

Common Interest

The Official Publication of CAI-Connecticut

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Inside:

Do Board Members Owe “Fiduciary Duties”?

Accounting Spring Cleaning

Can Your Emails Be Used Against Your Association in a Lawsuit

...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

“It would not be spring without the legislative session in full swing. This year there has been a lot of activity in Hartford.”

Welcome Spring! This is my second and final year as President of CAI-CT. It is a privilege to serve our community, and I am thankful to have been given this opportunity.

As many of you know, we held our Annual Conference & Expo on March 15th. A special thanks to everyone who attended including all of the exhibitors and speakers who contributed to the success of our trade show. Your efforts and participation are instrumental in making this event a valuable and enriching experience for our members. We look forward to your continued support.

It would not be spring without the legislative session in full swing. This year there has been a lot of activity in Hartford. Our efforts, in collaboration with our lobbyists, have been focused on addressing a wide range of proposed bills that will impact our community associations.

Throughout the session, CAI-CT has been actively engaged in advocating for the best interests of community associations across Connecticut. Our team, along with our lobbyists, has worked to ensure that the voices of our members are heard in the legislature. We have been involved in numerous discussions, hearings, and negotiations, as we navigate proposed legislation. Please look for future messages from CAI-CT as the legislative session continues.

Sadly, for CAI-CT I am also writing to share the news that Ellen Felix, our Program Operations Director, has decided to retire after nearly 22 years of dedication to CAI-CT. Words cannot express our appreciation of Ellen, her commitment to CAI-CT, and the impact her departure will have on us. We are deeply grateful for Ellen’s hard work, dedication, and the positive impact she made. While we will miss her presence and unwavering support, we wish Ellen all the best in her well-deserved retirement.

We invite all members to join us in celebrating Ellen’s career and to extend their best wishes for her future endeavors.

Ellen, as the President of CAI-CT and as a friend, it is with mixed emotions that I bid farewell to you. Your dedication and contributions to our community have left a permanent mark on CAI-CT. While we are sad to see you retire, we are excited for you.

“Whatever you choose to do, leave tracks. That means don’t do it just for yourself. You will want to leave the world a little better for your having lived.”

— Justice Ruth Bader Ginsburg.

CONTENTS

- 3 President's Message
- 4 CED Message
- 5 Upcoming Events
- 5 Legislative Update
- 6 Legally Speaking
- 7 New & Renewing Members
- 8 Financially Speaking
- 12 Conference & Expo Wrap-up & Photos
- 14 Being Prepared for a Natural Disaster
- 14 Environmental Tip
- 16 Manager's Column
- 18 Can Your Emails Be Used Against Your Association in a Lawsuit?
- 20 Effective Communication Strategies for Condominium Boards and Management
- 22 Classified Advertising
- 23 Index of Display Advertisers

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From the Chapter Executive Director

“Often when you think you’re at the end of something, you’re at the beginning of something else.”

~ Fred Rogers



Kim McClain

Courtesy CAI-CT.

Leave it to Mr. Rogers to offer us wisdom that can apply to so many transitions. We all experience situations where the end of a term on a board, an illness, graduations, moving or even retirement make us anxious about what comes next. Experts note that being flexible is important in adapting to change. That helps with resilience. Practical strategies to deal with to manage any sort of big transition or even small transition, is by engaging in a lot of planning and preparation.

It seems that most community associations are often in some kind of transition or another, e.g. dealing with new owners, budget shortfalls, major construction projects and the unexpected day-to-day challenges. Planning is key to avoiding many of the surprises that can pop up often. That is why we always stress the importance of staying informed about the issues important in operating your association, as well as building a network of trusted peers and advisors to help you navigate the rough waters that can surface.

As Chas mentioned in his message, we have our own very major transition here at CAI-CT. Ellen’s retirement will be a profound change to our vibrant organization. Over these past two plus decades, Ellen has devoted her talent and energy to making us more efficient and effective in how we serve our terrific members. She has been the backbone of so many initiatives, not the least of which was creating an awesome, user-friendly website and a database management system that helps us let you know when important things are happening. She is truly a rock-star! Her good humor and creativity as well as all of her support will be deeply missed. Happy trails to you, Ellen!

And one more thing to note about transitions. Our Engaging Leaders of the Future (ELF) Committee is definitely taking the long view in how we welcome and support folks who are new to our industry. We welcome all new and those who are more seasoned in the Condo/HOA world to attend their first event on April 30th at the Stony Creek Brewery in Branford from 5:00-7:00pm. Be ready to have a blast with the “Nacho Average Adult Field Day” activities we have in store. Register today!

Happy Spring! ■

CAI-CT Annual Golf Tournament

Monday, June 9, 2025

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!

