

# Common Interest

The Official Publication of CAI-Connecticut

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*Inside:*

## CONNECTICUT LEGISLATIVE UPDATE

The True Purpose of  
**RULES**

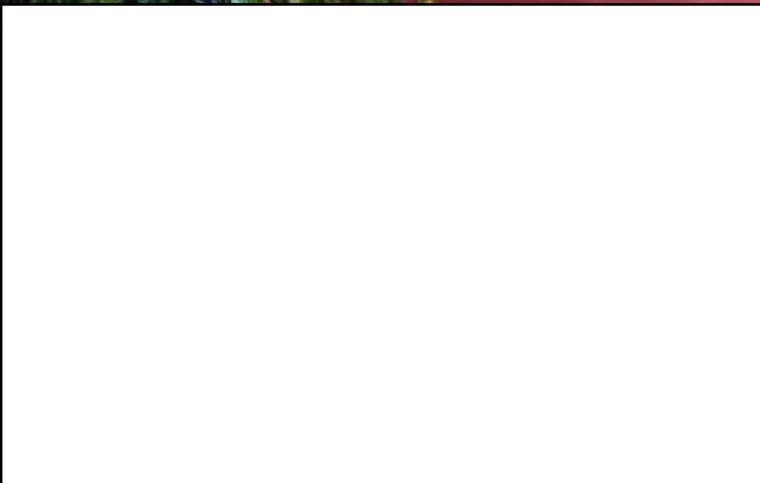
## LOAN ACCOUNTING

Think You Need a New Roof?  
**THINK AGAIN!**

Why Amend Your Association's  
**GOVERNING  
DOCUMENTS?**

*...And More!*

CONNECTICUT CHAPTER  
**community**  
ASSOCIATIONS INSTITUTE



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### Staff

**Kim McClain**  
*Chapter Executive Director*

**Ellen Felix**  
*Director Program Operations*

### 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 900 members including nearly 150 businesses, and over 450 community associations representing 50,000 homeowners.



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



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

## President's Message



Pam Bowman, CMCA, EBP

*"We are very fortunate in Connecticut, the people who are chairing our committees, our volunteers and our CAI executive staff are dedicated to bringing us all together."*

Just back from the CAI National Convention, I am inspired that our profession is united in the education of our members. Homeowners, managers and business partners are invested in understanding what we need to educate our clients, keep us safe and alert, and do our job better and more efficiently. Whether it be technology, education or civility, we as a group respect the hard work and dedication of our industry members. Each one of us brings something to the table and its important to recognize our diversity and understand how to work together to succeed. We are very fortunate in Connecticut, the people who are chairing our committees, our volunteers and our CAI executive staff are dedicated to bringing us all together.

Managers mark your calendars for Cyber Security and Fraud on August 2, 2018 at Amarantes Sea Cliff in East Haven. In addition, Business Partners, we will be offering the Educated Business Partner Distinction class the same day same time. Last year we had a great time with over 125 people. Join us again!

It's also the time of year when the CAMMIEs and Fall Fun Committee are in full swing planning for the event on September 27, 2018. The deadline for the nominations is August 17, 2018.

Looking forward to seeing you at some of these great events! ■

## April Condo, Inc. Class



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*American Integrity Property Restoration*

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## From the Chapter Executive Director

**“This world of ours... must avoid becoming a community of dreadful fear and hate, and be, instead, a proud confederation of mutual trust and respect.”**

~ Dwight D. Eisenhower



Kim McClain

Courtesy CAI-CT.

“**W**e the Community” was the theme of the recent CAI National Conference and Expo. It was a fitting focus given that the reason why we all do what we do is to work together to strengthen our communities. Folks from all over the country gathered in Washington, D.C. to share ideas, learn new ways of doing things, enjoy each other's company and find new energy to bring back home. This reinforces our mission to provide education and resources to support best practices for community association operations. Conferences and education programs also reinforce the value of getting out and seeing things from a new perspective. Our heads and our notebooks are filled with all sorts of great ideas for programs and magazine articles. We are very much looking forward to sharing them with you.

One of the resources available to CAI members is access to the important work of the Foundation for Community Association Research (FCAR). We constantly get questions that start with: “how to we compare to...?” FCAR investigates those types of questions and more. Their latest report was shared at the CAI Conference: “2018 Survey of Cybersecurity in Community Associations.” The summary of this report can be found on page 25. New revelations about hacking and misuse of personal information seem to occur constantly these days. Is your association/business doing all it can to prevent a hack attack?

Another one of those common questions is: “who covers what?” when it comes to insurance claims. One of our articles walks you through how you could explain the process to curious and/or confused unit owners. We also tackle the question of: “why amend your governing documents?” with various changes to the Common Interest Ownership Act (CIOA) and the myriad of issues pertaining to association operations, it seems to be a reasonable question to contemplate.

Summer weather is finally here! Be sure to get out and enjoy it. Might we suggest that you join us outdoors and register to attend our ever popular Summer Sizzler event on the lovely Long Island Sound on August 2, 2018? You won't regret it! ■

## Is this your last issue of *Common Interest*?

If you don't want to miss out on all the latest insights about how to avoid problems – legal and otherwise; discover new products and services; tackle issues that may help your association achieve great fiscal and physical health and lots more... It's time to renew your subscription to *Common Interest*!

Remember: A subscription to *Common Interest* magazine is one of the great benefits of CAI membership. Don't delay – renew today!

**More details can be found  
on our website: [www.caict.org](http://www.caict.org).**



# UPCOMING CAI-CT EVENTS

## **CAMMIES – Nominations Open**

**Friday, June 1, 2018**

Nominate a community association manager who works diligently to make Connecticut's community associations among the most desirable in the nation!

Nominations may be made online at the CAMMIES website at <http://cammies.org>. The awards will be presented on Thursday, September 27, 2018 at the Night of Fall Fun at the Aqua Turf in Plantsville, CT.

## **M-360: Leadership Practices in Building Community**

**Thursday, July 12 & 13, 2018 - Seminar Format: 2.0 days**  
**8:30 a.m. - 5:30 p.m.**

Southbridge, MA

This course teaches you the management strategies that build better community relations. You'll learn how to help your community members develop social and problem-solving skills and foster greater participation in the community. It will also help develop the leadership skills that can increase your job satisfaction and enhance your career growth.

\$459 - CAI Members, \$559 - Non-Members  
Visit [www.caionline.org](http://www.caionline.org) to register.

*GOOD FOR 16.0 CONTINUING ED CREDITS*

## **CAM Ed – Cyber Security & Fraud Education for Community Association Managers**

**Thursday, August 2, 2018, 3:00pm - 5:00pm**

Amarante's Sea Cliff, East Haven

Limited to State Registered Community Association Managers (CAMs)

Speakers: Carrie Mott, EBP, *Bowvier Insurance*; Chas Ryan, Esq., EBP, *Pilicy & Ryan, P.C.*; Joel Meskin, Esq., CIRMS, CCAL, EBP, *McGowan & Company*

Social media? Social engineering? How does current technology impact the communities you manage? Learn about known and unknown risks arising from increased reliance on technology and social media.

\$25 - CAI Members, \$50 - Non-Members

Join us for Summer Sizzler Networking Party immediately following!

*GOOD FOR 2.0 CONTINUING ED CREDITS*

## **Business Partner Ed Education for Business Partners**

**Thursday, August 2, 2018, 3:00pm - 5:00pm**

Amarante's Sea Cliff, East Haven

\$75 - CAI Members

This course is designed to help CAI-member product and service providers better understand CAI, community associations and the industry at large. Individuals who pass the course and maintain CAI membership earn the CAI Educated Business Partner distinction, gaining special recognition among thousands of companies and professionals who support common-interest communities — accountants, attorneys, bankers, insurance professionals, landscapers, painters, reserve specialists, software providers and many others.

Join us for our Summer Sizzler Networking Party immediately following!

*EARN YOUR EBP DISTINCTION!*



## **Summer Sizzler Networking Event**

**We're throwing a party for you!**

**Thursday, August 2, 2018, 5:00 - 7:30 pm**

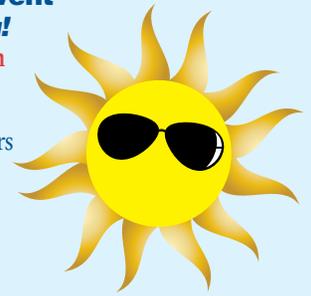
Amarante's Sea Cliff, East Haven

\$10 - Community Association Board Members & Managers

\$50 - All Others (Service Providers)

*Sponsorships are available for this event.*

*Contact [ellen@caict.org](mailto:ellen@caict.org) for more information.*



## **CAMMIES – Nominations Close**

**Friday, August 17, 2018**

Nominations may be made online at the CAMMIES website at <http://cammies.org>. The awards will be given out on Thursday, September 27, 2018 at the Night of Fall Fun at the Aqua Turf in Plantsville, CT.

