

# Common Interest

The Official Publication of CAI-Connecticut

Vol. XIV: Issue 8 • 2019

*Inside:*

**Update Your  
REGISTERED AGENT**

**MAINTENANCE  
STANDARDS**

**BRAND NEW  
COMMUNITIES**

***...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 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](mailto:kim@caict.org).

## President's Message



Pam Bowman, CMCA, EBP

*"In the ever-changing world of Community Associations it takes a "village" to keep up with it all..."*

As I write my last letter as President of CAI-CT, I want to reflect on the past year's great work of our passionate volunteers and staff. We have an amazing and dedicated group of people who continually come to the table with creative ideas and motivating topics. We could not manage all that we do without our sponsors and their continued support to the education of our managers, board members and homeowners. Thank you for making this organization all that it can be!

In the ever-changing world of Community Associations it takes a "village" to keep up with it all: governance among the states, building codes among the towns, and documents among the Associations. Boards are challenged with the updates and the operational management while being volunteers.

Business partners, professional services and service providers and the relationships developed with them are huge assets for the Board. Business relationships provide the consulting and the education for informed decisions. Boards change, managers change, community members change, the operations of the Association is day-to-day, year-to-year, and a long-term task.

It is the Board's responsibility to keep the members of their community informed, it is the owner's responsibility to take time to understand the information presented to them. Staying focused and engaged with the operations of the community is a two-way street to success. The communities in which they serve takes patience, communication and understanding.

I wish you and your families a safe and Happy Holiday season! ■



**COMING SOON...**  
**March 14, 2020**  
**RESERVE YOUR 2020 BOOTH NOW!**  
Visit [www.caict.org](http://www.caict.org)  
for more information.

## CONTENTS

- 3** President's Message
- 4** CED Message
- 5** Upcoming Events
- 5** Statutory Snippet
- 5** Legislative Update
- 5** Statutory Snippet
- 6** New & Renewing Members
- 6** Website Insights
- 7** Legally Speaking
- 8** Financially Speaking
- 12** Legal Symposium Wrap-up & Photos
- 14** Maintenance Standards
- 16** Ask Mr. Condo
- 18** Manager's Column
- 21** 2020 PMDP Schedule
- 22** Technical Explanations
- 24** Business Partners
- 25** Environmental Tip
- 26** Bankruptcy
- 28** Classified Advertising
- 30** Index of Display Advertisers

## From the Chapter Executive Director

**"Year's end is neither an end nor a beginning  
but a going on, with all the wisdom that  
experience can instill in us. Cheers to a new  
year and another chance for us to get it right."**

~ Oprah Winfrey



Kim McClain

Courtesy CAI-CT.

**I**t's hard to believe, but we have already reached the end of a year and a decade. Looking back, there is so much that we have accomplished thanks to YOU, our members!

We finally accomplished the seemingly elusive goal of 1,000 members a while ago, now we are steadily chugging towards the 2,000 mark. Can we get there? Of we can, with your help! Our members are the best ambassadors for encouraging folks to join our vibrant organization. Think, for a moment, about how CAI-CT has helped you learn about how to run your association in a more effective manner, or how we have connected you to a Business Partner whose service was needed by your association. Or, how we have provided a broad range of topics for association managers to enable you to gain a deeper understanding of issues facing Connecticut communities. Our upcoming Conference & Expo is a great way for you to persuade your peers to experience a taste of CAI-CT. Invite them to join you on March 14, 2020 at the Aqua Turf in Plantsville.

Our talented authors offer up a menu of excellent topics in this issue. For those communities in transition, there is much to be contemplated about your next steps. Good governance is not something that "just happens." Boards need to be actively engaged in creating a culture that encourages transparency and respect. This notion is true regardless of the age of any given association. CAI has many great resources to assist you in these efforts.

Please be sure to check out our calendar of events on our website: [www.caict.org](http://www.caict.org). And while you are there, poke around for lots of information and tools.



gchutka / E+ / Getty Images

*We look forward to seeing you in 2020!*

*Have a Peaceful Holiday Season!*

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# UPCOMING CAI-CT EVENTS

## JUMPSTART JANUARY

### Managers & Business Partners

Thursday, January 9, 2020 • 10:30 am - 2:00 pm

Snow Date January 16, 10:30 am - 2:00 pm

**10:30 - 11:30 am**

### **What You Say Can Hurt You**

Beware of what and how you communicate issues and strategies in dealing with unit owners and boards. We'll discuss what to avoid stating in texts and emails to limit potential legal issues. Be prepared to discover how the expectations of instant response can create problems.

**11:30 LUNCH**

**12:00 - 2:00 pm**

### **Learnings & Surprises: Working with Contractors**

The end result will likely be better if boards and managers develop strong communication with contractors. Learn why it is important to use a 3rd party engineer; the value of a checklist with the specifications clearly articulated; how to interview contractors; and why weekly meetings will pay dividends. We will also discuss what can happen if an association is not maintained.

Speakers: Greg Zajac, EBP - *Building Renewal, LLC* and Scott J. Sandler, Esq., CCAL - *Sandler, Hansen & Alexander, LLC*

Managers - \$30 Member / \$60 Non-Member

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### **Condo Inc.**

### **The Business of Running Your Community**

Saturday, February 1, 8:30 am - 3:00 pm

Snow Date: Saturday, February 8, 8:30 am - 3:00 pm

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



## CONDO/HOA 2020 CONFERENCE & EXPO

### **SAVE THE DATE!**

### **CAI-CT Annual Conference & Expo**

Saturday, March 14, 2020

Aqua Turf, Plantsville, CT

Reservations for Booth Space & Sponsorships now being accepted.



## Statutory Snippet...

### **What dispute resolution options do I have if I have a problem with the board?**

Connecticut law does not require any alternative dispute resolution procedures other than notice and an opportunity to be heard before a fine is imposed.

*Source: State of Connecticut: Frequently Asked Questions by: Matthew N. Perlstein, Esq. – Feldman, Perlstein & Greene, LLC. Reprint permission granted. You can find the entire document on our website: [www.caict.org](http://www.caict.org).*

## Legislative Update

There have been several items of note on the Federal level recently: a HUD memo regarding fair housing and assistance animals; new FHA condominium approval rule and the ham radio bill is back.

