaration, or by vertical boundaries that comprise or are located within common walls between units.” For example, a townhouse style unit. CIOA § 47-255 applies to all communities, no matter when the association was created. Your community documents might also require this.

Problems II and III apply to communities mandated to insure its units.

#### II. An Association Must Promptly Restore a “Damaged or Destroyed” Unit

If the units must be insured by the master policy, a unit that sustains damages from a casualty event must be restored by the association. CIOA § 47-255(h) states that a unit that is “damaged or destroyed shall be repaired or replaced promptly by the association...” What does that mean? Again, a Connecticut Superior Court Judge described this:

Generally, in common insurance usage, “damage or destruction” deals with items commonly covered by insurance, while everything else is maintenance, repair and replacement. That is, a working distinction is that a portion of a common interest community is “damaged or destroyed” (or suffers damage or destruction) if it suffers physical damage that is of a type and is caused by an occurrence of a type commonly covered by the casualty insurance required by Section 3–113 of this Act or by the Declaration or for which insurance is carried by the Association in effect. Otherwise, to “maintain, repair and replace” (or to perform maintenance, repair and replacement) is the act of addressing and correcting deterioration, wear and tear, and obsolescence to the Property which is not covered by the casualty insurance required by Section 3–113.

#### III. The Master Policy Must Provide “Primary” Coverage

CIOA makes the association’s master insurance policy “primary” relative to an owner’s policy that also insures that unit. CIOA subsection 47-255(d)(4) states that “if, at the time of a loss under the [master]



policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association’s policy provides primary insurance.”

Said simply, if the master policy and an owner’s policy both cover the unit, the master policy handles the claim first.

#### IV. The Association May Not Be Able to Be Reimbursed Its Unit Restoration Costs

The general rule under CIOA is that an association’s costs to restore a unit is a common expense shared by all. Unless your documents authorize the assessment of the insurance deductible or other uninsured cost against particular unit(s), these costs are paid by the association as a common expense.

### B. Is There Any Hope?

This all sounds bad. A few suggestions:

#### I. Find/Contact Your Legislators!

This issue is certainly “on the radar” of the CAI’s legislative advocacy committee. This potential amendment would be important, especially for communities with older documents, and other communities whose documents do not expressly allow an association to charge back restoration uninsured costs.

Problem IV above could be addressed by amending CIOA to automatically permit an association’s assessment of the master policy insurance deductible or other uninsured costs against the restored unit(s). Another suggestion is to mandate an owner’s purchase of an owner’s policy on his/her unit.

#### II. Restate/Amend Your Documents

Communities can amend the documents. However, this will require owners’ approval.

[Continues on page 18.]



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MASTER INSURANCE POLICIES...from page 16.

The idea behind this is not to punish an owner whose unit is restored. It is to seek to reduce the master policy costs to all owners. My understanding is that an owner's policy that can cover items including the master policy deductible is very affordable. Of course, contact your insurance professional.

III. Adopt Maintenance Standards

Every community should have maintenance standards. Maintenance standards provide the ability to assess uninsured costs from a breach of the maintenance standards against the violator. A common standard requires an owner to maintain the temperature to at least 60 degrees in a unit; a pipe burst from an abandoned unit without heat is a violation. The standards are adopted like a rule, which means by the board, after notice and comment by owners (no owners' vote).

IV. Complete Capital Projects

During the renewal process, it appears that some insurance companies are putting more focus on deferred maintenance. If your association's roofs are past their expected life the insurer may be less likely to insure or will do so at an extreme cost.

Drastic increases in the cost of insurance is a major concern. It is a very complex issue with a multifaceted approach to try to reduce this financial burden. ■

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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Doug Newman

## Prioritizing Reserve Funding: A Case Against Mandating Reserve Studies

By Doug Newman and Nik Clark



Nik Clark

The Surfside, Florida condominium building collapse in 2021 sent shockwaves throughout the community association management industry igniting discussions about building safety and financial planning nationwide. In response, there has been a growing call to legislatively mandate reserve studies as a means to ensure better funding and long-term maintenance of structurally integral common elements. However, while the goal of improving funding is crucial, legislatively mandating reserve studies every 3 to 5 years may not be the most effective solution and in the opinion of the authors, unwise. Instead, we believe the focus should be on prioritizing reserve funding through both education and voluntary adoption.