## **Condo Inc. –**

**The Business of Running Your Community**

**Saturday, September 15, 2018, 8:30 am - 3:00 pm**

BELFOR Property Restoration, Wallingford

Do you serve on the board of your association?

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

\$50 - CAI Members, \$100 - Non-Members

*Sponsorships are available for this event.*



## **Fall Fun Party & the CAMMIES**

**Thursday, September 27, 2018**

Aqua Turf, Plantsville



**Visit [www.caict.org](http://www.caict.org) to register and for updated information.**



## Statutory Snippet...

### Are Board of Directors required to hold Regular Board Meetings?

Yes. The board of directors is required to meet at least two times per year (Common Interest Ownership Act, Subsection 47-250(b)(3)).

## NEW & RENEWING MEMBERS

### Welcome New Members

#### Associations

The Atrium Of Portland  
Country Walk Association, Inc.  
Hidden Grove North  
Knollbrook Condo Association  
Mountindale Condominium  
Newfield Commons Condo Association

#### Individual Managers

Chris Weiland, CMCA  
Sheila Zaniewski, CMCA

### Thank You Renewing Members

#### Associations

Birchwood Commons Condominium Association  
Breakwater Key Association Inc.  
Bryewood Condominium Association, Inc.  
Cedar Crest Condominium  
Churchill South  
Farmington Woods  
Fieldstone Village of Orange, Inc.  
First Town Square Association  
Franklin Square Condominium Association  
Governor's Bridge Homeowners Association  
Hayes House Condominium Association  
The Meadows of Enfield Condominium Association, Inc.  
Mills Pond Condominium Association  
Parker House Association  
River Run Condominium Association  
Rope Ferry Commons  
Spinnaker Association, Inc.  
Suffield Meadow Phase I, Inc. (Suffield Meadow Club, Inc.)  
Terrace Heights Condominium Association  
The Village at Crystal Springs Condominium Association, Inc.  
Heatherwood Condominium Association  
L'Hermitage Condominium Association Inc.  
Montgomery Village  
River Colony of Guilford Association, Inc.  
Stony Mill Condominium Association  
Sylvan Point Condominium Association

#### Management Companies

Axis Property Management  
Connecticut Real Estate Management, LLC

#### Individual Managers

Catherine L. Bowman, CMCA, AMS  
Robin Cleary  
Kim Daley, CMCA  
Vincent Gagliardi  
Melissa Gouveia, CMCA  
Paul Gursky  
Dawn Mattei  
Jerry Mccarthy  
Michael McGovern, CMCA  
Richard E. Mellin  
Robert E. Mitchell, CMCA  
Kim Murray, CMCA  
David Edward Paniccia, CMCA, AMS  
Kevin Reeves, CMCA, AMS, PCAM  
Shari L. Romero, CMCA, AMS  
Suzanne S Rourke, CMCA  
Melanie Sivo  
Elisa Smith  
Richard Wechter, CMCA

#### Business Partners

Advanced Asphalt Recycling LLC d/b/a J Metcalf Paving  
American Pool  
BELFOR Property Restoration  
Bill's Landscaping LLC  
BrightView Landscape Services  
CCA, LLC  
CertaPro Painters  
Dimatteo Group  
Exteriors of Connecticut, LLC  
Mono-Crete Step Co of Ct, LLC  
Newtown Savings Bank  
Reficio Company  
Servpro  
Tangible Properties, LLC  
Tooher - Ferraris Insurance Group  
United Cleaning & Restoration  
Windsor Federal Savings



CONNECTICUT CHAPTER  
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## CAI-CT – What Do All those Letters Mean?

As a consumer or provider of services to common interest communities, it is extremely important to work with professionals who are trained and well-versed in the unique needs and requirements of these communities. Best practices should guide you to always work with those who have achieved professional designation that demonstrates their commitment to their profession.

Like most organizations, CAI (Community Associations Institute) has its own alphabet soup of acronyms. So exactly what do they all mean? Each issue of Common Interest will explore one of these designations.

### CMCA® – Certified Manager of Community Associations.

In order to obtain that designation, most Community Association Managers must take a 2.5 day course known as the M-100 – *The Essentials of Community Association Management* and pass that exam. Then they sit for the CMCA exam which is administered by the Community Association Managers International Certification Board (CAMICB). The CMCA examination, is a rigorous test that measures knowledge of community management best practices. More than 14,000 CMCA's worldwide have demonstrated the skills essential for managing common interest communities.

More than 63 million Americans live in an estimated 325,000 association-governed communities, and many of those communities entrust their management to CMCA's. These skilled professionals are trained in the evolving complexities of community association management. CMCA-certified managers have the expertise needed to safeguard the assets of community associations, protecting home values and providing homeowners with peace of mind.

The CMCA is accredited by the National Commission for Certifying Agencies (NCCA) and complies with the NCCA's stringent international standards for a professional certification program.

CAMICB is an independent board that sets the standards for community association managers worldwide. It is the first and only organization created solely to certify community association managers and enhance the professional practice of community association management. For more information, visit [www.camicb.org](http://www.camicb.org)

It is also important to note that as of October 1, 2013, Community Association Managers are required to be licensed by the State of Connecticut. Part of the requirements generally include obtaining a CMCA designation. For more information about Manager Licensing, go to [www.caict.org](http://www.caict.org). ■

**For Membership Information —  
Visit [www.caionline.org](http://www.caionline.org).**

## Legislative Update



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The 2018 Legislative Session concluded on May 9. Although we had attempted to advance additional tweaks to the manager licensing law, we are pleased that the provision regarding the fidelity bond made it through this year. Below is a summary of the session provided by our lobbyists Anita Schepker and David O’Leary.

**SB193 — AN ACT CONCERNING REVISIONS TO DEPARTMENT OF CONSUMER PROTECTION STATUTES.** This bill which passed on the last night of session, includes the removal of the fidelity bond requirement and in its place substitutes the requirement for a commercially available insurance policy. CAI-CT supported this bill.

The provision can be found in Section 10 of the bill: <https://www.cga.ct.gov/2018/amd/S/2018SB-00193-R00SA-AMD.htm>

**HB 5209 — AN ACT IMPOSING A SURCHARGE ON CERTAIN INSURANCE POLICIES AND ESTABLISHING THE HEALTHY HOMES FUND** had an amendment filed on it which imposes a \$12 surcharge on the named insured under each homeowner’s insurance policy delivered, issued, renewed, amended, or endorsed between January 1, 2019 and December 31, 2029. Under the bill, the surcharge applies to homeowner’s policies for personal risk insurance policies on condominiums or residential dwellings with four or fewer units.

The amendment can be found at: <https://www.cga.ct.gov/2018/amd/H/pdf/2018HB-05209-R00HB-AMD.pdf>

*“The original bill, HB 5208, would have required ALL residential buildings of four or more units to pay property taxes based on the commercial property tax rate...”*

### **Section 45 of HB 5028 and Section 3and Section 4 of HB5155**

The original bill, HB 5208, would have required ALL residential buildings of four or more units to pay property taxes based on the commercial property tax rate, which would have included legitimate common interest communities. We monitored the bill with the intent of minimizing any impact on existing and future condominiums. The legislature created language that grandfathered the existing developments, but as of July 1, would require a 50% owner-occupancy of condominium properties.

Please see House Amendment A which becomes the entire bill, 5028, Section 45 found at: <https://www.cga.ct.gov/2018/amd/H/2018HB-05028-R00HA-AMD.htm>. But note that that bill is amended in Sections 3 and 4 of HB 5155 together found at: <https://www.cga.ct.gov/2018/amd/H/2018HB-05155-R00HA-AMD.htm> ■

## Legally Speaking...



Adam Cohen, Esq.

### The True Purposes of Rules

By Adam J. Cohen, Esq.

American author Tom Wolfe once said, “If a conservative is a liberal who’s been mugged, a liberal is a conservative who’s been arrested.”

It’s not surprising that a person’s opinion on how strictly a rule should be enforced depends on which side of the dispute that person happens to be on. As an attorney for community associations, I see this all of the time. A resident will complain about someone else’s loud music, but is surprised when neighbors complain about his own party. Owners want late fees waived when they forget to pay their own common charges on time, but grumble when delinquencies impact the community’s annual budget. Perhaps the most common defense asserted by someone who has clearly broken a rule is that the Board doesn’t adequately enforce the rules against other people.

Boards must walk a fine line when exercising their broad discretion in choosing what rules to enact, how to apply them in particular situations, and the severity of the sanctions to impose. On the one hand, Boards want to be reasonable and even-handed, and to appear so. They also want to avoid unpleasantness with their neighbors if possible. On the other hand, ignoring misconduct actively encourages more of it, directly affects quality of life in their community, and impacts the finances that everyone has put in their care.

