

# Common Interest

The Official Publication of CAI-Connecticut

Vol. XIV: Issue 2 • 2019

*Inside:*

## Yes, You Really Must Allow **ANTENNAS and SATELLITE DISHES**

## Educating Yourself About Your **COMMUNITY'S GOVERNANCE**

## **MANAGING SMALL ASSOCIATIONS**

## **STAGGERED TERMS** In Simple Terms

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



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

## President's Message



Pam Bowman, CMCA, EBP

*"This year we are partnering with Healing Meals to showcase their mission to provide organic meals to people in a health crisis..."*

If I didn't see you at this year's conference, "Navigating Your Community's Success," I am sorry I missed you. The theme was very well-executed. I want to thank all our committee members, sponsors, speakers, volunteers, and staff for putting together a great conference and a resounding message. It takes a "community" of like-minded people to put something of this magnitude together. We appreciate all you do year after year.

In February I had the pleasure to speak to a full house of Board Members at CAI-CT's Condo Inc. I want to thank BELFOR Property Restoration and Bill Jackson for hosting us in Wallingford.

The next Condo Inc. program will be held in Waterbury on April 27th and will be hosted by JP Maguire Associates, Inc. This is a course for board members with experts in the fields of Insurance, Accounting, Law and Maintenance and Reserves. We are very fortunate for our sponsors and hosts which provide us with locations throughout the state. This is a great education event and an opportunity to meet fellow board members and network with the presenters and our host for the day.

I also want to remind you of our Spring Fling event at Auer Farm in Bloomfield, CT on May 8th, "You're Being Sued Now What?" is the topic for the managers' education program. We will also offer a program for community association board members with a panel of two attorneys and an insurance expert to discuss the topics: medical marijuana and smoking restrictions, neighbor to neighbor disputes and the role of the board, and what is NOT covered in your directors and officers insurance policy. After the education program we will have our Annual Spring Fling Networking event on the Farm and in Partnership with Healing Meals Community Project.

This year we are partnering with Healing Meals to showcase their mission to provide organic meals to people in a health crisis while empowering youth in our communities. The Spring Fling Committee is planning some fun and delicious activities for this event, be sure to sign up!

One last event reminder, if you are a golfer, put our annual Golf Tournament on your calendar at Lyman Orchard on Monday June 10th.

Let's hope for a good and dry Spring, I know I am! ■



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## From the Chapter Executive Director

**Spring is the time of plans and projects.**

~ Leo Tolstoy, *Anna Karenina*



Kim McClain

Courtesy CAI-CT.

Spring is finally in the air! Based on many recent discussions, contractors are planning for a very busy season. We also could not help but notice at our Annual Conference the crowds in the education sessions dealing with the topic of aging infrastructure. More and more associations that are 20, 30 or even 40+ years-old are at a point where they can no longer patch or "make do." Major construction projects are looming. Delay is no longer an option.

Fortunately, CAI-CT has a full compliment of Business Partners who can help your association grapple with all the aspects of capital improvements from the planning phase all the way to financing and project management. Be sure to tap into their wealth of knowledge and wisdom to make certain your project gets on the right track.

Moving forward with major projects clearly requires the skills of experienced professionals. Indeed, our Educated Business Partner (EBP) program was designed to enable our service providers to be extremely well-versed in the many intricacies of common interest operations. Hiring a vendor with an EBP designation should give you an extra measure of confidence knowing that they have gone the extra mile in their professional development to serve you better.

In this issue, be sure to explore some of the many articles that offer insights for managing your association. Know why satellite dishes have to stay. How staggered board terms can make the elections process easier. Get some insights into the challenges of managing small associations. And, you can even learn a little more about the many issues regarding AirBnBs.

We are really excited about our upcoming programs: Spring Fling in the Hartford area and Paradise in Fairfield County are sure to be bursting with lots of new information and fun. We hope you will join us! Register soon, as space is limited!

Happy Spring! ■



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CAI-CT 20th ANNUAL  
**GOLF**  
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MON. 6.10.2019

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# UPCOMING CAI-CT EVENTS

## Condo Inc.

**Saturday, April 27, 2019** - Open to Board Members & Unit Owners  
8:30 am - 3:00 pm - Light Breakfast, Lunch & Education

Waterbury, CT

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!