The tragedy in Surfside underscored the importance of proactive maintenance and financial planning within condominium associations. Advocates of mandating reserve studies argue that such measures would compel associations to assess and plan for the future maintenance needs of their buildings, thereby enhancing safety and financial resilience. However, conducting a reserve study does not guarantee adequate funding of reserve accounts. Soon after the reserve study report is delivered to a condominium association, it too often then finds a very comfortable spot on a bookshelf collecting dust. Associations may fulfill regulatory “reserve study mandates” without committing to the necessary funding, leaving them vulnerable to future and compounded financial strain.

Furthermore, legislating a statutory timeframe for reserve studies fails to account for the diverse nature of condominium associations. Associations vary in size, infrastructure complexity, age/life-cycle, and financial capabilities, making a one-size-fits-all approach illogical. For new, smaller associations with limited common elements, frequent studies every three years impose a financial burden without proportional benefits. Conversely, a 5-year standard might be unadvisable and misleading for larger or older associations that may require more frequent assessments to proactively manage extensive amenities and infrastructure.

Capacity constraints within the reserve study industry are another issue. Mandating reserve studies will burden associations who embrace the practice with higher costs and longer lead times to obtain a study,

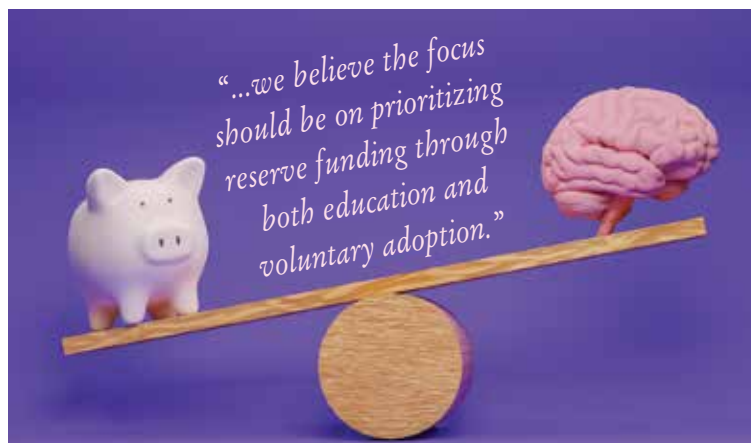
as the market is flooded with increased demand from associations who do not intend to embrace the study’s results but need to satisfy a legislative dictate. As reserve study mandates have swept the country over the past two decades, data compiled by prominent national reserve study providers revealed that drastic increases in the number

of reserve studies conducted did not result in significantly improved association funding levels. A legislative mandate has proven it is not the answer to improve reserve funding.

It is important to note that a reserve study is primarily a budgeting and planning tool, it is not an exhaustive structural report. The study analyzes the condition of common elements based on a visual inspection, current level of reserves,

planned contributions, and future expenditures to build funding recommendation assumptions at a point in time. Most of a building’s foundation is underground and structural elements such as floor joists, beams, studs, steel columns, etc. are underneath or behind the flooring, walls and ceilings and therefore cannot reasonably be visually inspected. A reserve study does not look under the ground or behind the drywall. It does not perform “x-ray” or radiographic testing or employ ground penetrating radar, etc. In fact, in virtually every reserve study disclaimer, you will see that the “useful life of the structure” is assumed to be the life of the building. This means the building’s structure, since it cannot reasonably be visually inspected and assessed, is assumed to last until such time that it is decided to demolish it and build something else. Stated differently, a reserve study does not assess the structural elements, failure of which could lead to the type of catastrophic events as sadly seen in Surfside.

Mandating reserve studies will not lead to better-funded or safer communities. Educated board members and unit owners who embrace the concept of reserve funding as a best business practice will. We believe the Community Association Institute (CAI) and its 63 chapters around the world can play a vital role in promoting appropriate reserve funding through education and advocacy. By highlighting the benefits and fairness of adequately funding reserve accounts, associations will choose to become better funded and buyers will come to expect it. Mandating reserve studies for those associations who believe in the practice and adequately fund reserves is unnecessary, and for



those associations who do not believe in the practice and instead chose to ignore the study, a waste of money.