This reveals the true purposes of rules in a community association. Ultimately there are only two: safety and money. Rules on things like speed limits, structural renovations, and fire hazards are primarily concerned with physical safety, while rules on other issues like landscaping, noise, and building aesthetics are designed to improve property values. Maintenance standards are also aimed at preventing monetary losses resulting from property damage, legal liability, and higher insurance premiums — or at least shifting those losses away from the community’s budget and instead back to the individuals responsible for causing them.

Living in a communal environment like a condominium means sacrificing some individual liberties in exchange for a number of conveniences and financial benefits. Although you aren’t free to paint your house bright pink, neither is anyone else, and the exterior uniformity makes every home on the street more valuable for resales and mortgages. The concept of rules in a homeowner’s association is similar to zoning restrictions and other laws which apply to other kinds of living arrangements. For example, laws that prevent strip-mining, driving at 60 miles per hour, or building a skyscraper on a residential street



*“Living in a communal environment like a condominium means sacrificing some individual liberties in exchange for a number of conveniences and financial benefits.”*

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are also motivated by safety and property values. In a homeowner’s association, the decision-makers on what these restrictions will be and how they will be enforced are not far-away politicians but the people living there themselves. The impacts of violations are, likewise, felt directly by people very close by. They need and deserve rules that protect them, their families, and their property.

Understanding the true purposes of rules – safety and money – is important for both Boards and unit owners alike. When writing rules, deciding on penalties, and mediating disputes between owners, Boards should maintain perspective and focus by remembering the rationale at stake. The goals are protection and deterrence, not profit or punishment. Likewise, residents can appreciate the need for restrictions based on the consequences of not having them. Littering, speeding, leaving a child unsupervised, not fixing a leaky pipe, and frequent short-term rentals can put people at personal and financial risk, especially if allowed to become the norm. The question every resident needs to ask is not “what if I want to do what this rule prohibits,” but rather, “what if everyone did what this rule prohibits?” ■

*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.*

# It's time for our Annual Fall Fun event & The CAMMies!



**Our Annual Night of Fall Fun is always a crowd pleaser.**

**This is our 4th Annual CAMMIEs Awards Presentation. Be sure to nominate your favorite Community Association Manager today!**

**Don't miss the celebration! It's won't be FUN without you!!**

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

**Thursday  
SEPTEMBER 27, 2018  
5:30-8:30 pm  
Aqua Turf, Plantsville**



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## Financially Speaking...



Daniel Levine, CPA

## Loan Accounting

By Daniel Levine - MBA, CPA

Many associations utilize financing as a part of their long-term capital strategy. Taking out a loan is not only a large business planning decision for an association but one that will also have a large impact on the accounting function as well.

This article will cover the impact of a loan on the balance sheet and income statement, how budgeting is changed by having a loan, and some other general accounting considerations related to the loan process.

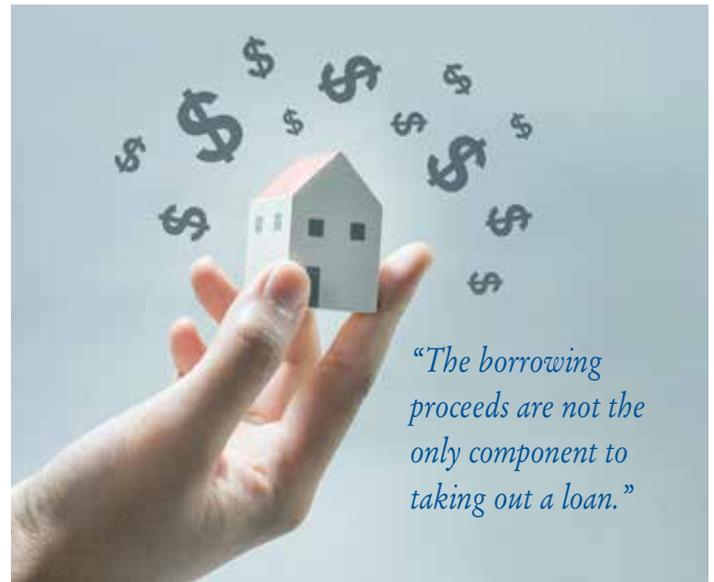
### Balance Sheet Impact

When taking out a loan, an association will have new transactions outside what the board is used to seeing, especially if this is the first-time borrowing is done. Loan transactions will affect both the balance sheet and the income statement.

Under the accrual basis of accounting, money received from a loan should not be considered income for the association. The money received represents the principal value of the loan and is what must be repaid. This qualifies the funds as a liability and liabilities are reported on the balance sheet. This liability will be reduced over time as monthly payments are made. When the loan is fully repaid, this liability account will no longer appear.

The borrowing proceeds are not the only component to taking out a loan. As a result, another account that may appear on the balance sheet relates to the closing costs of the loan. These closing costs (things like legal and bank fees incurred in obtaining the loan) are typically shown as a separate asset on the balance sheet on your internal use statements. The reason these costs are reflected on the balance sheet is that generally accepted accounting principles require that these costs be recognized over the life of the loan under their own set of rules vs. being expensed 100% when paid. This is to better match the costs related to the borrowing and the time it takes to repay it.

However, to follow generally accepted accounting principles, these closing costs now should not be in their own account but instead netted with the loan liability account on the balance sheet. The reason for this is that in April 2015, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2015-03, "Interest - Imputation of Interest: Simplifying the Presentation of Debt Issuance Costs." Under the new guidelines, debt issuance costs (i.e. note closing costs) related to term loans should be presented as



*"The borrowing proceeds are not the only component to taking out a loan."*

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a direct deduction from the carrying amount of the associated debt liability (i.e. note payable).

### Income Statement Impact

Now that we have an overview of the balance sheet, what about the income statement? The impact here comes from the monthly payments made against the loan.

Many associations are accustomed to writing checks for the monthly amount due, but like a mortgage, these payments comprise both principal and interest. Interest is a period expense of the association and is recognized when incurred on the income statement. The principal portion should be used to reduce the loan balance on the balance sheet and the overall obligation. As the association repays the loan, each month the liability will shrink, and interest expense will increase.

The other income statement impact to the association comes from the recognition of the closing costs. As stated above, the closing costs are recognized over the life of the loan. Therefore, each year a portion of the closing costs "parked" on the balance sheet will be reclassified to the income statement as an expense. This expense is considered a "non-cash" expense and cash was not actu-

ally spent during the period it is being recognized. With the new ASU update mentioned earlier, these closing costs will be included within the interest expense line.

### Loan Budgeting

So now that the basic mechanics are understood, how does this translate into the budget process? Most associations budget based on prior expense and income. However, with the rules we learned earlier, the principal portion of a monthly loan payment will not be included in your expenses as it serves to reduce principal. It will be important for board members to understand this component as when creating the budget, the association will need to still budget for both principal and interest.

Despite not being shown as expense principal payments are still using association cash each month. If the budget doesn't include this factor when trying to determine the association fees, the budgeted fees could be too low which will lead to cashflow issues.

### Important Considerations

Besides making sure the association has the funds to repay the loan, there are other important items a board should consider when setting up and accounting for the loan.

The first consideration is to determine which fund to classify the loan in. Designating the loan as part of the operating or reserve fund will determine where interest expense and principal owed should be recorded. If a loan is being repaid through a special assessment this also should be classified in the same fund balance as the loan as the items are related.

A common pitfall with associations happens when they classify a loan as part of the reserve fund but repay and collect the assessment all in the operating fund. Classifying the loan as reserve will mean the expense will be classified as reserve and close to reserve equity but, the change in cash is happening on the operating side of the equation. This leads to the reserve equity balance not matching the reserve cash position. This generates an interfund receivable and payable which may require board discussion to resolve.

Another consideration relates to associations who utilize a multi-year special assessment to repay the loan. Should an association go this route they will need to consider when and if they will accept prepayments of the assessment. Prepayments made by unit owners will need to be tracked and paid against the loan. If they aren't, the loan payment will not change while the association will receive less in monthly income to cover the cost due to less people now in the assessment.

There are many different ways associations have allowed for this. Some have let residents only pre-pay at the start of the project, some allow prepayment only once a year, some allow prepayment throughout the year. Tracking this can be a substantial time investment depending on the frequency of prepayments. However, the quicker people pre-pay, the faster the association will pay down its obligation and save its interest expense.

### Conclusion

Loans are a common tool for associations handling large capital replacements or other projects. However, despite being a common tool there are specific accounting rules recording the loan and its

*[Continues on page 12.]*



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### FINANCIAL...from page 11.

subsequent transactions that will add complexity to an association's books and records.

Making sure the board understands these rules and their impact will allow them to better understand their monthly statements and know if any adjustments need to be made.