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



## CAM ED — You're Being Sued, Now What?

**Wednesday, May 8, 2019** - Open to Managers

**Education from 3:00 - 5:00 pm / Networking Party 5:00 - 7:00 pm**

Auerfarm, 58 Auer Farm Road, Bloomfield

Learn how to be prepared for and successfully participate in litigation through a case study. Explore the basics of working with counsel throughout litigation including responding to a complaint, deposition preparation and testimony, discovery compliance and pretrials/ mediation.

**Speakers:** Kasey Burchman, Esq., Kristen Schultze Greene, Esq. and Michael Feldman, Esq. of Feldman, Perlstein & Greene, LLC

*Join us for Spring Fling immediately following.*

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

**GOOD FOR 2.0 CONTINUING ED CREDITS**

## HELP ED — For Savvy Board Members (Homeowner Education Leader Program) Legal & Insurance Panel

**Wednesday, May 8, 2019** - Open to Board Members

**Education from 3:00 - 5:00 pm / Networking Party 5:00 - 7:00 pm**

Our panel of attorneys & insurance experts will speak on topics important to you. Q & A to follow.

- Medical marijuana and smoking restrictions;
- Neighbor-to-neighbor disputes and the role of the board. (Yes. You may be required to get involved!); and
- What is NOT covered in your directors and officers insurance policy.

*Join us for Spring Fling immediately following.*

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

## SPRING FLING PARTY — Hartford County Networking Party

**Wednesday, May 8, 2019** - 5:00 - 7:00 pm

Auerfarm, 58 Auer Farm Road, Bloomfield

Community association board members work hard all year without nearly enough thanks. Take a well-earned break and join us for food, fun and festivities! Meet board members from neighboring communities and share your success stories. Meet others who face similar community challenges.

Board Members & Managers - \$10 / Service Providers - \$50

*Sponsorships are available for this event.*

## PARADISE EDUCATION —

### Ways to Save... Energy in Your Community

**Wednesday, June 5, 2019**

**Education 3:00 - 5:00 pm / Networking Party 5:00 - 7:00 pm**

Shorehaven Golf Club, Norwalk

Does your association take advantage of opportunities to save money on energy costs through rebates? Solar? How could solar panels affect roofing? What are the legal issues?

Our speakers will delve into how your communities can take advantage of rebates through utility companies; options for how solar can work in your community; legal issues and policies to consider; and more!

We will discuss:

- How to navigate the utility rebate process.
- How one community successfully installed shared solar.
- The importance of understanding roofing options and solar.
- Why contract details matter.

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

**GOOD FOR 2.0 CONTINUING ED CREDITS**

## PARADISE NETWORKING EVENT

**Wednesday, June 5, 2019, 5:00 - 7:00 pm**

Shorehaven Golf Club, Norwalk

Community association board members work hard all year without nearly enough thanks. Take a well-earned break and join us for food, fun and festivities! Meet board members from neighboring communities and share your success stories. Meet others who face similar community challenges.

Board Members & Managers - \$10 / Service Providers - \$50

*Sponsorships are available for this event. Contact [kim@caict.org](mailto:kim@caict.org) for more information.*

## CAI-CT's 20th Annual Golf Tournament — Enjoy a day on the links with CAI-CT!

**Monday, June 10, 2019, 9:00 am to 2:00 pm**

Lyman Orchards Golf Club, Middlefield

The 20th Annual Golf outing will be held on Monday, June 10th at the Lyman Orchards Golf Club. This event brings the membership together and provides a networking opportunity for managers and business partners. This is a must attend experience with exciting sponsorships, awards, gifts and games!

*Visit [www.caict.org](http://www.caict.org) for information on golf, lunch and sponsorships.*



**March 14, 2020**

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for more information.**

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

## NEW & RENEWING MEMBERS

### Welcome New Members

#### Associations

Chippenwood Estates Condominium Association  
Elm Garden Condominium Association Inc.  
Fairview at Oxford Greens  
Old Forge Condominium Association  
Riverplace Homeowners Corporation

#### Individual Managers

Christopher Buccieri, CMCA  
Ed Davis  
Srinivasa Gavara, CMCA  
Morgan Gwilym  
Karen Kalmbach  
Nancy Knorr  
Lorraine Megenis  
John William Sullivan, III, CMCA  
Emily Rae Westlake  
Paige Wojcik

#### Business Partners

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### Thank You Renewing Members