Registration ...9:00 am
Shotgun10:00 am
LunchOn the turn

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

UPCOMING CAI-CT EVENTS

Manager CEO Lunch

Tuesday, April 23rd • 1:00pm – 2:00pm • (no CEUs)
Lunch Hosted by Pro-Klean Cleaning & Restoration Services, North Haven

Qualifications to attend include: 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.

Engaging Leaders of the Future (ELF)

Wednesday, April 30th • 5:00pm - 7:00pm • (no CEUs)
Stony Creek Brewery, Branford

Nacho Average Adult Field Day. Socialize and network outside of the typical status quo!



Annual Golf Tournament

Monday, June 9, 2025 • Registration at 9:00am
Shotgun 10:00am, lunch on the turn
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.

Condo Board Members Hot Topics

Board Members: Email Mayhem! - Hosted on Zoom
Wednesday, May 7th from 12:00 -1:00 pm

How to avoid legal pitfalls when communicating with your association.
FREE – CAI Members / \$25 - Non-Members

CEO CAM Council – Hosted on Zoom

Tuesday, July 22 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.

Visit www.caict.org to register.

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Legislative Update

It is no exaggeration to state that this has been an incredibly busy session. At this point, we are tracking 55+ bills. Fortunately, there are only a few bills that we are especially concerned about as they have been making progress in the committee process.

HB 6839 - An Act Increasing the Number of Children Permitted in Family Child Care Homes. (Oppose)

This bill would allow home based childcare in common interest communities. Our concern involves the insurance ramifications since daycares are viewed as a significant additional exposure, and are likely to make it much more challenging to find a carrier willing to write a policy and/or find insurance that is affordable for the association.

SB 1446 - An Act Concerning Roaming Dogs. (Support)

This bill has been proposed to enhance the powers of animal control officers when dogs are found roaming out of the control of their owners. We support amending the bill to allow the animal control officer to exercise the same powers when the roaming dog happens to be on the common elements of a common interest community, even if the dog owner is a resident of that community.

HB 7002 - An Act Concerning Solar Installations in Certain Common Interest Ownership Communities. (Support)

This bill would amend the Common Interest Ownership Act to permit owners of single family detached homes to install solar power generating systems on their rooftops, subject to certain standards and requirements. The bill also provides greater guidance and clarity to previously enacted legislation concerning the installation of solar power generating systems in planned communities, which are neither condominiums nor cooperatives.

HB 7068 - An Act Concerning Court-ordered Accountings of Common Interest Community Financial Records. (Oppose)

This bill would allow an owner of a unit in a common interest community to obtain a court order forcing the community association to retain an independent third party to conduct an accounting of the association's financial records at the expense of all unit owners upon a meager showing of possible misuse of the association's funds. The bill will make it more expensive for people to live in condominiums and other common interest communities in Connecticut. The bill's financial impact will be significant, as an audit cost thousands of dollars in accounting fees while diverting the time and resources of volunteers and managers of associations from other operations of associations.

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>

Legally Speaking...



Adam Cohen, Esq.

Do Board Members Owe “Fiduciary Duties”?

By Adam J. Cohen, Esq.



“...board members elected by the unit owners do not owe fiduciary duties, at least to the unit owners individually.”

Often I hear people telling me that members of a community association’s board owe a “fiduciary duty” to the organization or unit owners. Usually it comes from someone trying to get the board to do something it doesn’t want to do, or accusing the board of doing something wrong. But occasionally managers or even board members themselves will use the term. What exactly is a “fiduciary duty,” and do board members really owe one? The answer depends on who put them on the board.

Under Connecticut law, a fiduciary relationship is “characterized by a unique degree of trust and confidence between the parties, one of whom has superior knowledge, skill or expertise and is under a duty to represent the interests of the other,” especially where the other person lacks mental acuity or knowledge of the basic principles involved.¹ Typical examples are executors, administrators, conservators, guardians, and trustees. Because these people exercise overwhelming control over the affairs of others under circumstances of special trust and dependency, the law imposes a heightened burden on them to affirmatively protect the other person’s interests. Fiduciary duty is among the strictest of all legal standards. In fact, when a fiduciary’s conduct is questioned in court, the usual burden of proof is reversed: the plaintiff need not prove that the fiduciary did something wrong, but rather the fiduciary must prove that he or she did it right. They’re literally guilty until proven innocent.

Connecticut courts have consistently held that a community’s declarant (the original developer), and the people it appoints to the board, owe fiduciary duties to the association.² This is because of the declarant’s unique and pervasive control over the community’s construction, finances, and operations, including the power to hand-pick some or all of the board members for certain periods. Section 47-245(a) of the Common Interest Ownership Act (CIOA) codifies this standard: “[i]n the performance of their duties, officers and members of the executive board appointed by the declarant shall exercise the degree of care and loyalty to the association required of a trustee,” which is a fiduciary office. This means that board members appointed by the declarant do owe fiduciary duties and will be held to this heightened standard in court. They must serve and vote in the best interests of the association, and do so equitably, faithfully, and competently at all times.