If your association is contemplating a loan and there are questions, the CAI network has a wide range of accounting professionals that can help provide guidance and background to the rules discussed above and others relating to this area of accounting. ■

*Dan Levine, MBA, CPA is a Certified Public Accountant at Tomasetti, Kulas, And Company P.C. Dan has extensive experience with tax and attestation services to condominium associations from all around Connecticut. Dan is an active participant in CAI-CT related program and can be found presenting accounting best practices at these events throughout the year. Dan is also a member of our Legislative Advocacy and Next Generation Committees.*



*“Loans are a common tool for associations handling large capital replacements or other projects.”*

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## Spring Fling

Although our Annual Spring Fling event took place at a golf club – Topstone in South Windsor, we had a double header of education programs to offer. Our Community Association Managers delved into the pesky issues of dealing with outdoor pests: mainly mosquitoes. The presenter was Joe Onorato from SOLitude Lake Management. And our association board members had the opportunity to learn about key legal and insurance challenges facing their communities. Our panel was composed of: Ronald Barba, Esq – Bender, Anderson & Barba, P.C.; Gregory McCracken, Esq. – Jacobs, Walker, Rice & Barry, LLC; Chas Ryan, Esq. – Pilicy & Ryan, P.C. and Frank Pingelski – Tooher-Ferraris Insurance Group.

Our Spring Fling event immediately followed. Good food, giant Jenga and libations added to the fun of the event.

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*Thanks to our terrific Spring Fling Committee for a job well done!*

Co-Chair – Linda Schaller – *M & S Paving and Sealing, Inc.*

Co-Chair – Ellen Sias – *Total Asset Management, LLC*

Sabrina Wentworth – *Westford Real Estate Management, LLC*

Marcy Ventresca – *New Look Painting and Construction, Inc.*

Nikki Johnson – *American Integrity Restoration*



(above) Legal & Insurance Panel - Ronald Barba, Esq – Bender, Anderson & Barba, P.C.; Frank Pingelski, EBP – Tooher-Ferraris Insurance Group; Gregory McCracken, Esq. – Jacobs, Walker, Rice & Barry, LLC; and Chas Ryan, Esq., EBP – Pilicy & Ryan, P.C.



(above) Joe Onorato from SOLitude Lake Management explains how to deal with pests.



(left) Linda Schaller, EBP – M & S Paving & Sealing, Inc. & Steve Cabannis, CMCA – Westford Real Estate Management



(above) Matt Herceg & Tyler Allen – Becht Engineering BT, Inc.



(right) Lynn Spaulding – Savol Pools

(below) Bob Burrows, PCAM – Imagineers, LLC



(above) Rick Filloramo – National Consulting Group, Inc. & Greg Zajac, EBP – Building Renewal, LLC



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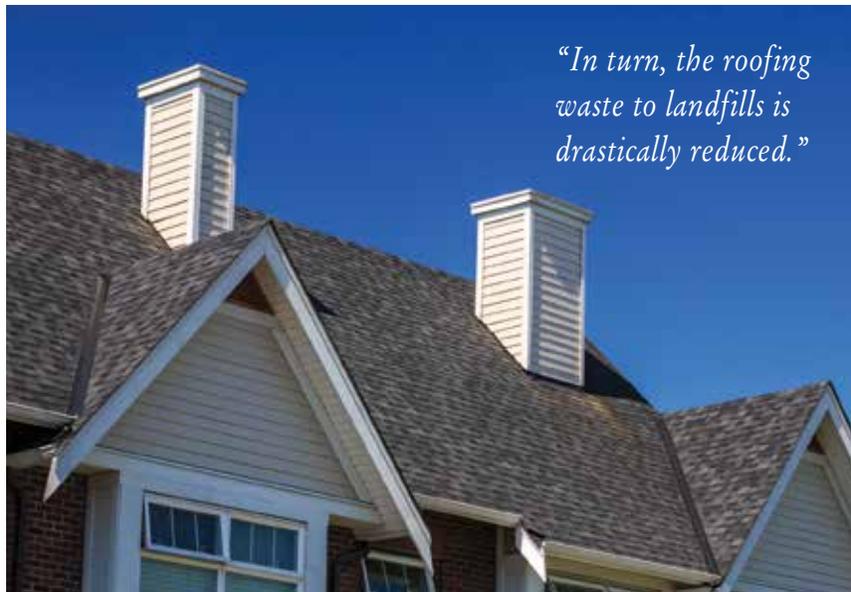
By Adam Quenneville

Each year eleven million tons of roofing waste is generated from roofing replacements. Ten percent of total construction waste at landfills is from the roofing industry. Over time, the asphalt shingles dry out causing them to become brittle and eventually crack, resulting in roof replacement.

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The roof temperature can climb up to 140 degrees during the hot summer months and below zero in the winter. Repeated cycles of thermal shock slowly cause the roof to break down. The new process is a scientifically formulated natural sealer that restores flexibility to shingles.



*“In turn, the roofing waste to landfills is drastically reduced.”*

This application rejuvenates the dried-out shingles expanding the life of the roof for five years. With repeated treatments, you may be able add up to 15 years of additional property protection. In turn, the roofing waste to landfills is drastically reduced. This is the world's first sustainable roofing solution that slows down the aging process of a roof. The process is safe, fast and costs only a small fraction

of a roof replacement. And, this option can help to reduce your association's carbon footprint. ■

*Adam Quenneville is the Owner of Adam Quenneville Roofing & Siding, Inc.*

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Bob Gourley

## Communication Corner

By Bob Gourley

### What Is Community Association Meritorious Service?

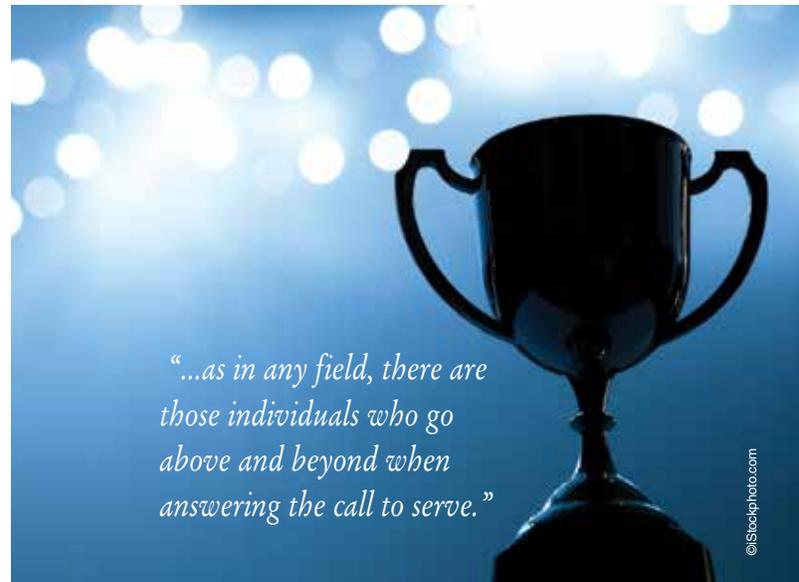
The community association industry is home to some very hard-working management professionals and volunteers whose work often goes unnoticed and unappreciated. Many times, it involves nights and weekends and it always involves giving up personal time for the benefit of members of the community association. To that end, all community association service is meritorious. However, as in any field, there are those individuals who go above and beyond when answering the call to serve. Once again, CAI-CT will offer the Community Association Meritorious Service Awards, better known as The CAMMIES. We will name a Community Association Manager of the Year, a Community Manager Rising Star of the Year, and a Community Management Executive of the Year. This is an exciting program that recognizes community association managers who provide meritorious service to our industry. I encourage you to visit [cammies.org](http://cammies.org) to learn more and make your nomination for this year's awards. It isn't often that you can easily pay tribute to the manager who does so much for your community. Visit [cammies.org](http://cammies.org) and make your nomination starting June 1st!

### Sound Financial Management Tells its Own Story

Unless all of your community association members avail themselves of the financial records of the association, it is pretty hard for them to know whether or not the Board is practicing sound financial management practices. As long as the bills are getting paid and the community has the money it needs when the projects become due, the story pretty much tells itself. However, in many communities, the lack of sound financial management practices tells a far different story, and it isn't a story with a happy ending! Now is a great time to rewrite that story by taking corrective action and building consensus from your fellow unit owners to do so. How will you do so?

Every association is chock full of financial information. Bank statements, Reserve Studies, Insurance Coverages, Service Contracts, and many more all have their own story to tell. However, as lifeless pieces of paper, these documents seldom see the light of day let alone the eyeballs of the folks who are directly affected by what they have to say. You can change that by using these documents to help craft your story of how the Board is putting these documents to good use and steering the association through troubled financial waters.

Is your Reserve Fund fully funded? That is a great story! Is the association better off this year than it was last year? Another great



story! Are your insurance premiums as low as they can be because the association is following suggestions from the underwriter on how to minimize risk? There is another story. Every time there is financial success for the association, it is time to put another story in your newsletter or on your website. Every dollar saved by the association is one less dollar needed for common fees or a Special Assessment.