In conclusion, while the urge to mandate reserve studies may seem compelling in the aftermath of the Surfside building collapse tragedy; it is essential to consider the broader implications and limitations of such measures. Empowering association boards and unit owners with knowledge and the motivation to prioritize financial planning is the essential piece, then the accountability to perform reserve studies (financial modeling) on an as and when needed basis, will follow. We all share a common goal to make associations and their communities most successful and attractive places to live. Legislative broad, one-size fits all reserve study mandates will lead to unintended consequences that run counter that goal. ■

*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 Program Education Committee.*

*Nik Clark is a Partner with Superior Reserve Engineering & Consulting based in Milwaukee, WI. Nik has over two decades of experience with community associations having held executive positions with a prominent legacy firm in the reserve study industry before founding Superior Reserve in 2014. Mr. Clark has been a resource for community association managers, real estate executives, and property owners in all 50 states and 36 countries.*



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Laughter, relatable real-life experiences and lots of excellent discussions were part of the May 22 Fairfield Knowledge and Networking event. “The best CAI-CT event I ever attended!” “Great energy and really good acting effort.” These were just a few of the comments about the event.

The “Not Ready for Prime Time Common Interest Players,” were pulled together by the committee to create a very impressive performance. They spent a great deal of time crafting a script that had many typical insurance claim type experiences. They rehearsed their parts, and they peppered the program with strategies from experts and lots of audience participation asking: “What Would You Do?” in a variety of scenarios.

### **We need to give another round of applause to the cast:**

Lynn Jackson, CMCA, AMS, PCAM – *Felner Corporation*

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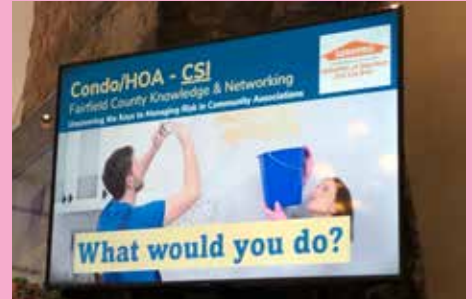
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## Manager's Column...



Rich Wechter, CMCA

# Being Practical, Part XCIV The Crisis in Insurance Premiums — A Manager's Perspective

By Rich Wechter, CMCA

In this column, I tackle various topics of interest with the intent of imparting practical advice. In our 91st column, I wrote about what to expect and how to respond to higher insurance premiums. I urge all readers of this column to re-read that article. This topic is, unfortunately, the gift that keeps on giving. I now expand on my earlier article on this topic and once again offer the perspective of a manager to help community associations get thru this continuing insurance crisis and steer their respective community association ship past these troubled waters.

### A. Setting the Table on this Topic

I have been involved in the world of insurance since I became a litigation attorney back in 1986 representing insurance companies. Since 1986, I have seen the ebb and flow of the insurance market and the way underwriters and claim representatives have gone about doing their respective jobs. I have seen great markets for insureds and have seen markets for insureds that were less than stellar, to put it mildly. In 2024, however, I have never seen the insurance market so bad for insureds, especially community associations, who have so many factors to deal with regarding the master association insurance package policy. I see no light at the end of the insurance premium increase tunnel in the near future and cringe at the report that the number of Atlantic hurricanes predicted in 2024 is higher than normal. Since no community association is an island and no one state is an island when it comes to the ever-increasing cost of insurance premiums, we here in CT are at the mercy of every tornado, every flood, every windstorm, and every fire that occurs anywhere in this country. There is no escape from all these occurrences. However, rather than throwing in the towel and surrendering to all this bad news, I still maintain optimism that community associations can weather this raging storm of bad news and steady their respective community association ships. Accordingly, I now expand on my earlier article and offer some further suggestions to deal with these troubled times with respect to the insurance premium crisis.

### B. Weathering the Insurance Storm

I am restating my suggestions from my earlier article and have added supplemental verbiage in bold, where appropriate, to expand on my earlier suggestions.

1. Review the current master insurance policy for all coverages, premiums and deductibles. Seek out members of your community who have backgrounds in either insurance or risk management to aid the Board and your Community Association Manager in fully understanding your current insurance coverages and what may be missing or not necessary.



*"...we here in CT are at the mercy of every tornado, every flood, every windstorm, and every fire that occurs anywhere in this country."*

gavendmir/E+/Getty Images Plus

2. Reach out to the Association's insurance agent immediately, regardless of when the master insurance policy is up for renewal and have a serious conversation regarding this matter and its impact on your respective association. Do this now, not after either your community association or the state at large, or the country at large suffer losses.
3. Walk the property with your association insurance agent. They will better understand your property and be able to provide helpful tips on protecting the association and keeping the premium increases down to some extent. Do not put this off. Once again, the time to do this is before you have either a property loss or liability incident. Any good association insurance agent will rise to the occasion and meet with the Board and Community Association Manager to review insurance risks. If they are unwilling to do so, find another insurance agent.
4. Bring the entire Board up to speed on this matter. Devote time as soon as possible at a board meeting where the agenda is light to discuss insurance. Many boards discuss insurance only when the master association insurance policy is up for renewal. This is an error. Insurance and risk management should be a standing item on the agenda for every board meeting, even if the amount of time taken for this subject is not huge for any one board meeting.
5. Bring the entire community up to speed on this matter. It impacts everyone. The more you can educate unit owners and residents to this crisis and the need for everyone to be attentive to safety programs and to the environment of the respective association, the safer your community will be.