However, board members elected by the unit owners do not owe fiduciary duties, at least to the unit owners individually. Instead, Section 47-245 goes on to say that, unless the declaration or bylaws

say otherwise, “officers and members of the executive board not appointed by a declarant shall exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized under chapter 602.” Chapter 602 governs nonstock corporations, which is how most common interest communities are indeed organized (although the recent statutory amendments clarify that it applies to unincorporated associations as well for this purpose). Section 33-1104 of Chapter 602 explains: “A director shall discharge his duties ... (1) In good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner he reasonably believes to be in the best interests of the corporation.... A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.”

The difference between the fiduciary duties owed by declarant-elected board members on the one hand, and the ordinary prudence duties owed by owner-elected board members on the other hand, is critical. As one court has explained, “[t]here is a clear distinction between an ordinary duty of care and a fiduciary duty. Negligence implicates a duty of care, while breach of a fiduciary duty implicates a duty of loyalty and honesty.”³ The duty of care means simply that the board member must act as a sincere, reasonable person would – in other words, trying to do the right thing. Connecticut’s courts will not second-guess the board member’s actions absent fraud or self-dealing, even if they turned out to have been unwise. By analogizing to what is known as the “business judgment rule,” judges will assume they know

less about the community's best interests than the board members, defer to their judgment, and reject lawsuits against them. "So long as the board acts for the purposes of the [condominium], within the scope of its authority and in good faith, courts will not substitute their judgment for the board's."⁴ Board members elected by the unit owners never owe fiduciary duties to any individual unit owner unless they have a unique and sensitive relationship with a particular owner beyond merely being a director.⁵

What all of this means is that the duty board members owe depends entirely on who made them board members. Appointment by the declarant comes with strict fiduciary duties of undivided loyalty and heightened care to safeguard the association's best interests, and the burden to prove these duties were fulfilled if challenged in court. However, unless the declaration or bylaws say otherwise, being elected by the unit owners (or appointed to fill a vacancy) means the board member owes only a duty of ordinary care, and virtual immunity against having to justify actions taken in good faith. Board members chosen by the unit owners should not, of course, act carelessly or selfishly. But it is simply not accurate for them, or anyone else, to say that the duties they owe are "fiduciary" in nature. ■

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 to governing documents to revenue collection strategies and commercial disputes.

END NOTES:

- Mystic Color Lab, Inc. v. Auctions Worldwide, LLC*, 284 Conn. 408, 416 n.10 (2007) (internal quotes omitted).
- See, e.g., *Pasco Common Condo. Ass'n, Inc. v. Benson*, 192 Conn.App. 479, 514-15 (2019); *Lofts on Lafayette Condominium Ass'n, Inc. v. Lancaster Gate, LLC*, No. 094027725S, 2010 WL 937273, *7-*8 (Feb. 17, 2010) (same); *Rafalowski v. Old County Road, Inc.*, 45 Conn. Supp. 341 (1997), aff'd, 245 Conn. 504 (1998); *Governors Grove Condominium Ass'n, Inc. v. Hill Development Corp.*, 36 Conn.Supp. 144, 154-56 (1980).
- Puszta v. Allstate Ins. Co.*, No. 065002425S, 2009 WL 2357958, *5 (June 30, 2009) (internal quotes and brackets omitted), quoting *Beverly Hills Concepts, Inc. v. Schatz & Schatz, Ribicoff & Kotkin*, 247 Conn. 48, 57 (1998).
- Powder Farm Park Ass'n, Inc. v. SKF Leeder Hill, LLC*, 46 Conn.L.Rptr. 565, 568 (2008) (internal quotes omitted).
- CBO Union St., LLC v. Glendale Commerce Park Condo., Inc.*, No. 236060856S, 2024 WL 4448816 (Oct. 3, 2024); *Begien v. Boxwood Ass'n, Inc.*, 64 Conn.L.Rptr. 860 (2017).

THANK YOU NEW & RENEWING MEMBERS

Welcome New Members

Associations

3300 Park Avenue Condominium Association, Inc.
Breakwater Bay Homeowners Association Inc.
Caswell Cove Condominium Association
Glen Hollow Condominium Association, Inc.
Lantern Lane Homeowners Association, Inc.
Old Mill Town Homes
Somerset Condominium Association

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Christine Frances Gamba, CMCA
Michael John Hulton
Jeffrey Lapaix
Courtney Leblanc
Michael Pasquino
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Business Partners

GoNetspeed
New England Stormwater Solutions, LLC
OFF THE WALL Power Washing Specialists, LLC
ServiceMaster TRS