Associations that are financially well off don't happen by accident. It takes planning and forethought to create a budget today that will benefit the association ten years from now. It can be difficult to explain to today's unit owners why they need to pay today for tomorrow's repairs. Many will push back at the need to save money for future upkeep. That is why it is important to keep them informed about the association's finances. If you don't use this information to tell the story you want unit owners to hear, they will assume a very different story. They will think their money is being mismanaged or stolen. They build anger and resentment at their Board and Property Managers. All it takes to dissuade that darkness is communication. If you are practicing sound financial management, tell your story! If you aren't, use your communications to enlighten the association. Win them over with knowledge and get ready to reap the rewards of sound financial management! ■

*Bob Gourley is Chief Marketing Officer of HOALendingXchange and Founder of MyEZCondo, a firm that specializes in communication products for community associations. Bob serves on the Publication, CAMMIEs, and Website Committees and is a Past President of the Board of Directors for CAI-CT.*



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## You Ask Mister Condo, Now Mister Condo Asks You!

Every issue of *Common Interest* features an “Ask Mister Condo” Question submitted by a reader of the Ask Mister Condo website at <http://askmistercondo.com>. There are often many reasonable suggestions and solutions to condo questions. Mister Condo is asking you to participate and share your wisdom with the world. Review the question below and submit your answer in an email to [askmistercondo@askmistercondo.com](mailto:askmistercondo@askmistercondo.com). Look for your answers in future issues of *Common Interest*. Here is this issue’s Ask Mister Condo question:

### **B.P. from Litchfield County writes:**

Dear Mister Condo,

I live in a 55 and over condo community and they charge by square footage. The townhouses pay more than the ranches which I don’t think is fair because all of us receive equal services such as plowing, mowing trash pickup, clubhouse use etc. I don’t believe assessing by size of the units is proper. Any comments on this and what we can do to change it?

---

In a previous Ask Mister Condo column, you were asked to help a reader with the following question:



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<http://askmistercondo.com>**

### **G.C. from Fairfield County writes:**

Dear Mister Condo,

I recently had a service man at my house to clean the dryer vent ducts and he discovered that the ducts in the ceiling between the two floors of my condo were disconnected. Unfortunately, the only way to repair them is to break into the ceiling on the first floor, reconnect the ducts, and then repair/paint the ceiling. When I brought this issue before the condo board, I was informed that it was my responsibility. According to the exhibit they provided, it states that “all vents, wiring, ducts, & system components serving one unit” are the unit owner’s responsibility. My argument is that this problem occurred due to faulty construction and not due to my neglect or normal wear & tear. Coincidentally, I had a pipe burst in my coat closet in the winter of 2015, and the association assumed full responsibility in making the repairs which were quite extensive. If you review this same document under plumbing/related systems, it seems to contradict their actions in that they assumed responsibility for the repairs even though this exhibit states otherwise. Therefore, I’m perplexed as to why they’re are unwilling to do so in this situation.

### **Mister Condo replies:**

G.C., I am not an attorney so I can only offer you a friendly opinion here. From what you have stated of your documents, you own the ductwork and, therefore, the repair of the ductwork is on you. Pipes were not listed in the statement and, typically, service multiple units and are, therefore, in common and the responsibility of the association. I do not see anything wrong in their interpretation of the documents or their handling of this repair. You may wish to consult with an attorney for a legal opinion but I think this is your issue, not the association’s. As far as the problem being a construction defect issue, you may be right but this doesn’t sound like a very expensive repair. It would be far less expensive to simply make the repair than to chase down a construction defect claim against the builder or the association. If this happened in a majority of units, I might have different advice but from what you have told me, I would simply advise you to make the repair at your cost and move on. Good luck!

Followers on Twitter, Facebook, and LinkedIn all join in the conversation. What do you think of that question and answer? Visit us at <http://askmistercondo.com> or chime in on social media. There’s plenty to talk about! ■



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## Manager's Column...



Reggie Babcock



Rich Wechter, CMCA

### Being Practical, Part XLVIII

## More is Less and Less is More — A Call for More Effective Communication

By Reg Babcock and Rich Wechter, CMCA

In this column, we tackle various topics of interest to association boards of directors with the intent of imparting practical advice. This issue's column addresses a critical topic facing association boards and management companies: the need to offer more effective communication under the pressures facing boards and management companies to disseminate information to unit owners and residents of community associations in a timely and comprehensive manner. In this age of impatience and need, managers are confronted with demands to send out notices and reminders of a host of topics on a daily basis, to the point of exhaustion. These requests come in from multiple sources (board members, vendors, municipalities, etc.) which add to the difficulties faced by managers to balance the competing priorities of these notices and reminders. We are reminded of the 19th century poem of Robert Browning in which he noted the phrase "less is more." We will, with some exceptions, urge an effort to live by this most prophetic perspective. Accordingly, we offer the following article in light of this most telling observation in an effort to provide guidance on establishing better communication between boards/management companies and unit owners/residents.

### A. Setting the Table on this Topic

One of the most common complaints heard from unit owners and residents is the number of communications they receive in this era of instant communications from boards and managers. This complaint has begun to rival the more traditional complaint that unit owners and residents do not receive enough communication from their boards and managers. It is impossible in any one article to set forth the vast number of topics that require communication from boards/management companies to unit owners/residents. Many of these topics are suitable for future articles. It can be said, at the outset, that the very nature of community associations leads to an excess of communications over a spectrum of topics (parking, speeding, pets, noise, community projects, community events, to name a few). Managers are left to develop and transmit notices in a noble effort to communicate as effectively as possible. Unfortunately, this

*"In this age of impatience and need, managers are confronted with demands to send out notices and reminders of a host of topics on a daily basis..."*



effort is akin to salmon swimming upstream for the reasons to be set forth below.

### B. What Causes Boards/Managers to Fail to Effectively Communicate with Unit Owners/Residents by Following the "More is Less" Doctrine?

We offer the following reasons why boards/managers fail to effectively communicate with unit owners/residents by following the "More is Less" Doctrine:

1. Boards and their individual members direct continuous notices to go out on issues. A prime example of this is the dog pick-up notices. In many associations, the observation of any one failure to adequately pick-up after a dog generates a call for a notice;
2. Unit owners and residents fail to comply with association rules in the first place, which "draws the foul," so to speak, from board members, who then react instinctively by calling for another notice to be sent out. Thus, a vicious circle develops which cannot be stopped;
3. Boards and managers fail to schedule the transmittal of notices in an effective manner; and
4. The failure of some boards and their members to understand that in an effort to be "transparent" on board or committee activity, they are causing unit owners and residents to become indifferent to the information so transmitted, to the point of exhaustion.

### C. What Can Boards/Managers Do to Practice the "Less is More" Doctrine?

There are many things that boards and managers can do to practice the "Less is More" Doctrine and more effec-

*[Continues on page 24.]*

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*MANAGER'S COLUMN...from page 22.*

tively communicate with unit owners and residents. Here are just a few such recommendations:

1. Boards need to be more realistic and discriminating in what they ask managers to send out. They cannot and should not be acting like a boxing counter puncher, or a politician who lashes out whenever they feel threatened or challenged. Sometimes, no communication is better than any communication;
2. Managers need to step up and provide guidance rather than sitting back passively and sending out whatever comes their way. Our experience and judgment must be offered and not placed inside a wooden box, fearful to come out should a board or board member disagree with our opinions. We must remember that we are not robots, but, instead, trained professionals who need to step up and be heard from;
3. Where and when possible, consolidate topics to reduce the number of communications. There is no rule against having multiple topics (parking, noise and dog issues, for example) set forth in one notice;
4. Limit the number of transmittals. Every day notices will turn off the community quickly and, possibly permanently. Set realistic goals between boards and managers on the frequency of all transmittals;
5. Utilize the best forms of communication. Snail mail became old news when e-mails came to the forefront. In 2018, e-mail communication is running behind newer forms of communications (text messages and web portals). The challenge, as we come close to the dawn of the third decade of the 21st Century, is to determine what is the best way to communicate to a variety of demographics in a given community. These decisions are not easy. However, the time to think this out is now and must be faced by boards and managers;
6. If possible, use less words rather than more words. LESS IS MORE! Take the time to cut the length of every communication wherever and whenever possible.
7. We do, however, offer the following caveat: In cases when a notice will educate unit owners and residents about a topic, do not short-change the notice. Such an effort will just require a subsequent notice that is longer than the original notice.