On November 6, 2019, Secretary Ben Carson of HUD issued a letter regarding concerns about some of the assistance animal documentation that can be purchased online. He issued a directive to the Federal Trade Commission to investigate whether such online services violate the Fair Trade Practices Act. The letter is posted on our website: [www.caict.org](http://www.caict.org).

FHA's new condominium policy is part of a broader Administration objective to reduce regulatory barriers that currently restrict affordable homeownership opportunities. FHA's new rule:

- Introduces a new single-unit approval process to make it easier for individual condominium units to be eligible for FHA-insured financing;
- Extends the recertification requirement for approved condominium projects from two to three years;
- Allows more mixed-use projects to be eligible for FHA insurance.

You can find more details by going to this link: [https://www.hud.gov/press/press\\_releases\\_media\\_advisories/HUD\\_No\\_19\\_121](https://www.hud.gov/press/press_releases_media_advisories/HUD_No_19_121)

Lastly, the HAM radio/antenna bill that we have been fighting for many years has come back again.

H.R. 466 Amateur Radio Parity Act of 2019. Amateur radio and association architectural standards

CAI opposes federal legislation or regulation that restricts a community association from requiring prior approval of amateur radio broadcasting infrastructure to ensure external radio towers and antennas are reasonably sized and placed, do not constitute a legitimate safety hazard, and reasonably reflect the aesthetic character of the community.

Currently, it is common practice for community associations to provide HAM radio operator clubs a temporary space to set-up during a local disaster. In the U.S., there are approximately 700,000 amateur radio operators and approximately 68 million residents living in community associations. According to a CAI survey:

- 95% of residents believe their architectural covenants protect property values.
- 78% of residents believe amateur radio operators should not be exempt from community association architectural covenants. Only 9% indicated a request was denied because of these covenants.
- 5% of residents relied on amateur radio communication during a disaster.

Please contact your Congressional Representatives and Senators and tell them you OPPOSE HR 466. ■

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

**CONNECT with CAI • 5**

## NEW & RENEWING MEMBERS

### Welcome New Members

#### Associations

Bartlett Hill Homeowners Association  
Copper Square Association  
Mystic Run Association, Inc.

O'Meara Farm

Quaker Green

Renaissance at Danbury

Spring Lake Condominium # 8 Association, Inc.

#### Business Partners

New Britain Roofing

### Thank You Renewing Members

#### Associations

71 Fountain Terrace Condominium Association  
84 Skyview Condominium  
Crown Ridge Condominiums Association, Inc.  
Crown Village Condominium Association  
Far Mill River Condominium Association  
Glenwood Green Homeowners  
Mill River Meadows Condominium Associations  
Sonoma Woods Condominium  
Taft Pointe Association, Inc.  
The Village at Oxford Greens  
Town in Country Condominium Association, Inc.  
Tunxis Village Condominium Association

#### Management Companies

AJM Real Estate Services, Inc.  
CM Property Management  
Connecticut Condominium Connection  
Imagineers, LLC  
KP Management  
Sound Real Estate Services, LLC  
ThamesHarbour Real Estate, LLC

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The Window People, a TWP Home LLC Company

### Website Insights -

## CAI-CT Member Pricing

*Did you know CAI-CT Members get discounted pricing on most CAI-Connecticut Chapter events?*

**It's true. Save up to 50% off non-member pricing!**

UP TO  
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Be sure to log into your profile before you register for an event so we recognize you. If you don't know your log in, please contact [ellen@caict.org](mailto:ellen@caict.org) to have your password reset.

### Not a CAI Member yet?

We can fix that. Contact [info@caict.org](mailto:info@caict.org) for more information on how to join!

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

The official website of the Connecticut Chapter of CAI

## JUMPSTART JANUARY Managers & Business Partners

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**10:30 - 11:30 am**

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**Speaker:** Kasey Burchman, Esq. — *Feldman, Perlstein & Greene, LLC*

GOOD FOR 3.0  
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**11:30 - 12:00 pm - Lunch Break**

**12:00 - 2:00 pm**

### **Learnings & Surprises: Working with Contractors**



The end result will likely be better if boards and managers develop strong communication with contractors. Learn why it is important to use 3rd party engineer; the value of a checklist with the specifications clearly articulated; how to interview contractors; and why weekly meetings will pay dividends. We will also discuss what can happen if an association is not maintained.

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**Managers - \$30 Member / \$60 Non-Member**  
**Business Partners - \$50 Member / \$75 Non-Member**

**To Register Visit [www.caict.org](http://www.caict.org)**

## Legally Speaking...



Adam Cohen, Esq.

## Update Your Registered Agent

By Adam J. Cohen, Esq.

**What could be worse for your association than getting sued? Your association getting sued and not knowing it.**

When a lawsuit is filed against a person, a State Marshal serves him/her with a copy of the complaint by either handing it to him/her or leaving it at their home. The purpose is to make sure s/he is aware of the lawsuit so that s/he can hire a lawyer and defend them self. When an entire condominium association is sued, the Marshal still needs a particular person to serve. The law therefore requires most kinds of legal entities, including condominiums and other homeowners' associations which usually take the form of nonstock corporations, to appoint someone for this purpose. This person is called the association's "registered agent." The registered agent is the official recipient of not only lawsuits against the association but also subpoenas and other legal documents.

The agent's name and address must be registered with the Connecticut Secretary of State in Hartford and become matters of public record. Plaintiffs, lawyers, marshals, and anyone else can look up who the registered agent is so that they know who to notify about legal matters. The law conclusively presumes that any document properly served on an association's registered agent was received and read by its board members or manager, even if the agent never actually forwarded it to them. If that doesn't happen, and the association therefore does not know to answer the complaint or show up to court, a judge is likely to order a judgment by default or impose other penalties without further notice.