Thank You Renewing Members

Associations

Balbrae Condominium Association, Inc.
Beacon Hill Association, Inc.
Branford Business Condominium
Carter Heights, Inc.
Chestnut Hill Homeowners Association
Chimney Crest Association
Crown Village Condominium Association
Far Mill River Condominium Association
Fernwood Estates Condominium Association Inc.
Guilford Mill Association
Hatchery Brook Homeowners Association, Inc.
Hatfield Mews Townhouse Association
Legend Hill Condominium Association
Links at Oxford Greens Home Owners Association
Mattabasset Condominium III
Old Towne Association, Inc.
Oronoque Village Condominium Association
Pierpont Hill Association of North Haven Inc
Redstone Manor Association, Inc.
Regency at Prospect Association
River Run Condominium Association
Riverplace Homeowners Corporation
Silvermine Condominium Association
St. John's Common
Sterling Woods Master Association
Sylvan Point Condominium Association
Terrace Place Condominium Association, LLC
The Courtyard at Heritage Green Association
The Mews & Ridge at Rivington Homeowners Association, Inc.
The Mill at Stonecroft
The Urbane Building Condominium Association
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Financially Speaking...



Daniel Levine, CPA

Accounting Spring Cleaning

By Daniel Levine, MBA, CPA

As with our personal lives, your accounting function can always benefit from a good spring cleaning. Processes and procedures evolve and change, a new board takes over, many things can occur that result in out-of-date procedures. This article will focus on some best practices within the accounting function that a board can consider implementing on an annual basis to ensure consistent quality and sound operations for the accounting function.

Documentation audit

Annually, a board should take the time to audit its own documentation to make sure it is current, complete and accurate. With the nature of how an association operates and how there can be a change in the volunteers who serve on the board, continuity of documentation can make transitions easier as well as give good guidance to those new to the board. It also makes other tasks the association undertakes (annual audit or other reviews) more streamlined as everything will be accounted for and easily accessible.

An association should annually look to have members of the board review things like:

- 1) Are all bills in the association's records?
- 2) Are all minutes available for all meetings?
- 3) Are all bank statements and reconciliations present?
- 4) Are all contracts accounted for, are current, and the executed copies?
- 5) Is the most recent reserve study on file and accessible?
- 6) Is the documentation for any community votes or assessments on file?
- 7) Is the most recent version of the association governing documents, bylaws, and maintenance standards available?

Completeness of records can avoid mistakes in the financial statements and help with tracking the current year's activity against the objectives set by the association within its budget and votes. Having a complete set of documentation also allows for faster training of new board members as they will have access to the most recent governing documents to be able to answer questions of association responsibilities.

Process audit

The board should also consider its own processes on a regular basis and determine if they are still being followed, should they be changed

"Refinement of processes can lead to more efficiency which can reduce the overall time requirements for managing the association."

to adapt to new circumstances, or if they are even still needed in the current environment.

Something such as a review of the committees created by the association to determine if they are still performing needed functions, reviewing the frequency of the board meetings and if in person or virtual meetings make sense. Processes can also be reviewed such as:

- 1) Dollar limit approvals of bills
- 2) Account access and signatories of the association
- 3) How account statements and information is being received by the association's management company and if that is timely or efficient.
- 4) Reviewing approved reserve transactions and whether those have been executed by the association's management company.

Review of an association's daily processes can allow for a retrospective and see if any procedures are out of date or could be improved with the implementation of technology. Refinement of processes can lead to more efficiency which can reduce the overall time requirements for managing the association.

Report Package audit

This is a common suggestion we make for small business clients that receive financial information from their internal accounting department. What is actually being used by the board? If the association receives a board package of 50 pages of information but they are only consistently using 4-5 pages of the reports, should this process be modified? The board should have access to any and all financial information it needs, but streamlining what is received and keeping the volume of reports to those that are truly used can reduce time requirements in producing the information which then allows for more timely decision making.

[Continues on page 10.]



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Nacho Average Adult Field Day.
Socialize and network outside
of the typical status quo!



To register visit www.caict.org.

FINANCIAL...from page 8.

Conclusion

While most folks think of accounting as boring or uninteresting, it is actually one of the more lively pieces of association management. Every day additional transactions happen and processes and procedures occur. Taking an annual audit of these items allow for the board to make sure things remain current, accessible, and applicable to ensure efficient and smooth operations. ■

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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Navigating through choppy waters seems to be a common activity for many associations these days. Our full house of exhibitors with a plethora of services were there to make the journey a little less rough.

Hundreds of association board members and managers filled the Expo Hall with energy and conversation – with lots of smiles all around. It was great to see so many exhibitors with new and fun activities to engage attendees.

The Conference Committee toils over selecting the most timely and relevant topics that will give attendees tools and ideas that they can implement in their associations. We brought in some new faces this year to offer a broader perspective on what is happening in the world of common interest communities.

We are already springing into action for planning our 2026 confer-

ence. Save the date: March 21, 2026! We are always interested in your ideas for our educational sessions and exciting happenings in the Expo Hall. Let us know!