#### Associations

Ardenwood Condominium  
Canaan Close Association  
Center Village Homeowners Association  
Cold Spring Village  
Cromwell Hills Condominium Association #1  
Devonwood Homeowners Association, Inc.  
Essex Village Condominium Association  
Glenwood Place Condominium Association  
Hackmatack Hills Homeowners Association  
Hale Farms Condominium Association, Inc.  
Hatchery Brook Homeowners Association, Inc.  
Longshore Estates  
Mountain View Landing Association, Inc.  
Oceanview of Lordship  
Olde Colony Commons Association, Inc.  
Oyster River landing Association, Inc.  
Peachbrooke Association

Pine Lake Commons Condominium Association, Inc.  
Redstone Manor Association, Inc.  
South Village  
Southbrook  
Southport Woods Condominium Association  
Southridge Condominium Association, Inc.  
St. John's Common  
Stony Mill Condominium Association  
Taft View II Condominium Association  
The Village At Colchester  
Turtle Bay  
University Towers Owners Corporation  
Waterside Green Condominium Association  
Westbury Condominium Association, Inc.  
Westwood Village Condominium Association, Inc.  
Wheeler Estates Condominium Association, Inc.  
Windermere West Owners' Association  
Windham Oaks Homeowners Association  
Woodfield Village c/o Imagineers LLC  
Woodridge Lake POA, Inc.

#### Management Companies

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County Management Services, LLC  
Elite Property Management, LLC  
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Jeff Louis Associates, LLC  
Merit Properties, Inc.  
Palmer Property Management  
The Property Group of CT, Inc.  
Sentry Management, Inc.  
South Shore Property Management, LLC

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American Integrity Restoration  
Atlas Concrete Products, Inc.  
Bartlett Tree Experts  
Brown Roofing Company, LLC  
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Crystal Restoration Services of Connecticut  
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Reserve Advisors, Inc.  
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## Statutory Snippet...

### Does a Member have a right to review books and records of the Association? (Part 1)

Yes, most books and records can be reviewed by members. (Common Interest Ownership Act, Subsection 47-260(b))

- a. Can the Member obtain copies of the books and records requested?  
Yes. (Common Interest Ownership Act, Subsection 47-260(b))
- b. Does a Member have to pay for copies of the books and records?  
Yes. (Common Interest Ownership Act, Subsection 47-260(e))

*Excerpted from State of Connecticut: Frequently Asked Questions by Matthew Perlstein, Esq. CCAL Feldman, Perlstein & Greene, LLC. Reprint permission granted.*

*Part 2 of this question will appear in the next issue, or you can go to: [www.caict.org](http://www.caict.org) and see the entire document on our CIOA page.*

## Legislative Update

The 2019 Legislative Session is a little more than halfway done, but things typically tend to heat up near the end of the session.

Most of the bills we have been tracking (13 in total) have not moved much or are completely over. There are, however, 2 bills of great concern to us: HB 6291 & 7276. We had petitions circulating at the conference in opposition of these bills. We had over 200 completed. The gist of these bills is to allow the state to preempt any association prohibitions regarding home-based child care businesses. We view this as an over reach on the part of the state and it would also set a bad precedent for other issues. We wish to thank all of our members who responded to the Legislative Alert sent in early March. Your input and outreach to your elected officials is invaluable.

Scott Sandler, Esq., CCAL- LAC Chair – has been working with the legal staff at DCP to find language which they can agree on for modifying manager licensing. We are hopeful that we can these changes accomplished this session. ■



**Stay up-to-date on Legislative Issues at [www.caict.org](http://www.caict.org).**

# Paradise

Education & Networking Party

**Wednesday, June 5, 2019**

Shorehaven Golf Club, Norwalk

**3:00 - 5:00PM • PARADISE EDUCATION**

## Ways to Save... Energy in Your Community

Does your association take advantage of opportunities to save money on energy costs through rebates? Solar? How could solar panels affect roofing? What are the legal issues?

Our speakers will delve into how your communities can take advantage of rebates through utility companies; options for how solar can work in your community; legal issues and policies to consider; and more!

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**5:00 - 7:00PM  
PARADISE NETWORKING**

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## Legally Speaking...



Adam Cohen, Esq.

### Yes, You Really Must Allow Antennas and Satellite Dishes

By Adam J. Cohen, Esq.