Obviously, choosing the right person as your association's registered agent – and keeping in regular contact with him or her – is crucial. Unfortunately, for many homeowners associations, the person listed in the Secretary of State filing often is not kept updated. The original developer often registers itself as the agent when the community is created but later terminates the entity. A board officer may be listed before leaving office or moving away. A management company may be listed before being replaced or going out of business. A lawyer might be listed before retiring or passing away. If a marshal



simpson33 /Stock / Getty Images Plus

*"They'll all be oblivious until one day a marshal garnishes money from the association's bank accounts to pay a judgment obtained by default."*

serves a lawsuit or subpoena at the address still registered, the association won't know it's being sued. The board, in turn, will not know to notify its liability insurer or legal counsel. They'll all be oblivious until one day a marshal garnishes money from the association's bank accounts to pay a judgment obtained by default.

The agent chosen must either be a person or a legal entity; the association cannot register itself or its board. A board member can be chosen, but board members change. Many associations choose an attorney to serve as the registered agent since attorneys will know what to do with the legal paperwork they receive. If you do choose an attorney, make sure that attorney is kept updated on the names and contact information of the board members whenever they change so that the attorney can reach someone when necessary. A professional manager, if your association has one, is also typically a good choice for serving as a registered agent.

To look up who is currently registered as your association's agent, go to the Secretary of State's website at [www.concord-sots.ct.gov/CONCORD](http://www.concord-sots.ct.gov/CONCORD), click "search business records," and enter your association's full name. Check your declaration or bylaws to make sure

[Continues on page 10.]

## Financially Speaking...



Daniel Levine, CPA

## Financial Year End Considerations

By Daniel Levine, MBA, CPA

### Board House Keeping

As we head into the new year it is typically a time of change for many associations. With the election of potentially new officers or current officers changing to a different position, it can be an eventful time in the governance of the association. During this time of change there are some key items that will help with the financial management of the association. This article will discuss some of these items and why they are important for an association as it relates to the accounting function.

### Signatories

When adding new unit owners to the board as officers or transitioning others to a different role, it may be a good time to review the signatories on the association bank accounts. Many times, these signature cards are out-of-date and have previous board members listed or may contain out-of-date employees of the association's management company if they are professionally managed.

Managing access to an association's accounts is a key control and the board should take care to review this access on a regular basis. Making sure the list is current will help safeguard access to an association's accounts and make sure only the appropriate people continue to have access to the financial information or can initiate transactions.

Depending on the financial institution, updating the list can be a process and usually will involve an in-person visit to the bank with current signers to add or remove signatories on any bank account. A call to the bank in advance can help make sure all the necessary documentation is also on hand to make the branch visit efficient. The branch visit can also be an opportunity to build a relationship with your banking professional which can be a benefit by learning what financial vehicles are available to deliver a better return on the association's funds, or can help build a connection should the need to borrow ever arise.

### Review the Association Documents

A good training exercise for any new addition to the board and for returning members is to review the association governing documents. Reviewing the documents can provide a good foundation for what the association is and is not responsible for. This will be useful



syahir maulana / Stock / Getty Images Plus

*"Each year the board should review their current accounting procedures and those put in place by their management company to ensure the procedures are followed."*

for situations where fines or fees must be assessed to unit owners. Understanding the maintenance agreements, common charge allocation, collection policy, and what parts of each unit an association is responsible for will allow for a strong foundation in ensuring unit owner charges are assessed correctly and collected in a timely manner. This understanding in turn can provide for proper budgeting for these type of various income items, timely collection of amounts, or assessing repairs back to a unit owner if they should be responsible.

### Review Internal Controls of Financial Reporting

Each year the board should review their current accounting procedures and those put in place by their management company to ensure the procedures are followed. If new software is being implemented, consideration and planning on how the existing controls over financial reporting are done should be reviewed. The board should also

*[Continues on page 10.]*



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

### CONDO, INC.

#### The Business of Running Your Community

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

Topics include:

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



**February 1, 2020**  
(Snow Date February 8, 2020)  
Wallingford, CT

**May 2, 2020**  
Waterbury, CT

**October 3, 2020**  
Stratford, CT

All sessions 8:30am-3:00pm  
Light breakfast and lunch  
Members \$50, Non members \$100

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## FINANCIAL YEAR END...from page 8.

work to correct any perceived weak controls to ensure that there is a lower risk of financial statement errors or possibility of fraud. If the treasurer is new to their role, they should consider reaching out to the association's accountant to better understand compliance deadlines such as information returns or income tax returns. They should also consider meeting with their property management company to have a walkthrough of their process. A quick conversation with these individuals can help build an understanding of the rules associated with the financial reporting and help provide a foundation for understanding how their monthly reports are produced.

### Conclusion

While there will always be day to day work to be done at an association the transition period at the end of each fiscal year can be a time to reflect on the year(s) to come and to implement change. Taking time to review core documents, procedures, and deadlines can help prepare new board members to make the transition easier as well as allow the association to plan to be able deal with the changes of the future. ■

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 programs 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.

### REGISTERED AGENT...from page 7.

you're typing it in perfectly, and also remember that a few associations are unincorporated and so will not be included in this database. You can also click on "paper forms," then "corporation forms," and then scroll down to "domestic nonstock corporation" to download the simple forms needed to change the agent's name or address. The forms can be filed online or by mail for a small fee. It's worth doing, because discovering a lawsuit's existence only after your association has lost is definitely worth avoiding. ■

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

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at 800-357-2000 x106  
[mcronemeyer@binsurance.com](mailto:mcronemeyer@binsurance.com)



## Legal Symposium - 2019

There were many firsts at our 7th Annual Legal Symposium on October 30. This was the first time we used a large hotel as a venue (the Trumbull Marriott) and the first time we had over 200 attendees. We covered a great deal of legal territory in our sessions. And we heard from the Co-Chair of the General Assembly's Judiciary Committee – Rep. Steven J. Stafstrom, Jr.

The hotel staff provided a nice assortment of afternoon snacks to keep our attendees energized.