6. Have the Board and the entire association take a risk management approach to everything that takes place at the association. Risk drives insurance premiums. While risk cannot be eliminated, it can be controlled to a certain extent by sound judgment, rules and policies as well as attention by boards and managers to risk management.
7. Review the claim history of your association to better understand the types of prior losses and what can be done to prevent/minimize the extent of future losses. Develop a log of prior claims so that new board members have that history available when they join the board.
8. Maintain and if possible, expand safety programs. Do not be discouraged that your association is the recipient of large insurance premium increases even with the existence of safety programs. The management and enforcement of safety programs is a much larger and exhausting experience for both board members and managers. However, I cannot overstate the importance of these programs. Boards must be firm and consistent in their actions to obtain timely and complete compliance with these critical safety programs.
9. Increase the association deductible. For losses that can be charged back to units, this will reduce submitted claims. While it does follow that the association will be self-insuring to a higher extent with a higher association deductible, it should, in the long run help to stem the tide of higher insurance premiums. The move by insurance companies to make \$10,000 the floor for insurance deductibles is well under way. Boards need to accept this.
10. Consider no-fault chargebacks to units in cases when the loss clearly was not the fault of the association. Consult your association counsel for help in achieving this. I urge this inquiry of your respective association counsel at your earliest opportunity.
11. Keep up with operating maintenance work and, most importantly, keep up with capital expenses, especially roof replacements. Insurance companies are looking to avoid covering old roofs at replacement cost value. Your capital improvement plan needs to account for the fact that your master insurance carrier is not a vessel for funding of capital expenses, especially roof replacements. Insurance companies, Fannie Mae and Freddie Mac are pressuring community associations to deal with capital items. Boards must adjust their short-term and long-term plans to handle these pressures. You can no longer kick the can down the road. We constantly hear the excuse that unit owners cannot afford a special assessment, with or without an accompanying loan to deal with capital projects, especially in the current economic situation where interest rates remain high. I suggest that community associations cannot afford to wait for a return to cheap money because that day may be far away while their infrastructure continues to deteriorate, and the cost of capital projects continue to rise.
12. Adjust your budget to reflect the increase in insurance premiums and consider a deductible expense line item in your annual budget if you do not already have this budgeted expense. The move to higher insurance deductibles makes this suggestion more relevant than ever.

*[Continues on page 28.]*



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Melissa Yocum

## TECHNICAL EXPLANATIONS: Mitigating Financial Risk: *Reserve Studies, Lending, and Insurance*

By Melissa Yocum

In the ever-evolving landscape of community associations, one trend is becoming increasingly apparent: lenders and insurers are focusing on reserve studies. Traditionally overlooked and used as an internal planning tool, reserve studies are now capturing the attention of external individuals and institutions, particularly lenders and insurance companies. This shift in focus is driven by a growing awareness of the importance of proactive risk management.

One key driver of this trend is the recognition that neglecting to conduct or follow a reserve study can have significant financial repercussions. Reserve studies comprise two parts – a physical inspection of your association’s common property, and a financial analysis of your current reserve fund status and creation of a long-term capital plan. If associations adhere to their reserve study’s recommendations, not only will they be able to address any physical areas of concern, but they will have adequate funding to complete projects on time and avoid deferring maintenance. Associations that fail to adequately budget for necessary repairs and maintenance often find themselves facing costly surprises down the line – preparing to avoid an emergency is much cheaper than dealing with one.

Structural issues have also emerged as a major area of focus, with lenders increasingly scrutinizing the structural integrity of the property. Ensuring the structural soundness of an association’s buildings is essential to mitigating risk, and lending standards are becoming stricter as institutions place greater emphasis on conducting thorough inspections and assessments. Communities with known structural issues or deferred maintenance to structural components pose a financial risk to both lenders and potential buyers, who could face hefty special assessments.