A whale of thanks to our wonderful Conference Committee:

Chair: Karl Kuegler, Jr., CMCA, AMS, PCAM, - *Imagineers, LLC*
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Carrie Mott, EBP - *Bowvier Insurance*
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Carrie Mott,
ACSR, CPIW

Being Prepared for a Natural Disaster

By Carrie Mott

We have all heard the saying, “April showers bring May flowers.” However, as we have seen over the past years, with Spring also comes flooding, tornados and the return of hurricane season. It is important to remember that while you may not be affected by such weather events, your friends, neighbors and family might be. Today is a good time to review and prepare for these unexpected events.

Natural disasters can strike without warning, leaving individuals and families with little time to react. In New England, the frequency and intensity of such events has escalated over the past 50 years, underscoring the importance of preparedness. According to the National Oceanic and Atmospheric Administration (NOAA), the region has witnessed a staggering 50% increase in the number of major storms from 1970 to 2020, averaging 2.5 significant weather events each year. This alarming trend includes hurricanes, floods, and winter storms, making it imperative for residents to take proactive measures to safeguard themselves and their loved ones.

To enhance your readiness for natural disasters, consider the following strategies:

- 1. Develop a Comprehensive Emergency Plan:** Craft a detailed emergency plan that specifies escape routes, communication methods, and designated meeting points. Ensure that all family members are familiar with the plan and conduct regular drills to reinforce preparedness.
- 2. Assemble an Emergency Kit:** Create a disaster supply kit filled with essential items such as water, non-perishable food, a flashlight, batteries, a first aid kit, and important documents. Regularly check and update the kit to ensure all items are functional and within their expiration dates.
- 3. Stay Informed:** Keep abreast of local weather forecasts and alerts. Sign up for emergency notifications from local authorities to receive timely updates about potential disasters in your area. This proactive approach can help you respond swiftly when necessary.
- 4. Secure Your Home:** Take steps to protect your home from potential damage. This may involve reinforcing windows and doors, clearing gutters, and securing outdoor items that could become hazardous during severe weather.



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5. Educate Yourself and Others: Familiarize yourself with the types of natural disasters most likely to occur in your region and understand the specific risks associated with each. Share this knowledge with family, friends, and neighbors to foster a community of preparedness.

6. Review Insurance Policies: It is crucial to ensure that your insurance coverage is adequate for potential disasters, including floods. Many people mistakenly believe that flood insurance is only necessary for those living near the coast. However, flooding can occur in inland areas as well, making it essential for all homeowners to consider this coverage. Regularly review your policies and make necessary adjustments to protect your property and belongings.

By implementing these strategies, you can significantly enhance your preparedness for natural disasters. With the increasing frequency of severe weather events, taking these steps is vital for safeguarding your well-being and that of your community. Remember, being prepared is not just an individual responsibility; it is a collective effort that strengthens the resilience of our communities against the unpredictable forces of nature. ■

Carrie Mott, ACSR, CPIW, is a Senior Insurance Advisor with Bowvier Insurance. She currently serves as President-Elect of CAI-CT. She is also co-chair of our Golf and Engaging Leaders of the Future Committees. She is also a member of our Conference & Expo and Education Program Committees.

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Manager's Column...



Rich Wechter, CMCA

Being Practical, Part XCVIII Community Association Management— Present and Future

By Rich Wechter, CMCA

In this column, I tackle various topics of interest to association boards of directors with the intent of imparting practical advice. In this issue's column, I address the current state and prospective future of community association management.

A. Setting the Table on this Topic

There has been a dramatic increase in the number of community associations over the last 50 years from approximately 10,000 in 1970 to over 365,000 in 2023. About 75.5 million Americans out of a population in this country of approximately 340 million as of July 1, 2024 reside in a community that is governed by a homeowner association, representing more than 30% of the U.S. housing stock, according to the Foundation for Community Association Research in a March 14, 2024 publication. There has also been a commensurate increase in the number of community association management companies to meet the demands of the increase in the number of community associations. This has placed an extraordinary amount of pressure on community association management companies to handle the volume of work and maintain a level of service that sustains the associations managed and the viability of the management companies themselves. On top of this explosion in the number of community associations, the number of items that need to be addressed has dramatically increased with the changes in the law each year that adds to the workload of community association management companies. Finally, in the world of instant communications and the demand for instant responses and satisfaction, the pressure on community association management companies is enormous and relentless. This is the context in which I will briefly address the current state and prospective future of community association management.

B. The Current State of Community Association Management

In the current world of community association management, we have an industry crying out for new talent in a host of specialty areas: management, assistant management, customer service and accounting. There are no schools providing any preparation for what community association management companies do daily. Recruitment comes from a host of professions: real estate brokers, service industries, the trades, other management companies and former community association board members. While the industry does have training and certification programs available and, in Connecticut, it is mandatory for community association managers, securing talent and then maintaining that talent is a whole different challenge. The pay will never be the most effective selling point in gaining talented individuals and the time commitment



“The best hope for the future of our industry hands down is the development of young employees in all aspects of our industry.”