We are fortunate to have a terrific group on the Symposium Task Force: Scott J. Sandler, Esq., CCAL – *Sandler, Hansen & Alexander, LLC*; Karl Kuegler, CMCA, AMS, PCAM – *Imagineers, LLC*; Rich Wechter, CMCA – *Westford Real Estate Management*, Andrea Dunn, Esq. – *Bender, Anderson & Barba, P.C.* and Mark Sperry – *Fernwood Estates*. Many, many thanks for all of their hard work!!

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Rep. Steven J. Stafstrom, Jr. – Pullman & Comley, LLC, Co-Chair of the CT General Assembly's Judiciary Committee discussed the importance of connecting with your elected officials about pending legislation.



Scott J. Sandler, Esq., CCAL – *Sandler, Hansen & Alexander, LLC* provided an overview of the recent changes to the Community Association Manager licensing law to the CEOs of Management Companies.

**Thank you to all!**



Greg Roberts, CMCA – Westford Real Estate Management, LLC was our roving photographer.



(left to right) Carrie Mott, EBP and Dave Pilon, CIRMS, EBP – Bouvier Insurance engaged attendees at their session.





**Rich Bouvier, CIC,  
CIRMS**

## Maintenance Standards

By Rich Bouvier, CIC, CIRMS

**S**ince July of 2010, we have grown accustomed to hearing the terminology – Written Maintenance Standards - and many associations have created and implemented such rules. These rules create a ‘standard of care’ that unit owner must adhere to. These standards are intended to keep units safe, functioning safely and to prevent common causes of insurance claims.

Let's review this language:

- (e) If any common expense is caused by the willful misconduct, failure to comply with a written maintenance standard promulgated by the association or gross negligence of any unit owner or tenant or a guest or invitee of a unit owner or tenant, the association may, after notice and hearing, assess the portion of that common expense in excess of any insurance proceeds received by the association under its insurance policy, whether that portion results from the application of a deductible or otherwise, exclusively against [his unit] that owner's unit.

From afar, this sounds like a negative and costly program, but I see it as a formal way for an association to address areas of common insurance claims and create a procedure to mitigate future claims.

Common examples of such maintenance standards may include, but are not limited to:

- Hot water tank replacement program;
- Washing machine hose replacement program;
- Battery replacement program for smoke and carbon monoxide detectors;
- Chimney inspections and cleaning if required;
- Oil burner inspection and cleaning if required;
- Dryer vent upgrade to metal hoses; and
- Maintaining heat at 55 degrees or higher during winter months.

Each of the maintenance items mentioned above address common causes of condominium insurance claims.

**Hot water tanks** rarely show their age or condition on their exterior. By chance, the date of installation may be written on the tank by a conscientious plumber, but unfortunately that is not guaranteed. A reputable licensed plumber should be able to take an inventory of an association's hot water tanks on a per unit basis along with the brand and serial numbers. With that information the plumber may be able to get a date of manufacture. As a rule of thumb, hot water tanks should be replaced every 8-10 years. Like I mentioned before, from the out-



*“...I see it as a formal way for an association to address areas of common insurance claims and create a procedure to mitigate future claims.”*

side, they all look just fine, but the internal tanks could be corroded and close to failing without showing any external signs.

**Washing machine hoses** are inexpensive, but as with everything there are “better” ones. With the help of a reputable plumber, a swap out program can be initiated for the entire association. Chances are this would present an opportunity for a group discount for the purchasing and installation of high quality, braided steel-lined, “burst resistant” hoses.

**Smoke detectors** save lives and property. That's a bold statement, but it's true. A properly functioning smoke detector is an insurance agent's best friend. Aside from making sure the battery (or back up battery) is alive and well, the National Fire Protection Association (NFPA) strongly recommends the replacement of home smoke detectors every 10 years. Each manufacturer may have a different expected useful life, but smoke detectors can become less sensitive over time and can be a trap for dust, bugs and other foreign objects that can impair their functionality.

**Chimney inspections** are useful. Mandatory cleanings may be wasteful. I'm certainly an advocate for an annual chimney inspection by a licensed contractor with a report as to which ones require a cleaning. It's the wood burning fireplaces and stoves that concern me the most. Creosote build up can lead to a chimney fire. Again, a group discount may be available, and you may discover that only a small percentage of the stoves or fireplaces are actually being used. Rather than spending

the money for a mandatory cleaning, go for the annual inspection and take action on the dirty chimneys that require attention.

**Furnace Maintenance.** The inspection and cleaning of an oil-fired furnace is our best attempt at preventing a “puff back” claim. A “puff back” occurs when there is a mechanical failure within the furnace and smoke and soot is puffed back into a unit through the ducts. These claims are dirty and very expensive. A significant puff back could result in the need to remove everything from the unit for a thorough cleaning, interior paint work and professional cleaning for unit owner contents such as clothing and furniture. Performing routine preventative maintenance could detect a malfunctioning burner and could possibly prevent a significant claim.

**Dryer Vents.** Many dryer vent hoses are made of white vinyl with an internal metal coil to help them maintain their shape. The Association of Home Appliance Manufacturers (AHAM) recommends the usage of rigid metal ducting or aluminum flexible hosing. The reason is simple – to prevent lint build up and to reduce back pressure. Like most mechanical devices, if there is tremendous back pressure and the dryer cannot ventilate properly, it will overheat. Many dryers have sensors that will turn the unit off, but if this sensor failed, the possibility of a home fire truly exists. This is another inexpensive and easy fix. Once the hoses are upgraded, an annual inspection and cleaning by a licensed contractor is recommended.

**Thermostat at 55 degrees.** The last maintenance standard that I feel it absolutely worth mentioning is maintaining unit heat at 55 degrees or

[Continues on page 16.]

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**MAINTENANCE STANDARDS...from page 15.**

greater during the winter months. This is to prevent burst pipe claims. As an insurance agent in New England I am just about guaranteed to have at least one burst pipe claim every year. If you plan to leave your unit for any extended period of time and you wish to reduce your heating bill, please set the thermostat(s) to 55 degrees, no less. This alone cannot guarantee the prevention of a burst pipe claim, but it will sure help. This same concept applies to vacant units too. With the winter months fast approaching, please, keep your heat on, second, keep it up!