**D. Conclusion**

It would be naïve on our part to suggest that there is any simple solution to the communication problems facing community associations. We do, however, strongly suggest that boards and managers follow, to the extent possible, the “Less is More” Doctrine, as we believe that such adherence to this doctrine will, in the long run, lead to more effective communications. We hope that this article will aid boards in transmitting the most effective communications possible to their unit owners and residents. ■

*The authors work for Westford Real Estate Management, LLC. Reg Babcock is Chief Operating Officer & General Counsel and Rich Wechter, CMCA is Senior Vice President.*



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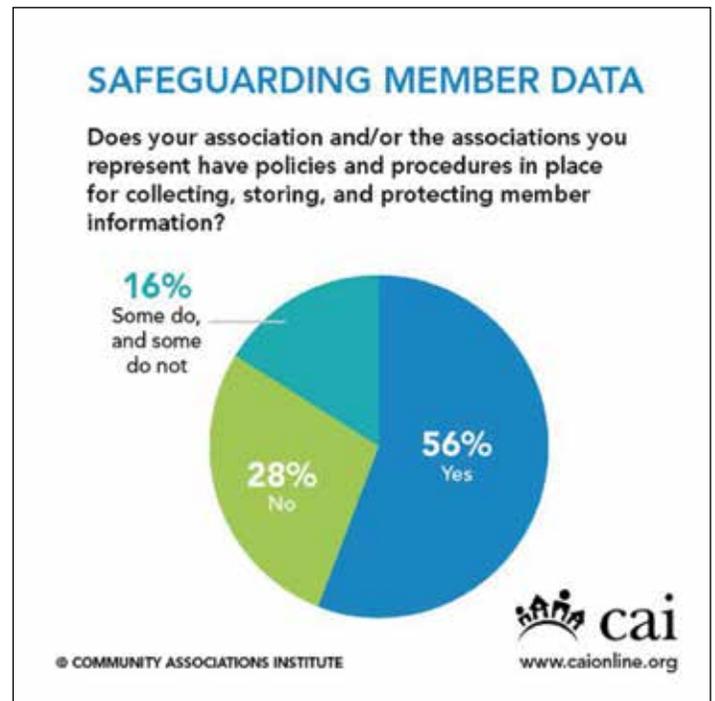
*Education, training, and insurance coverage are common tools used by associations to manage cybersecurity risks.*

According to the free download, “2018 Survey of Cybersecurity in Community Associations,” released by the Foundation for Community Association Research, more than half (56 percent) of community associations, also known as planned communities (e.g., homeowners associations, condominiums, and housing cooperatives), have policies and procedures in place to collect, store, and protect homeowners’ personal data. This critical report was presented recently at CAI’s 2018 Annual Conference and Exposition in Washington, D.C.

As more security and data breaches occur in the U.S., states are amending and adopting laws governing the protection of personal and financial information and how breaches in these areas must be reported and addressed. In 2018, the Foundation surveyed more than 600 community association managers, board members, and the professionals who support associations to identify the risks and liabilities associated with using technology to conduct association business.

According to the Foundation’s research, ransomware and phishing are the most common forms of attack on community associations. More than half (52 percent) of the communities surveyed reported that fraud and theft are their top concerns. Additionally, the majority of respondents (92 percent) report that their community associations use software management programs, and nearly half (49 percent) of respondents indicated that cost and program compatibility (46 percent) are the most common considerations when selecting financial software.

The research also shows that 56 percent of associations have adopted policies to protect privacy information, and the overwhelming majority (70 percent) continue to store hard-copy documents like contracts, financial and payment data and records, and resident contact information.



“As technology continues to consume every aspect of our daily lives, there’s not one sector of our economy that’s safe. Community associations and the residents who live and work in these communities are no exception,” says David Jennings, CAE, SPHR, SHRM-SCP, the Foundation’s executive director. “This new research helps us establish a baseline of awareness that will be used to develop tools to educate community association leaders about cybersecurity issues arising from social media, community websites, and third-party payment portals.” ■



Barbara C. Hager, Esq.

## Why Amend your Association's Governing Documents?

By Barbara G. Hager, Esq.

In today's changing times, your governing documents may be falling behind. With evolving technologies, developing legislation, and shifting cultural values, older documents may not be as practical or as effective as they once were. But if your documents have lasted this long, why should your community update your governing documents now? Here are some reasons to update your documents:

- Remove or amend outdated provisions that conflict with current laws;
- Eliminate non-enforceable and disregarded provisions;
- Lessen liability exposure in potential legal matters;
- Provide for evolving technologies and cultural shifts;
- Simplify confusing or ambiguous documents to make them user-friendly;
- Correct mistakes in older documents; and
- Clarify Association and Unit Owner responsibilities regarding maintenance.

Your common interest community association's governing documents – declaration, bylaws, and rules and regulations – may be very old, difficult to read, and may contain language which was once legal but no longer is legal under the Common Interest Ownership Act (CIOA). It is a big project to amend (update) governing documents but it is well worth it for the following reasons.

First, much of the Common Interest Ownership Act statutes have changed especially since 2001. While in some cases it might be safe to simply assume the statute applies, it's much better for transparency and understanding of all the Unit Owners to have the actual current statutory provisions in the documents. In some cases it's not good to assume outdated language can simply be left in place. For example, older declarations may state that units are to be occupied by a single family and then proceed to define that as father, mother and children. Even if that wording was not intended to be discriminatory, the fact that the old language is left in the declaration (this language violates the fair federal fair housing laws discrimination against families) could be interpreted by a court as evidence of a "true, discriminatory" intent of the Association.

Second, more mortgage companies and insurance carriers increasingly want to see up-to-date language in the declaration. Older documents might stand in the way of new buyers being able to obtain a mortgage or have their mortgage underwritten by federal lending agencies.

Third, and perhaps most importantly, amendments to the governing documents can be used to iron out inconsistencies between the governing documents and actual historical practice. For example, an asso-



*"...more mortgage companies and insurance carriers increasingly want to see up-to-date language in the declaration."*

ciation may have "always" charged new windows to the unit owner, believing it was chargeable to them as a limited common element serving only their unit. However, when the documents are reviewed it turns out the Declaration provides that the Association is supposed to be paying for windows. This is one example where inconsistencies cause confusion and could give rise to lawsuits against the Association. Whether the Association wants to make the documents match up with the actual practice, or simply take note in the future that the Association should be paying for the windows, amending the documents will clarify the situation. The Board should discuss the policy they desire in these conflicting situations.

Fourth, amending documents, especially the rules, allows the Association to decide which rules work, which rules are not necessary, which rules are never enforced, and which rules simply need clarification. In day-to-day life, the rules will be referenced much more often than the other documents (Declaration and Bylaws) by Unit Owners. The unit owners will naturally look at the rules because they affect how they conduct themselves, how they use their property, and fines they might be charged with after Notice and Hearing, for violations of rules.

Amending the Declaration, Bylaws and Rules is a complex process, and takes a substantial amount of time and legal analysis. In order to avoid mistakes if the project is rushed, please note that the project may take several months, even a year, beginning to end. Be sure to use an attorney experienced and knowledgeable in common interest community law. ■

Barbara G. Hager, Esq. is an attorney in the firm of Bender, Anderson and Barba, P.C.

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Timothy Wentzell, P.E.

## TECHNICAL EXPLANATIONS

This column appears in each edition and is intended to touch on technical topics of general interest to common interest associations. Topics will be of a general nature, but I will also accept and respond to questions from readers. On occasion, it will be guest authored when topics can best be addressed by experts in other fields.

### Evaluating The True Cost Of A Project

By Timothy Wentzell, P.E.

As engineers, one question we're often asked to answer is the feasibility of whether or not a major capital project should be undertaken now as opposed to being postponed to a later date and doing interim maintenance. A cost analysis of this type is often very difficult as there are many different methods by which feasibility can be determined. Many corporations establish what is called a pay-back period in order to determine the feasibility for a project, while others use a "hurdle" rate, which is the rate of return that should be earned in order to justify a capital expenditure. Condominium associations, however, work quite differently, as the analysis between whether or not a project makes sense in the short term versus the long term is often very politically charged. Also, whether or not this answer makes sense is often predicated on whether the residents feel that they will be long-term residents of the association or are likely to be moving on in the near future.

I am reminded frequently of the stock market comparison to rates of return where, if the stock market is at 10,000 and undergoes a 25% correction, it would therefore be at 7,500, whereas, if the stock market was to start at 7,500, in order to reach 10,000, it would require a 33% increase in net asset value to accomplish this. Obviously, from this scenario, the return, or necessary return, is very much dependent on your point of view. The mutual fund that dropped 25% four years ago and then rebounded can clearly advertise that in the last three years it has returned 33%, whereas over the last four years the total return of this fund has been zero.