#### Yes, you really must allow antennas and satellite dishes.

I know most declarations forbid nearly anything – often including “television antennas” specifically – from being attached to exterior walls or roofs without the Board’s permission. I know most people get their television service through cable or wifi these days. And I know that antennas and satellite dishes are ugly, and that the association has an interest in protecting common areas from damage, obstructions, and eyesores. Boards remind me of these facts all of the time.

But federal law really does control here. The Federal Communications Commission’s Over-the-Air Reception Device (“OTARD”) Rule prohibits any private association from imposing restrictions which would impair the installation, maintenance, or use of satellite dishes that are less than one meter in diameter, television antennas of any size, and antennas for cable and wireless signals. “Impairing” means doing essentially anything that prevents, delays, or increases the cost of installation, maintenance, or use, or that reduces the quality of reception. Many associations ignore this federal regulation, but doing so can prompt unwinnable litigation.

Importantly, the OTARD Rule only applies to the portions of the community which the resident owns outright or over which he has exclusive use or control. These typically include the unit’s interior and any limited common elements like a deck or balcony unless the declaration says otherwise. This means the association is free to ban dishes and antennas, as well as their related equipment and wiring, on or through common elements which often include roofs, exterior walls, and yards. Even a single wire or screw through an outer wall can be prohibited. But if decks, balconies, patios, and similar areas are limited common areas according to the declaration, the owner or tenant has the right to install there. This means the association cannot require advance board approval, even with an expedited process merely to confirm that the installation will have federal protection, since this is considered to be a delay of installation. Neither can the association prohibit multiple dishes or antennas in these areas if they are necessary for the services the owner wishes to receive.

Associations remain free to announce location “preferences” as long as they are only enforced against new installations (that is, not retroactively against existing dishes and antennas) and as long as they do not impair installation, maintenance, or use. For example, the board can



*“Importantly, the OTARD Rule only applies to the portions of the community which the resident owns outright or over which he has exclusive use or control.”*

adopt a rule requiring installation on the home’s rearward side instead of its front, or beneath the balcony railing instead of above it, if the location otherwise makes no difference. Likewise, the association can buy a central antenna to be used instead of personal receptors. But if individual equipment or any non-preferred part of the limited common elements would yield even slightly better reception or convenience, the owner has the right to choose it instead.

While the OTARD Rule does not let associations require pre-approval, it does let them require notification. It also allows associations to require that the antenna or dish and its related equipment and wiring be placed as inconspicuously as possible without impairing installation, maintenance, or use. The board can require that the contractors installing the equipment be properly licensed and insured, and also require owners to indemnify the association and others for any damage their antennas or dishes cause. Legitimate safety objectives and historic preservation are also fair game, so written prohibitions against installations too close to power lines and fire escapes are also permissible.

If your association's declaration and rules impose restrictions against television antennas and satellite dishes which exceed what the FCC would allow, it's no defense that they've always said this, or that no exterior changes are ever allowed without Board permission. Federal law really does prohibit making or enforcing any provision in the association's governing documents which in any way contradicts the OTARD Rule. Check your documents for not only the restrictions on antennas and dishes, but also the definitions of units and limited common areas, so that your Board can develop a policy controlling where these installations can be placed which serves the needs of the community without running afoul of federal law. ■

*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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— Jef I. Richards (*US Advertising Professor*)

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## Financially Speaking...



Daniel Levine, CPA

### Displaying Fund Activity

By Daniel Levine, MBA, CPA

As many veteran members of the common interest realty industry know, associations follow what is known as “fund accounting” as part of generally accepted accounting principles. For those new to the industry, what fund accounting means is that an association takes their economic transactions and breaks them down between different funds (categories). The most common of these are the operating fund and the future major repairs and replacements fund (also typically called the Reserve Fund).

However, there can be other types of funds such as an investment fund or a fixed asset fund, etc. Each fund operates independently of the others and has their own balance sheet, income statement, and statement of cashflows when presented.

Due to this separate accounting, what becomes important is to make sure the transactions of each fund are recorded in the appropriate fund. While this sounds like common sense, there are two factors that can impact successfully classifying transactions:

1. First, some accounting software packages have a difficult time separately presenting the different funds on the face of the financial statements that they generate. This can make it difficult to understand what transactions relate to which fund.
2. Second, is setting up the right procedures internally to ensure that the board's intent with transactions is translated into the statements.