Manut Khobakhrob/istock/Getty Images Plus

for those individuals who truly wish to excel in this industry and provide quality service will likely scare off many prospects who look toward less stressful and better paying positions. Finally, the need for immediate attention and results from owners and tenants residing in community associations will deter those who are faint at heart that lack or are limited in the ability to handle that kind of challenge. How many times a day do employees at community association management companies hear the following comment: “I don’t know how you do your job and take what is directed at you day after day.” It is remarkable that our industry isn’t on the verge of collapse given the enormous tasks we have signed up for and perform every day. The reason for that is the simple fact that there are many community association companies that have employees who rise above the pain and frustration of their jobs and provide high quality service to their respective community associations they manage. Thus, the possibilities to improve the state of community association management are with us right now.

C. The Prospective Future of Community Association Management

I offer the following suggestions to ensure that the future of community association management is safe and secure:

1. Increase the level and sophistication of training of all employees of community association management companies. We are not super-markets or large box stores. We are professional management companies offering high level administrative, financial and maintenance services to a broad spectrum of individuals. We need to always remember that and demand that others remember and respect that. To ensure this, we need to be smart and nimble in how we approach our respective jobs in this industry.

2. We need to be paid appropriately. There may always be a cheaper community association management company ready to undercut a competitor. I cannot change that all too real scenario. However, for the good companies out there, I hope that they look toward securing appropriate property management fees in exchange for high level service. Community association board members and unit owners need to understand that the old adage “you get what you pay for” is all so true in this industry. Saving one dollar to cost yourself ten dollars is both foolish and dangerous.
3. We need to encourage our younger employees to grow in this industry. The best hope for the future of our industry hands down is the development of young employees in all aspects of our industry. The accounts receivable clerk of today becomes the accounts payable clerk of next week and then the staff accountant of next year and finally, the head of the accounting department of the community association management company down the line. This progression can be followed for every aspect of the industry. Community association management companies need to constantly encourage good young talent to keep them in their employ. Compliments go a long way in encouraging people to remain with us.
4. We need to better educate our boards and residents of what community association living and governance is all about. After 32 years in this world of community associations, I am still amazed on how much misinformation and unawareness there is on a daily basis. Education has been and will continue to be the linchpin of strengthening community association management companies. We need to better educate boards

and residents of community associations on their duties and responsibilities and set reasonable and attainable expectations on what community association management companies and their employees can provide.

5. We need to lobby for fair and intelligent legislation that does not tie the hands of community associations and their management companies, and instead, aids them in the performance of their duties and responsibilities. Less is indeed more and needs to be considered when every bill in a state legislature is proposed.
6. Serious consideration should be given to offering college level courses in community association management, with the eventual goal of establishing a full program that students can pursue as a major. This will increase dramatically the talent pool for community association management companies.

D. Conclusion

I am not suggesting that there is an imminent collapse in community association management upon us. I am, however, warning the industry that there are clear signs of distress that can be tempered by following the suggestions noted above, which just scratch the surface of what can be done going forward to improve our industry. As noted by the late Harvard philosophy professor George Santayana, “Those who cannot remember the past are condemned to repeat it.” I do hope that this article will cause all community association management companies to think seriously about this most important topic. ■

Rich Wechter, CMCA is Senior Vice President at Westford Real Estate Management, LLC. Rich serves as a LAC Delegate and 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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Kasey Burchman, Esq.

Can Your Emails Be Used Against Your Association in a Lawsuit?

By Kasey Burchman, Esq.

You are a frustrated board member dealing with a problem that just will not go away. That one unit owner who continuously complains about anything and everything is driving you crazy. You write a long ranting email from your personal email account and you are about to send it to your fellow board members – you just need to vent and it is not like it is going in the meeting minutes. But wait, before you send that email, ask yourself, would I want this read out loud in open court before a judge and/or jury? And do I want an attorney going through my personal email account? The answer to both of these questions is likely no.

Many board members are cautious in how they write meeting minutes, send notices, newsletters and other correspondence to the association. They are also cautious in how that message is delivered. However, they may tend to relax in their note taking, email and text messages. The assumption is probably that this information will not be shared publically so it is safe. This assumption is incorrect. If the association becomes subject to a lawsuit, all of these items may be disclosed through a process called discovery.