As a result, lenders are requiring greater transparency and accountability from associations, including conducting reserve studies that accurately assess the long-term maintenance needs of a property. Recently, Fannie Mae and Freddie Mac released a list of blacklisted properties that are ineligible for lending due primarily to structural issues, deferred maintenance, litigation/prelitigation activity, and failure to conduct reserve studies and fund reserves properly. If an association fails to adequately reserve and instead relies on special assessments to fix expensive structural issues, it is more likely that a homeowner will become unable to afford their loan.

Insurance companies are also taking note of the importance of reserve studies in assessing risk. By examining the adequacy of reserve



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*“...preparing to avoid an emergency is much cheaper than dealing with one.”*

funds in relation to projected expenses, insurers gauge the association’s ability to cover potential claims without resorting to special assessments or loans. Components with deferred maintenance or inadequate funding are more susceptible to failure, leading to increased likelihood of insurance claims. By incorporating data from reserve studies into their risk models, insurers can adjust premiums accordingly and tailor coverage to address specific vulnerabilities within the community. Properties that fail to demonstrate sufficient financial preparedness for current or future repairs and maintenance may face higher premiums or coverage restrictions to account for increased risk exposure. In the worst-case scenario, insurance providers may opt to drop the property and not renew coverage.

Considering these developments, managers and boards alike should be increasingly cognizant of the value of proactive planning and budgeting. Conducting regular reserve studies, recommended by CAI to be updated with a site visit every three years, helps associations identify potential maintenance issues early on and allocate funds accordingly. This helps to safeguard the long-term value of the prop-

*[Continues on page 28.]*

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**TECHNICAL EXPLANATIONS...from page 26.**

erty and ensures compliance with lender and insurance requirements.

Additionally, a proactive budgeting approach allows for the timely completion of capital replacement and maintenance projects, which can enhance an association's overall attractiveness to prospective buyers. Communities with well-maintained infrastructure and documented, healthy reserve funds are perceived as more desirable investments, commanding higher market value through structural and financial reliability.

The growing focus on reserve studies reflects a broader shift toward risk management and financial diligence in the community association industry. As lenders and insurance companies place greater emphasis on structural integrity and financial adequacy, boards and managers must adapt by prioritizing proactive maintenance and budgeting practices through conducting regular reserve studies. By doing so, not only can risks be mitigated, but the value of the property can be maintained for years to come. ■

*“...a proactive budgeting approach allows for the timely completion of capital replacement and maintenance projects, which can enhance an association's overall attractiveness to prospective buyers.”*

*Melissa Yocum is a Senior Account Manager with Reserve Advisors*

**MANAGER'S COLUMN...from page 25.**

13. Avoid, at all costs, entry into the excess/surplus line market. Do whatever it takes to stay in the regular insurance market. I need no further explanation of this suggestion as the premiums for this coverage speak for themselves.
14. Follow the loss control directions of the master insurance company timely and fully. Insurance companies are getting more stringent with these directions. You ignore them at your own peril.
15. Create maintenance standards if your association has none and review and update maintenance standards if your association has them in place. This suggestion should be on the agenda for the next meeting of the board for your respective community association.

**C. Conclusion**

This is the first article I have written where I have not offered at least one pithy quote due to the seriousness of this topic and the length of this article. I hope that everyone reading this article will take my suggestions seriously and act upon them with a healthy degree of urgency as it is getting later all the time. ■

*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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[Continues on page 30.]

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*FINANCIALLY SPEAKING...from page 10.*

side for things they may be responsible for which in turn protects against future claims and can help mitigate premium increases.

If an association has a newsletter or even at the annual meeting highlighting things such as dryer vent cleaning, winter house temperatures to avoid a pipe burst, etc. can help bring awareness to the community to avoid these potential issues. Bringing in the association insurance agent or carrier to discuss common issues and ways to mitigate can help answer community questions and show the association’s carrier that they are serious about avoiding a potential claim.

**Accuracy of Other Budget Line Items**

With the increase in the cost of premiums how an association budgets and manages its other line items is critical. Where costs are increasing across the board this can be difficult, but cost overruns in other areas will impact the association’s ability to fund preventative maintenance, absorb deductibles or even meet payments for the policy. Cost overruns may result in the need to borrow from a lending institution or the association’s reserves to fund these cost outlays. Ensuring an accurate budget can allow for an association to meet the increased premium costs and not present a cashflow issue. Understanding how the association’s policy is paid (typically via a down payment and then installments) will also allow the board to better understand how to anticipate their cash flow needs.

**Conclusion**

Insurance costs are on the rise and are a cost area the association will have to learn to manage. By planning accurately, educating the community, and taking preventative measures, an association can manage these costs to maintain the coverage they need. ■

*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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