The feasibility of a capital program for condominium associations is often equally clouded. For a capital replacement program, for example, let's assume a scenario where an association with deteriorating wood siding could convert to vinyl siding. The feasible options consist of continuing to maintain the siding at a current dollar cost

of approximately \$20,000 a year for siding repairs and painting, as opposed to replacement of the siding at a \$1,000,000 cost for the association. If we were to compare these two costs on an annualized basis over the two expenses' lifetimes, the following analysis could be expected:

$\frac{\text{repair cost}}{\text{year}}$	$>$	$\frac{\text{replacement cost}}{\text{expected life}}$
\$20,000	$<$	$\frac{\$1000000}{40 \text{ years}}$
\$20,000	$<$	\$25,000

It can be seen from this scenario that continuing to undertake repairs results in what would appear to be a slightly lower annualized cost. However, this analysis does not reflect any improvement in the appearance of the buildings or other aspects such as the expected deterioration of the basic structure. Furthermore, it does not incorporate the fact that, in approximately 15 years, the wood siding would still need replacement. It might be pertinent to consider the annualized cost of repair versus replacement cost, in this case, over a 15-year period, until replacement could occur. This would be a very short-term approach. As can be seen below, this results in a significantly poorer payback analysis:

$\frac{\text{repair cost}}{\text{year}}$	$< >$	$\frac{\text{replacement cost}}{\text{remaining life}}$
\$20,000	$<$	$\frac{\$1000000}{15 \text{ years}}$
\$20,000	$<$	\$66,667

In this scenario, it can be seen that the cost of repairs is significantly less than the previous example. However, a case could be made that neither of these analyses is really valid for the ultimate long-term cost to the association. It may be more appropriate to consider a method

A cost analysis of this type is often very difficult as there are many different methods by which feasibility can be determined.

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called “net present value” cost analysis. In this scenario, the replacement cost would be compared to the annualized cost of continuing repairs for the next 15 years, then adding the cost of the replacement siding at that point in time, and then dividing this overall cost by the 40-year remaining life time period as follows:

$$\begin{aligned} \text{annual cost} &= \frac{\text{present value repair + replacement in 15 years}}{40 \text{ years}} \\ \text{annual cost} &= \frac{15 (\$10000) + \$1000000}{40} \\ \text{annual cost} &= \$28,750 \end{aligned}$$

Note, however, that in this net present value analysis, it is assumed that the funds would be available at the present time, and that they would earn interest approximately equal to the rate of inflation (which may or may not be true), as opposed to providing the funds at a later date. However, the cost of funds at a later date would be supplied in lower cost money, so that this analysis may be somewhat valid as a current value cost. We would then, of course, compare that to the annual cost of simply replacing the siding at the present period in time, which would result in an annualized cost for the project as follows:

$$\begin{aligned} \text{annual cost} &= \frac{\text{replacement}}{40 \text{ years}} \\ \text{annual cost} &= \frac{\$1000000}{40 \text{ years}} \\ \text{annual cost} &= \$25,000 \end{aligned}$$

The above analysis, however, does not take into account the scenario of an overall lifetime of repairs for the next 15 years and then the siding replacement at that time. If we were to factor this into the equation, we would see that, low and behold, in this final analysis, the cost of actually maintaining the siding for some period of time, then replacing it at the 15-year period, and, assuming that it has a remaining useful life of another 45 years, is actually the lower cost alternative:

$$\begin{aligned} \text{annual cost} &= \frac{\text{present value repair + replacement in 15 years}}{60 \text{ years}} \\ \text{annual cost} &= \frac{15 (\$10000) + \$1000000}{60} \\ \text{annual cost} &= \$19,167 \end{aligned}$$

This brings us back to the basic statement made in the opening paragraph of this article, which is, depending on how we review projects such as this, we can certainly manipulate the numbers to come up with a significantly different analysis. In the scenarios that were presented, when looking at the project from a short-term basis, simply continuing to maintain the siding is far less expensive. If we look at it from a long-term basis, maintaining the siding for some period of time and then replacing it certainly becomes more cost effective. This leads us to the conclusion that, in some cases, the answer is not really obvious, but depends a great deal on your perspective. This is not to imply that the answer is not obvious in some cases or that careful review of the financial analysis does not always lead us to a clear and decisive answer with regard to the feasibility of a project, but is only intended to merely document the difficulty of the decision making that must be made by associations and, often, their board of directors. ■

*Please address any questions or areas of interest that you would like answered in future columns to Timothy Wentzell, P.E., Connecticut Property Engineering, 630 Governor’s Highway, South Windsor, CT 06074 (860-289-8121) (e-mail: ConnPropEng@cox.net).*

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Joel Meskin, Esq.,  
CIRMS, CCAL



## The Checklist

The “Checklist” provides you with handy tips and ideas for handling common issues.

### *Ignorance is not Bliss:* **Why Are Community Association Volunteer Board Members Sued?**

By Joel W. Meskin, Esq., CIRMS, CCAL Fellow, MLIS  
2018 © Joel W. Meskin

Volunteer board members are often baffled and incredulous when someone challenges or complains about a decision that they have made, a rule that they have changed, or a special assessment that they have issued. I have touched in one way or another between five and six thousand claims and/or lawsuits against Community Associations and their volunteer board members. As I travel around the country, people ask me what I have been able to distill from all these claims. Without skipping a beat, I respond by telling them that *“ignorance is not bliss!”*

The “ignorance” I refer to is twofold. First, unit owners do not read the governing documents they have agreed to comply with prior to purchasing their home in a common interest association. In most cases, these unit owners probably do not read the governing documents until they have an issue with the board, the association or their neighbors.

**Practice Pointer 1:** Read the governing documents before you buy; ignorance of the governing documents is not a defense and an association member is presumed to have read the documents he or she has agreed to when they purchased their unit.

Second, the volunteer board members turn their volunteer board position into something beyond its purpose and their authority. This is further exacerbated by the fact that these volunteer board members are often the same unit owners that have not read the governing documents.

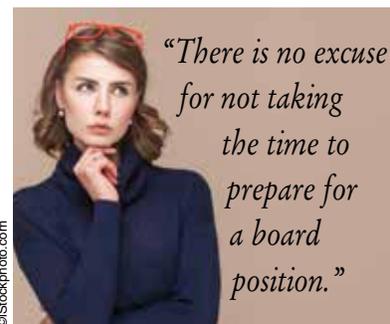
**Practice Pointer 2:** Each association member who wants to join the board should be required to confirm that he or she has read the governing documents before agreeing to become a board member.

What comes to mind each time this twofold dilemma comes up is a pearl of wisdom my father used to share with me. He would say “why do people never have time to do things right in the first place, but always have time to fix them?”

**Practice Pointer 3:** Each board should have an annual board training, even those who have been on the board. The value of an annual training far outweighs the cost, if any, as well as the effort. Both items will lead to both monetary and time savings when the board knows how to operate the board. National CAI has great resources as well as on demand video courses on training.\* There is no excuse for not taking the time to prepare for a board position.

I tell boards and managers that in the normal course a board meeting should not take more than an hour. Yes, certain issues create exceptions, but that should in fact be an “exception.” In response, I often hear “yah, right.” The key is for board members to understand their obligation, responsibility and treat the management of the association as the business it is.

The board is a body comprised of individuals that is charged to manage the association pursuant to the by-laws and relevant statutes. The board is a body that makes decisions and policies and delegates to the individual who will carry out the delegated matter. When a board member exits the properly noticed board meeting, they have NO authority to act in their capacity as a board member except pursuant to the delegated authority expressly given them by the board during a properly noticed board meeting, or proper consent to act without



a meeting. Remember, each board member has “one” vote whether he or she is also an officer of the association such as the president, Vice President or other.

Most delegated tasks by the board are given to the community association manager if there is one, or employees. Sometimes, there is no CAM or employee, and the action is delegated to a volunteer board member or other association member volunteer. In that case, the board member is carrying out the delegated action as a “volunteer” and not in his or her capacity as a board member.

**Practice Pointer 4:** Remember, a board member is not an employee, and apathy is not a defense. If the board member says I have to do it, because no one else will. However, if no one else will, there is a deeper issue that must be addressed, because again the “volunteer board member or “other volunteer” is not an employee. If no one will step up, the board should hire a management company or an employee. If the board is not willing to do that, then the board should go to court and seek a receiver which will end up costing the board and the association the money they did not otherwise want to

spend. At the end of the day, the board is charged with protecting the association’s assets and must take the steps to do so.

In addition to understanding the role as a board member, the following are additional practice pointers that will help simplify and shorten a board meeting and mitigate claims.

- The board members must open, read and prepare questions, if any, on the issues to be addressed on the agenda. The single biggest waste of time in board meetings are board members who come unprepared and spend time getting up to speed during the meeting.
- Adopt a form of Roberts Rules of Order and stick to them. Even if the board are close friends and the use of rules seems awkward, the day a rogue unit owner or someone not playing with a full deck shows up, having in place a consistent set of rules will be worth its weight in gold. If rules are first used with respect to a specific individual, the door to discriminatory application of rules is opened. These rules should include a limited time for speaking by unit owners at a board meeting.
- Have a prepared agenda and stick to the agenda. If there are items that are not on the agenda, they should be tabled for another meeting.
- Do not tolerate a lack of civility or an individual who insists on disrupting a meeting. Do not engage that individual and adjourn the meeting to discuss further action with counsel. Counsel may need to seek a court order. A court may require a security guard and put the cost on the disrupter.