Now that we have a few examples of common maintenance standards, how do you create and implement a program that works for your association? A discussion with your association's attorney will quickly determine how and where these standards can become a formal part of your association's governing documents. In fairness to unit owners, create a realistic timeframe in which they can become "compliant" and develop a plan to keep this maintenance program ongoing year after year and board after board. The bottom line is to spend a little now to save a lot later. ■

*Rich Bouvier, CIC, CIRMS is a partner with Bouvier Insurance. He is a past president of CAI-CT and currently serves on our Membership Committee. Rich is a frequent speaker at CAI-CT education programs as well.*



## 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:

**C.J. from New London County, Connecticut writes:**

Dear Mister Condo,

The board meets at an inconvenient time and place for most homeowners. How do we address this?

---

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

**J.L. from Litchfield County, Connecticut writes:**

Dear Mister Condo,

Is there a rule that states or can we have in place that an investor who does not live on site is not allowed to be on the board? Also, if so, can it be placed into our new condo rules and regulations we are in the process of redoing?

**Mister Condo replies:**

J.L., my short answer is "no" because as an owner of a unit in your association, the investor is a member of your corporation. You are looking to remove rights that the investor has with the corporation. I suppose that, technically, you could pass the rule using the required method of doing so. My guess is that it would take a supermajority or no abstaining votes and I am guessing the investor/owner isn't going to willingly vote away his right to serve on the Board. I am speculating if the situation were reversed, you wouldn't voluntarily give up your right to serve on the Board just because you didn't occupy the unit you owned. Please keep in mind that I am not an attorney. Your question requires legal counsel before you proceed. A more practical solution would be to simply have enough volunteer leaders to run for the Board who actually occupy their units. With the backing of the other unit owners, these volunteers should be able to win election to the Board which would remove your investor/owner without removing his rights. A far better solution. All the best!

[Continues on page 30.]



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## Manager's Column...



Reggie Babcock



Rich Wechter, CMCA

Being Practical, Part LIX

### Brand New Communities

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 offers a series of suggestions regarding tasks a new community Board faces.

#### A. Setting the Table on this Topic

Even in this current market around Connecticut, a few developers are building housing that becomes a condominium. Admittedly, much of the new housing is envisioned as apartments, but some developments are mixed or constructed in such a way that the units ultimately can be sold as condo units or rented as apartments. Whether they are intended as condos from the start or only later in the process – perhaps much later – new condominiums and their boards face special challenges.

#### B. Issues and Suggestions

What follows are just a few of the main tasks a “new” community Board faces:

##### 1. Organize the First Annual Meeting

The new community must organize the first annual meeting of owners, for the purpose of electing Board members. The bylaws will usually prescribe the number of directorships that will comprise the Board, and perhaps when the Annual Meeting is to be held. The “old” board (consisting largely of appointees of the developer, or declarant), should be able to provide a mailing list of owners. As an aside, knowledgeable board members should be able to distinguish between the Declaration, the Bylaws and the Rules (if any). They all are distinct from each other. Collectively they are referred to as “governing documents.”

##### 2. Hold the First Annual Meeting

Unless the Bylaws require a different number of days, the Meeting Notice should be mailed 10-30 days prior to the meeting. At the meeting, the owners will elect the Board of Directors. The number of directors is usually specified by the Bylaws. If not, the Meeting Notice and accompanying Proxy should specify the number of directorships to be filled.

##### 3. Declare the Election Results

After voting, but before the meeting is adjourned, announce the results of the election. After adjourning, the new Board should elect the Officers in an Organizational meeting. This step often creates confusion; owners sometimes have the misapprehension that they are electing the officers. They are not. Owners elect Directors; Directors elect Officers.



##### 4. The Board's First Business

After electing Officers, the Board can take up other business. If for some reason the Organizational meeting to elect Officers is not held immediately following the Annual Meeting, the Board can call another meeting (observing the notice and timing requirements) or simply hold an email vote if at least 2/3 of the Directors agree. (Note: other important requirements pertain to email votes).

##### 5. Roles of the Officers

Each of the Board members should acquaint themselves with the responsibilities associated with the each of the Officer positions. It may surprise many, for example, that the President has virtually no greater duties and responsibilities than the other Board members.

##### 6. Hire a Property Manager

Although there are many “self-managed” communities that run very well without the involvement of a professional manager, most Boards opt to employ a Community Association Manager licensed by the State. Almost universally, Boards are authorized to hire (and fire) a manager without a vote by owners. Much has been said and written elsewhere about the selection of a manager. Managers and management companies all have particular strengths and weaknesses; it is important for your association to find the right fit. Lawyers, accountants, insurance agents who practice in this field are often the best source for sug-

[Continues on page 20.]



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## NEW COMMUNITIES...from page 18.

gestions as to which firms would be suitable choices. Above all else, do not select a management company based upon price alone!!

### 7. Retain Association Counsel

Speaking of lawyers, the Board should expeditiously move to engage a lawyer for its future needs, the most basic one of which is handling collections and foreclosures. And while we are on the subject . . .

### 8. Adopt a Collection Procedure

Many new Boards assume they can decide on a case-by-case basis how to treat a delinquent unit owner. For many reasons that Association counsel can explain more fully, it is a bad idea to not have a policy that is applied automatically and universally to all owners.

### 9. Obtain an Audit of the Financial Records of the Association Received from the Developer

With the turnover of control to the new Board, the Declarant is also relinquishing control of the financial assets, including all bank accounts. In addition to establishing new bank accounts, the law makes provision for the new Board to require an audit of the association's records under the Declarant's control. For reasons not clear to us, new Boards rarely make use of this statutory right. By performing the audit, the new Board will not only know what assets it really has to work with, it will insulate the new Board from any potential accusations concerning the new Board's stewardship of the assets.

### 10. Create a New Budget

The budgets generated by developers that are provided as a part of

each owners' Public Offering Statement are notoriously inadequate. The new Board needs to take a serious look at all of its needs, and perhaps most importantly, determine its commitment to funding the reserve accounts. The decision the Board makes in Year One as to reserve funding will have repercussions indefinitely.