During the course of a lawsuit, the association, board members and also the property manager, will be involved in a process called, “discovery.” Discovery is what allows your adversary and you to discover information about the facts surrounding the case. The Connecticut Rules of Court allow for broad discovery. Parties may obtain “discovery of information or disclosure, production and inspection of papers, books, documents and electronically stored information material to the subject matter involved in the pending litigation...” Connecticut Practice Book Section 13-2. Discovery is allowed as long as it is “reasonably calculated to lead to the discovery of admissible evidence...” This means that emails, text messages and handwritten notes will likely become public through the course of the lawsuit. If you sent emails from your personal email account, that may also be subject to discovery.

Information can be collected through written discovery like interrogatories (written questions) and requests for production (written requests for documents). Many times these requests for information include broad requests like, “any and all correspondence, memorandum, email, text messages or meeting notes in your possession relating to the lawsuit.” This would include all group emails that have been circulating around the board of directors. This would include all of the detailed notes taken in a meeting with opinions and impressions noted in the margins. Is



“...ask yourself, would I want this read out loud in open court before a judge and/or jury?”

this something you want to be questioned on by opposing counsel? Is this something you would want a judge to hear read aloud?

Also, in discovery your adversary may take your deposition, the property manager’s deposition or the depositions of other board members or individuals involved in the facts surrounding the lawsuit. During a deposition, the deponent is put under oath and the opposing attorney can ask you questions about the pending litigation. Related questions may include examination about your time on the board and how you have handled similar situations. You may be asked to produce documents relating to the litigation and be asked detailed questions about the subject matter of the litigation and associated documents. You could likely be asked questions about what you meant in an email, why you sent the email and who was the

recipient. The recipient may likely face the same questions. You may also be asked what email accounts you used to send association emails, which could potentially open your personal email account to scrutiny.

After the discovery process is complete, if the case proceeds to trial, you may be subject to the same questions again. This time in the presence of a judge and/or jury.

In order to protect yourself and the association, be aware of what you could someday have to produce in a lawsuit. Any time the association holds a hearing on a rule violation, faces a controversial question, or has to deal with that difficult unit owner, plan that this could result in a lawsuit. Do not send emails to other board members with your “2 cents.” Instead, conduct a respectful verbal conversation during executive session, which is designed to allow board members to hold these conversations. Although at the time an email is written it may feel like a light hearted joke or a release of stress and frustration from doing a tough job, it will not feel that way during a deposition or at trial. Also, establish association email accounts for board members and only use those email accounts when discussing association business.

The good news is, the association can use emails, texts messages and documents in their defense or to pursue their own lawsuit. So, if a unit owner sends you a nasty email, or an email admitting that they did something, save a copy for future use. ■

Kasey Burchman, Esq. is an attorney with the law firm of Feldman, Perlstein & Greene, LLC. Kasey serves on our Board of Directors and is a member of our Education Program Committee.

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Doug Newman

Effective Communication Strategies for Condominium Boards and Management

By Doug Newman, CMCA

Effective communication is essential for the success of any condominium board and association. With multiple stakeholders, varying responsibilities, and complex issues to address, clear and consistent communication is critical. Establishing communication protocols for board member communications, and board/management communications can significantly enhance operational effectiveness and efficiency. The key communication channels: email, phone, text messaging, and portals, are explored further along with best practices of each.

Email: The Cornerstone of Professional Communication

Email remains the most widely used communication tool. It provides a formal, documented method to exchange information, track decisions, and ensure multiple parties are informed.

Best Practices for Email Communication:

1. Use Clear, Concise Subject Lines: Make subject lines easily understood, for example, Budget Review – BOD Action Required by 5/25, or Unit 15 – Delinquency Status Update. Avoid ambiguous subject lines such as, “Rules” or “Meeting”. While the writer will understand the context of the subject line, the recipients will not. Give the subject line some thought so it is easily understood by all recipients without the need to open the email.
2. Stay on Point: Changing topics in the same email thread invariably leads to confusion.
3. Keep Messages Concise: Avoid lengthy emails. Bullet points or numbered lists improve readability and ensure key points are not overlooked.
4. Maintain a Professional Tone: Always use courteous and professional language, especially when discussing sensitive topics.
5. Create a Shared Email Policy: To prevent miscommunication, establish guidelines on when and how board members should use email.
6. Use Distribution Lists/Association Specific Email Addresses: Set up group email addresses (e.g., ExecutiveBoard@Gmail.com) and association specific emails. (Emails are discoverable! Please make sure to read Kasey Burchman, Esq.’s article in this issue).