- Just because someone asks a question does not mean an answer must be given. There may be questions out of order or otherwise inappropriate. This is why an established set of rules are warranted.
- Whenever possible, even if an open meeting is not required by the governing documents or statute, have an open meeting to avoid any appearance of secrecy or conspiracy.
- Prepare a short video regarding “life in our community.” This can identify the governing documents, identify how the association is managed and who is eligible for the board and rules they may be unique to this association or to life in a common interest development.

Understanding the board’s duties and obligations and making sure unit owners receive, read and ask questions about governing documents is the best risk management tool the association can use. ■

*Joel Meskin, Esq., CIRMS, CCAL is vice-president of community association products with McGowan & Company, Inc. He is the recipient of the CAI 2017 Business Partner of the Year Award. Joel will be speaking at our CAM Ed program on August 2, 2018 at Summer Sizzler. The topic will be cyber security.*

**EDITOR'S NOTE:** CAI-CT offers a wide variety of education programs throughout the year in various locations in Connecticut. Our most popular and essential program for board members is *Condo Inc. – The Business of Running Your Association*. It will be offered next on September 15, 2018 in Wallingford, CT. For more details and to register, go to: [www.caict.org](http://www.caict.org).

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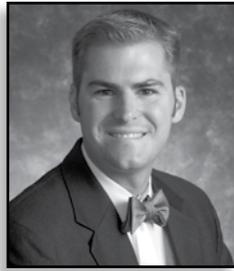
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Scott J. Sandler, Esq.,  
CCAL



Richard Bouvier, CIC

## Condominium Insurance: *Who Covers What?*

By Scott J. Sandler, Esq., CCAL and Richard Bouvier, CIC

Unit owners are responsible for repairing their units. That is, until they're not. When does the association become responsible for repairs? How does insurance play into the equation?

### General Rules for Maintenance, Repair and Replacement

For the most part, unit owners are responsible for the maintenance, repair, and replacement of all portions of their units. The association is responsible for the maintenance, repair, and replacement of common elements.

These responsibilities apply to work necessitated by time, wear and tear, or obsolescence. They also apply to preventative maintenance, i.e.: work performed to minimize the risk of failure of a building component.

### Repair or Restoration After a Casualty Loss

If a unit is damaged or destroyed by a casualty loss, then the responsibility for repairs and restoration of the unit shift from the individual unit owner to the association.

For this reason, it is important to understand what is a "casualty loss." This term refers to damage caused by an event that is commonly covered by property insurance.

#### These events are casualty losses:

- Fire or smoke damage.
- Sudden and accidental water damage, such as from a failed hot water heater or a burst pipe.
- Damage caused by wind and wind-driven debris.
- Damage caused by ice dams.

#### These events are *not* casualty losses:

- Damage caused by continuous and repeated exposure to a peril, such as a small leak where the damage accrues over a long period of time.
- Sewer and water-line back-ups (though coverage for these events can be purchased separately).
- Mold remediation after a water loss, if the mold is the result of not promptly repairing the water damage.
- Flooding from surface or groundwater, including seepage through foundation walls.



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- Wind-driven rain, unless there is other physical damage caused by the wind or wind-driven debris, which allowed the rain to enter the building.

If a unit sustains damage caused by a casualty loss, then the association, not the unit owner, is responsible for repairing or restoring the unit.

### Insurance Coverage

In most condominiums, the association is required to maintain a master insurance policy that covers both common elements and the units. If there is a casualty loss, the master policy is primary. This means that the association must first obtain and use the available proceeds under the master policy, before it can tap into any other available funds. The concept is that the association makes the repairs, using the proceeds from the master policy. Sounds easy, right?

Wrong. There are a number of additional issues that must be factored into the equation:

**Deductibles:** Deductibles under master policies have risen quite high over the past couple of decades. We are now seeing deductibles anywhere from \$10,000 to \$25,000. For certain types of claims, such as damage from ice dams, we are also seeing insurance policies applying per-unit deductibles. As a result, much larger portions of the repair costs are not covered by the master policy.

**Personal Property:** The master policy does not provide coverage for the personal property of the unit owners. If the loss damaged

the owner’s television, clothing, furniture, jewelry, or the personal property, the master policy will not compensate the owner.

**Relocation Expenses:** If the unit owner must move out of the unit so that the association can perform the repairs, the owner’s relocation expenses are not covered by the master policy. Similarly, the master policy does not cover the cost of storing the owner’s personal property while the repairs are performed.

**Landlord/Tenants:** The master policy will not compensate a unit owner for lost rents while damage to his or her unit is repaired. It also will not compensate a tenant for his or her relocation expenses.

### The Importance of Unit Owner Insurance Policies

Unit owner policies, typically referred to as HO-6 policies, bridge the gap in coverage not afforded under the master policy. The HO-6 policy will cover the following:

- The deductible under the master policy.
- The owner’s personal property.
- Any relocation expenses incurred by the owner.

The average premium for a comprehensive HO-6 policy is approximately \$250 to \$300 per year. This is truly money well spent. For these reasons, all unit owners should have their own insurance policies.

*“The average premium for a comprehensive HO-6 policy is approximately \$250 to \$300 per year. This is truly money well spent.”*



A unit owner who leases his or unit should obtain additional insurance covering lost rents. Landlord policies are typically referred to as DP-3 policies.

Tenants should obtain rental policies to cover their personal property and relocation expenses. These policies are typically referred to as HO-4 policies.

When a loss occurs, the master policy, the unit owner’s policy, and, if the unit is leased, the tenant’s policy, working in tandem, provide the coverage necessary to make everyone whole again. ■

*Scott J. Sandler, Esq., is the managing partner of the law firm of Sandler, Hansen & Alexander, LLC, located in Middletown, Connecticut. He is a fellow of the College of Community Association Lawyers, and he serves as the chair of the CAI Connecticut Legislative Action Committee. Scott is also a past President of CAI-CT.*

*Rich Bowvier, CIC is a partner with Bowvier Insurance. Rich has served on numerous CAI-CT committees including his current participation on the Membership Committee. Rich has also been president of CAI-CT.*

*Both authors are frequent speakers at our education programs.*

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## Forget the Bathing Suits this Summer as a Nudist Community Tries to Get Approved through HUD for FHA Loans.

### Can Nudist Colonies Get Approval for FHA Loans?

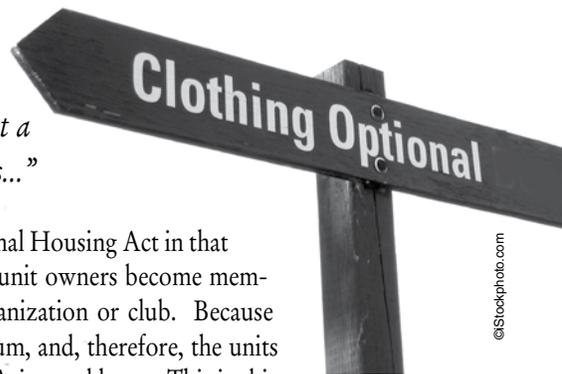
In the spirit of summer, we are going to revisit an old topic about nudist colonies.

Condominiums come in all sorts of shapes and sizes and this one is no different. Well, it is a little bit different... There is a condominium project that wishes to obtain FHA project approval for its unit owners and to allow FHA purchase loans. The sales prices of the units are in FHA's "sweet spot" so the association is really pushing to get it done.

The project's composition is acceptable to FHA consisting primarily of residential units with a few commercial components, one of them being a bar/night club. The project's financials are up to FHA's standards and the owner-occupancy rate hovers around 100%. Unit owners are nearly perfect in the payment of their common charges. The units are in very high demand and there is a waiting list to move into the community.

All of the major aspects of the condominium meet FHA's guidelines. However, the condominium is a nudist community. This, on its own, does not present a threat to the condominium's eligibility for FHA approval. The issue is that all unit owners are required by the legal governing documents to acquire and maintain membership to either a regional or national nudist organization.

*"First of all, nudists are not a protected class..."*



This violates the National Housing Act in that it is requiring that the unit owners become members of an outside organization or club. Because of this, the condominium, and, therefore, the units are not eligible for FHA-insured loans. This is akin to a condominium requiring the unit owners to join an affiliated golf club or the Master Association's boating club.

The community is very disappointed in their ineligibility and have verbalized that they are being discriminated against. First of all, nudists are not a protected class so the accusation is unfounded in that regard. But second, and most importantly, it is the requirement for membership which renders the condominium ineligible. If they were to amend the legal documents to remove this requirement, they would be eligible. ■

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