### 11. Set up a Meeting Schedule for the Ensuing 12 Months

Decide how often the Board will meet. In the early going, monthly meetings are the norm. Look for the opportunity to curtail meeting frequency. Meeting just for the sake of meeting discourages owners from participating in the governance of their community. By all means publish and distribute the meeting schedule for the year and thereby avoid the need to provide notice for each and every meeting.

### 12. Establish Committees

The Board should form committees and fill the positions on these committees with both Board and non-Board members. At the outset, there are many matters that can overwhelm a new Board. Committees can take the pressure off a new Board and can become an excellent farm system for future Board members.

### C. Conclusion

We have only touched the surface of matters that a brand new community faces. We will look to discuss other matters in a not too distant future article. For now, the tasks outlined above should help new communities and their Boards in getting started on their new adventure. ■

*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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## 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.

Timothy Wentzell, P.E.

## ANOTHER VIEW ON GOVERNANCE

By Timothy Wentzell, P.E.

Many topics of concern to a common interest community can be seen from very different perspectives depending on whether you happen to be a homeowner, property manager, association attorney, engineer, or a contractor who does work with the association. Certainly, as a homeowner, one looks at the whole issue of governance as whether or not the association is ultimately meeting their needs. Examples of this function include; whether the maintenance is done on a regular schedule and whether emergencies are dealt with. For instance, in the case of a leak in the unit or more catastrophic events such as fire, flooding or other similar events; who is dealing with these emergencies and whether they are resolved in a timely and satisfactory manner are examples of unit owners' typical concerns. The homeowner's view is certainly somewhat quite different from, for example; the property manager's view. The property manager is looking outward into the association and trying to resolve these issues in a manner with which the association board would agree. Contractors such as roofers, landscapers or others are often called in to resolve the issues. Additionally, the association attorney or the engineers are more typically involved for longer term issues, as opposed to emergency situations.

We, as engineers, often involve ourselves with the community associations undertaking such tasks as reserve studies, transition reviews in the case of new communities, and major upgrades such as replacing roofing, siding, paving or other major capital projects. In these cases, our involvement is often helping the association plan the project, write specifications, solicit bids, evaluate the bids and then act as the association's eyes and ears during the construction period. Often the involvement is more significant during the early phases of a planned capital program where the association, especially an older one, needs to plan a major project, solicit approval from the unit owners in order to accomplish the task, and then implement the program. We often sit with the association attorneys, contractors and bankers during association meetings where the board is trying to solicit approval from the unit owners to undertake major capital projects. Sometimes because of catastrophic events such as some years that have significant snowfall where many units have significant leaking, and other issues that need to be resolved both for functional reasons as well as often long-term insurance attainability issues.

As an aside, during these meetings we often get to sit back and watch



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*"We often sit with the association attorneys, contractors and bankers during association meetings where the board is trying to solicit approval from the unit owners to undertake major capital projects."*

the process at hand and how different associations go about attaining approval. I have always found it interesting to note that the most successful approach by boards is where they present the options to the association, but do not attempt to sell the program to the unit owners. Often when a board tries to sell the program the pushback from unit owners can be significant whereas, when the board simply presents the program as if they are simply another unit owner offering suggestions, the process goes much smoother. And if offered the opportunity to make suggestions in the process, we often suggest this approach as we have seen it being successful on a regular basis. Often when an association feels like they are being sold a "bill of goods," they push back and need further convincing, but when the board presents the options as what they think makes sense for the association, but certainly other options exist, the pushback is often far significantly less. This, I think, is an example of an association governed by a committee of their peers and likely is a good example to follow.

Certainly, the example of governance is also clearly dependent on the relationship between the association and the property manager or even

more so in the case of a self-managed association. In the case of a property manager, the level of direct involvement with the association can be very much dependent on how fully engaged the board is and how the relationship evolves with the management firm, as certainly some associations can “push” their property managers into greater involvement in their association, whereas other associations rely far more on committees and other processes to accomplish many of these tasks and the property manager simply assists in that undertaking. It is not necessary in an article like this to review the different relationship between a self-managed community association versus one that has a full management relationship. However, within any of those spectrums the relationship can vary significantly from association to association. Some associations where the unit owners are extremely engaged, an overall governing board may exist and many committees such as a building, landscaping, rules, recreation, and finance committee can exist to assist the board and enable far greater involvement with unit owners in the process. Certainly, in a self-managed association all of these could exist as well, and we have seen examples over the years of the whole spectrum of this involvement and the results can be significant as a mere drive through many of these associations can lend one to gain insight in to how involved the unit owners are in the management of their association.

In the worst case situation, the board can be very isolated from the community and in some cases almost appear to be on the opposite side of all battles from the association members, handing out tickets for parking infractions, fighting with the unit owners over perceived

problems within the association, and sometimes being so dysfunctional that they are unable to effectively manage the association. In many associations this can result in almost a short or long-term failure of management of the association, which can have catastrophic long-term affects. Another subset of this scenario is where the board keeps tight control of all association functions, often not spending funds for assistance when needed, for example; in the case of a professionally managed association expecting the property manager to be an expert in all things including important infrastructure upgrades where they expect the property manager to be able to write specifications, put projects out for bid and then of course when projects don’t go off as expected, blame the property managers and then have a musical chair of property management firms. This can result in the history of the association being lost and long-term planning jeopardized as well. Interestingly enough, in these scenarios we are often asked to come in, help put the association back in reasonable footing by preparing reserve studies and assisting them in the all-important task of catching up on deferred major maintenance. In this way we often observe the cycle of management of community associations.

In conclusion, while it is natural that different stakeholder groups have varying perspectives on governance, it can be helpful to consider all perspectives in order to provide for effective long-term governance of an association. ■

*Please address any questions or areas of interest that you would like answered in future columns to Timothy Wentzell, P.E., e-mail: ConnPropEng@cox.net.*



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## BUSINESS PARTNERS

By Steve Weir, EBP



PeopleImages / E+ / Getty Images

**T**here are many benefits to living in a community association. A top benefit is shared maintenance. By sharing the maintenance of the property, residents don't need to shoulder the entire burden of items like building or grounds repairs, upgrades and improvements. Instead of having to worry about services like lawn care and snow removal individually, the community is able to improve its purchasing power by offering a large amount of work in one contract or agreement. Shared maintenance of the common areas can allow for greater buying power when negotiations are done properly.