Example of Ineffective Email Communication:

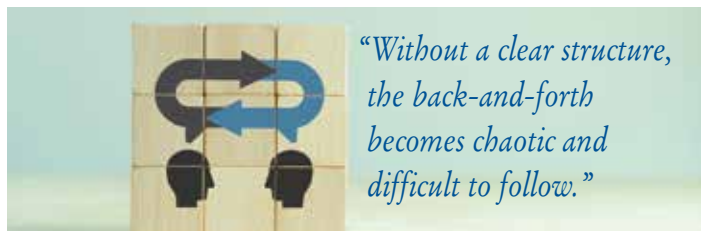
Ineffective communication often leads to confusion and inefficiencies. For example, when scheduling a meeting, board members may send several emails without clear direction:

Email 1: *‘When is everyone free to meet?’*

Email 2: *‘I can do Monday afternoon. Does that work?’*

Email 3: *‘Monday doesn’t work for me. What about Tuesday?’*

Email 4: *‘Tuesday is tricky. Can we try Wednesday?’*



Without a clear structure, the back-and-forth becomes chaotic and difficult to follow.

Example of an Effective Email Communication:

Subject: *Scheduling Board Meeting – Confirm Availability*
We need to schedule our next Board meeting to discuss the upcoming fiscal year budget and landscaping proposals. Please reply with your availability by noon this Friday.

- Monday, June 15 at 5:00 PM • Wednesday, June 17 at 5:00 PM

I will then confirm the meeting date Friday afternoon. Thank you,
Board President

Phone: Ideal for Urgent or Sensitive Matters

Phone calls are invaluable for urgent situations or when conveying tone and intent is essential, which is often lost in email. Phone calls minimize the risk of misunderstandings.

Best Practices for Phone Communication:

1. Prioritize Calls for Urgent Matters: Reserve phone communication for time-sensitive or critical issues, such as property damage or legal matters that cannot properly be conveyed in a standard email.
2. Prepare Before Calling: Have a clear purpose, gather relevant information or prepare a bullet-point agenda in advance to ensure the conversation is most productive.
3. Document Key Points: Follow up phone discussions with an email summary to maintain a record of the conversation. For example: As per our phone conversation today, listed below are the following actions items.

Text Messaging: Quick and Convenient, but Use with Caution

Text messaging has become commonplace among family and friends and is a very convenient way to communicate brief updates or reminders. However, it is not conducive for board and manager communications and in general, should be avoided; email is much preferred. Text messages do not provide for a subject line, date/time stamp documentation, conversations become commingled, are cumbersome to archive, lack the ability to forward or add others to a conversation, etc. Texting is extremely difficult for the property manager and in general, its use should be avoided entirely.

Best Practices for Text Messaging:

1. Limit Texts to Simple Updates: Use text messaging for a quick notification or to share something fun and positive, that’s it! Once you get past a sentence or two, you generally should not be texting.
2. Do Not Conduct Business by Text: Do not use text messages to discuss policy changes, disputes, financial matters, routine business matters, or anything that should be discussed openly.
3. Archive Critical Texts: Should texts involve something important, summarize the conversation in an email for more formal record-keeping but again, use email instead of texting.

Board Member Communications: Building Cohesion

Effective board communication fosters a collaborative environment. Establishing ground rules or communication protocols ensures discussions remain productive and focused.

Best Practices for Board Member Communications:

1. Establish a Code of Conduct: Set expectations for respectful and constructive dialogue, particularly during disagreements.
2. Schedule Regular Meetings: Maintain a consistent schedule for board meetings to ensure timely decision-making.
3. Distribute Minutes: Approve, and distribute minutes, as soon as possible after board meetings. (Remember: meeting minutes are not a transcript; they record actions and decisions).
- 4 Leverage Technology: Use video conferencing which is proven to increase participation and makes for more effective meeting with screensharing ability and far less crosstalk and interruptions.

Board and Management Communication: Maintaining Professionalism

The relationship between the board and management is critical to the success of the association and the community. Clear, professional communication ensures tasks are executed efficiently and expectations are met.


Best Practices for Board and Management Communication:

1. Designate a Point of Contact or Liaison: Assign one board member as the primary management liaison to streamline communication with the management team.
2. Set Communication Expectations: Define acceptable response times for emails, calls, and requests to avoid frustration.
3. Use Written Directives: For major decisions or tasks, provide instructions in writing to ensure clarity and accountability.
4. Hold Regular Status Updates: Schedule routine check-ins to review ongoing projects, address concerns, and align priorities.


Conclusion

Effective communication is the foundation of a high-functioning community association board and management relationship. By using the appropriate communication channels and adhering to best practices, boards can improve decision-making, foster a positive community environment, and ensure smooth association operations. Whether through email, phone, portals, and the occasional text message, clear and consistent communication will lead to stronger governance and greater satisfaction for all stakeholders. ■

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




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Adam Quenneville Roofing & Siding	11	JP Carroll Construction.....	9
Avidia Bank.....	15	The Milford Bank	2
BELFOR Property Restoration	10	New Look Painting & Construction.....	21
Bouvier Insurance	Back Cover	Pro-Klean	15
Building Renewal, LLC	17	Rearidon Agency	10
The Falcon Group.....	11	Sandler & Hansen, LLC.....	9
First Citizens Bank.....	19	V. Nanfito Roofing & Siding.....	19



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