But money and budgeting will only get an association so far. If the service provider is chosen solely on price, it's possible that the possible savings won't be worth the hassle of working with a company that can't deliver on promises. With the resources of CAI-CT, associations have the benefit of avoiding fly-by-night service providers. Below are some helpful tips on avoiding working with a "vendor" and instead choose to work with a qualified "business partner."

- A true "Business Partner" supports the association. I am a big proponent of working with companies that are engaged with the organization. When attending some of the many events and programs put on by CAI-CT, take note of the companies who support the organization by sponsorship, volunteering and engagement. More often than not, these companies have made a significant monetary and time commitment to making the association successful. These companies have also made another commitment: Their reputation. A business partner company is more likely to be around for the long haul. News travels fast. Bad news travels really fast! A dedicated business partner will give top priority to servicing their best customers.
- A dedicated business partner will spend the time and money to keep up on the latest laws, regulations, techniques and other industry changes. These companies will place importance on having a staff of highly qualified individuals. Training, education, qualifications, designations, licenses and certifications are important to a dedicated industry business partner. CAI even has a designation for its business partners, called: "Educated Business Partner" (EBP).
- An industry Business Partner should be able to produce references and rave reviews to a prospective client. It's one thing to be able to provide a few references. However, a true Business Partner should be able to provide references from within the same industry, and demonstrate experience performing similar services with successful outcomes. It's okay to ask for a small portfolio of work, in addition to references. An additional avenue to check references is through social media. Social media should only be used as a follow up to an actual reference check for two reasons:

*"An industry Business Partner should be able to produce references and rave reviews to a prospective client."*

1. Lots of times, people don't take time out of their schedules to write a review. Sometimes, if a customer has a bad enough experience, they will make time to write a negative review. Also, since many companies don't promote themselves well on social media, they may not encourage their happy customers to write a review. So the review results may be skewed.
2. Since it's hard to validate the identities of people leaving reviews, it's also possible to have company with a ton of 5 star reviews that are not legitimate.

So, as I mentioned above, start with the personal reference check, and validate with social media.

- If your project involves a lot of moving parts or multiple trades to complete, it's important that your business partners work well together. It's quite possible that you can find companies providing different services, that work extremely well with others. Collaboration between companies is one step towards success. It will be best for your community to avoid service providers who don't "play well in the sandbox".
- While on the topic of collaboration, it's never a bad idea to ask your business partners for recommendations to other great companies. For instance, if you're looking to perform an exterior lighting project that requires excavation, why not ask the electrician for a recommendation for a company to dig the trench? It's ok to treat your business partners as trusted advisors.
- CAI National's website ([www.caionline.org](http://www.caionline.org)) has many useful tools, and even has a place to find business partners. If you have a login, use the following link to find quality business partners in CT: <https://directory.caionline.org/>

Remember, as a member of CAI, your community is a VIP customer of many dedicated business partners! Support those business partners who support the association.

As I've written before, part of preparation is having strong business partner relationships in place prior to needing them. It's good to have a relationship in place with your service providers, where you can rely on them to keep your property in the best possible shape. During a time of need is not the best time to create a business partner relationship. Prepare, Prepare, Prepare! ■

*Steve Weir, EBP is the CEO and founder of American Integrity Restoration (AIR). Steve has over 20 years in the construction industry, and nearly 15 years specifically in the disaster restoration industry. Steve can be reached at [sweir@callair.com](mailto:sweir@callair.com) with any questions.*

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Scott J. Sandler, Esq.,  
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## BANKRUPTCY: *The Automatic Stay, Discharge, and its Impact On Unpaid Common Charges*

By Scott J. Sandler, Esq., CCAL

**B**ankruptcy can delay, but not avoid, the collection of unpaid common charges. The keys are to monitor bankruptcy actions closely and, when necessary, to act swiftly.

### Types of Bankruptcy Cases

Bankruptcy laws are in place to help people deal with overwhelming debt. A person who files for bankruptcy is referred to as the “debtor.” The debtor typically files a petition with the bankruptcy court to initiate the action. When a natural person (as opposed to a business entity) files for bankruptcy, he or she typically files either a Chapter 7 or a Chapter 13 action. The term “Chapter” is a reference to the applicable chapter of the federal statutes governing bankruptcy laws.

**Chapter 7.** Debtors file a Chapter 7 action when they cannot repay their debts, even over an extended period of time. The debtor is asking the court to order the discharge of those debts. A discharge is a release of the personal obligation to pay the debt. If the debtor qualifies for a discharge, the court will usually grant the discharge within a few months after the debtor filed his or her petition.

**Chapter 13.** Debtors file a Chapter 13 action when they can repay their debts over an extended period of time. Under a Chapter 13 action, the debts are divided into two categories:

- Prepetition Debt. This includes all amounts owed as of the day on which the debtor filed the bankruptcy action.
- Post-Petition Debt. This includes all new amounts that become due and payable after the debtor filed the bankruptcy action.

The court will require the debtor to propose a repayment plan to pay off the prepetition debt. Courts allow these plans to last for as long as five years. Additionally, the debtor must pay post-petition debts on time, as they accrue. The Automatic Stay The filing of a bankruptcy action results in an automatic stay of any enforcement action by a creditor against the debtor. No creditor may begin or continue with any enforcement action without first obtaining the court’s approval.

If a unit owner files for bankruptcy, the automatic stay prohibits the association from doing any of the following:

- Sending demand letters to the owner.
- Initiating, or threatening to initiate, any legal action, including a foreclosure action.



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*“The bankruptcy courts typically grant relief in cases where the owner has little or no equity in the unit.”*

- Continuing any legal action that was pending at the time that the owner filed for bankruptcy.
- Suspending the rights and privileges of the owner, including the right to use common element recreational facilities.

### Obtaining Relief from the Automatic Stay

The association must obtain the bankruptcy court’s approval before it can proceed with collection efforts. To obtain this approval, the association, through its legal counsel, files a motion for relief from stay.

**Chapter 7.** As stated above, a Chapter 7 action usually is resolved in a matter of months. If the owner continues paying the common charges, it may not make sense to incur the attorneys’ fees and costs required to obtain relief from stay. If, however, the owner is not paying the common charges, then the association should seek relief.

The bankruptcy courts typically grant relief in cases where the owner has little or no equity in the unit. There is no equity when the total amount of liens on the unit, including the common charges and any mortgages, exceed the value of the unit.

**Chapter 13.** In a Chapter 13 action, there are two situations where an association should request relief from the automatic stay:

- The owner fails to pay the post-petition common charges and assessments on time.
- The owner has failed to propose to the court a payment plan that includes the total balance of prepetition common charges.

### Impact of a Discharge

When the bankruptcy court grants a discharge, the debtor is no longer personally obligated for the debt. The impact of the discharge varies, depending on whether the debt is secured by collateral.

**Unsecured Debts.** Unsecured debt is a debt that is not secured by some form of collateral. For example, credit card debts are unsecured. If the debtor receives a discharge, he or she is no longer obligated to pay the unsecured debt. A discharge does not impact the ability of the association, or the mortgage holder, to enforce the lien.

**Secured Debts.** Associations liens, like mortgages, are secured by liens on the unit. A discharge does not impact the ability of the association, or the mortgage holder, to enforce the lien. The discharge does relieve the owner of any liability for shortfalls, following the enforcement of the lien. For example, if the outstanding balance of the mortgage is \$100,000, but the foreclosure sale only nets \$85,000, the discharge prevents the mortgage holder from collecting the remaining \$15,000 from the debtor. Thus, the association may still foreclose its lien on

the unit to collect the unpaid common charges. If the owner wishes to keep the unit, he or she must pay the outstanding common charges in full, despite the discharge. The filing of a bankruptcy petition may delay the collection of unpaid common charges. Nevertheless, if the owner intends to keep the unit, he or she must eventually pay those charges in full. ■

*Scott J. Sandler, Esq., CCAL 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.*

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*[Continues on page 30.]*

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Snow lovers might be shivering with anticipation, but it's important that community associations encourage residents to winterize their homes before the brunt of the season hits. Here are some items to consider.



Courtesy CAI-CT.

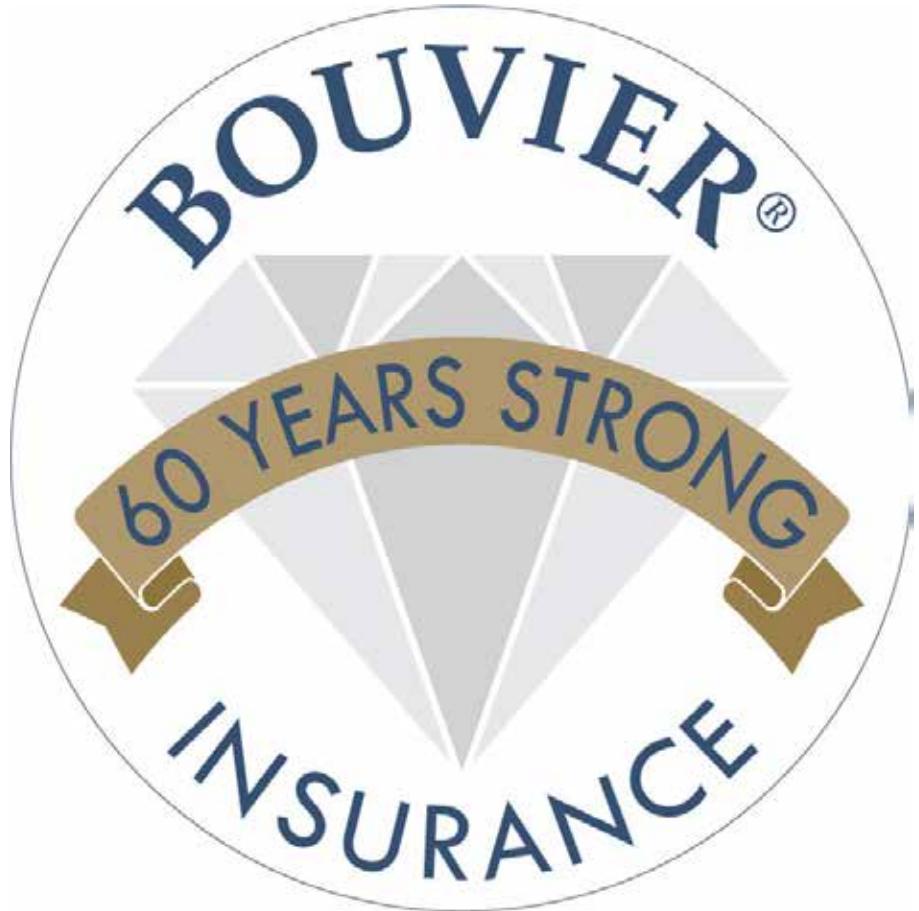
### **Indoor winterizing**

- Examine doors and replace weather-stripping as needed
- Inspect window caulking and reseal where needed
- Check vents and repair where needed
- Clean chimneys and flues
- Remove items near heat vents
- Place nonskid runners or door mats outside to help keep out water, sand, and salt

### **Outdoor winterizing**

- Cut tree branches and shrubs that hide signs or block light
- Examine outdoor handrails and tighten if needed
- Turn off electrical breakers for outdoor equipment
- Close hose bibs
- Clean out gutters and downspouts
- Clear yard drains
- Spray outdoor locks and hinges with lubricant
- Stake driveway and walkway edges that may be difficult to find under deep snow

**>>Stock up on supplies such as ice melt, sand, generator fuel, and snow shovels. Ready.gov also has tips on how to stay safe during a winter storm.**



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