This article will focus specifically on these issues using the reserve fund activity as its primary example. It will also cover a few ways to set up presentation for recording reserve fund transactions, the pros and cons of each method, and list procedures you may want to consider implementing to help ensure your statements reflect activity as intended.

#### Ways to Highlight Fund Transactions

##### *Option 1: Create a Separate Section in the Balance Sheet Chart of Accounts*

One way that associations have handled reserve fund activity is to locate it on the balance sheet. Typically, this is done by creating balance sheet accounts with account numbers before your income accounts, but after your equity accounts. Doing this accomplishes the following:

- It keeps your monthly income statement purely for the operating fund. Therefore, there is no confusion that net profit is operating net profit.



*“Due to this separate accounting, what becomes important is to make sure the transactions of each fund are recorded in the appropriate fund.”*

- Reserve fund activity is kept together in one location. This allows the board to easily see what expenses are reserve fund related. It will also highlight if multiple funds are paying for a project as the expense will appear multiple times.

#### Some cons of this method would be as follows:

- At the end of the fiscal year, balance sheet line items are not closed out to equity-like income and expense accounts. If a manual entry isn't made to correct this then activity accumulates as time moves forward and can paint a distorted picture of income and expense items listed on the balance sheet.
- The balance sheet isn't supposed to be used for income and expense items. While this method offers a way to segregate activity, it isn't following generally accepted accounting rules, despite being used for internal purposes.

##### *Option 2: Create a Separate Section in the Income Statement Chart of Accounts*

Another way to highlight reserve fund activity is to designate a section of account numbers to be strictly reserve fund accounts. For



example, any expense account that is greater than account number 7000 will be reserve fund expenses. This method has the following benefits:

- It segregates reserve fund activity from operating. Like the balance sheet method mentioned before, this method allows reserve fund transactions to be presented separately and allows readers of the financial statements to better understand what fund is paying for a project.
- It also keeps expense and income activity on the profit and loss which follows accounting rules and removes the need to remember to close out an account to equity at the end of the year.

**Some cons of this method would be as follows:**

- Reporting in this manner does complicate and expand the amount of accounts used. Additional and perhaps duplicate account names (if the reserve fund and operating fund both fund an expenditure) would be included in the chart of accounts that may make reading the statements more complicated.
- If your monthly contributions are listed as an expense of the operating fund, but you don't also reflect them as income in the reserve fund account section in the income statement, you could possibly distort your net income number by reflecting operating and reserve fund expenses together but not operating and reserve fund income.

*[Continues on page 12.]*

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**FINANCIALLY SPEAKING...**from page 11.

**Option 3: Utilize an appropriation income line**

Under this method, when an expense is incurred by the association which is designated part of a different fund, an income line is also created to essentially remove the impact of that expense from the operating income statement. The best way to think of this is that the operating fund is receiving “income” from the other fund to reimburse transactions that have been included in operations. The benefits of this method are as follows:

- The chart of accounts becomes more streamlined as there is only one income account being used to reflect how much cost relates to another fund. Multiple expense accounts are also not needed.
- It keeps net income an operating only number.

**Cons of this method are as follows:**

- It doesn’t present as much detail when there are multiple expenses being paid for by the reserve fund as the total is aggregated into one line item.
- It inflates overall association income which can be a difficult concept to explain to readers of the financial statements.

*“Tracking multiple funds  
can be a difficult process.”*

**Procedures for Designating Transactions to a Fund**

Once a framework for categorizing different fund transactions on your statements is established, the next step is putting in a process to ensure that it is clearly communicated which transactions are operating and which are reserve fund transactions.

This is important to make sure the expenses are classified appropriately, and the cash used to pay for expenses is taken from the correct fund. When that doesn’t happen, this gives rise to an interfund of loans which will have to be repaid or written off causing additional work in tracking the amount, and budgetary concerns to repay it.

**Some processes to have in place would be the following:**

- 1) Ensure that votes relating to reserve fund transactions are clearly stated in the minutes.
  - a. This provides a record to refer to and transparency in what the expenditure was for in order to inform the community.
- 2) Create an authorization form for reserve fund appropriations.
  - a. Provides documentation and shows who approved the amount withdrawn from the reserve fund. You can also include whether those funds are an appropriation or a loan to the operating fund that is meant to be repaid for further clarification if there are any questions.
- 3) Having a quarterly review of the overall balance sheet and income statement for each fund to ensure that the cash activity reconciles with expense and revenue activity.

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- a. This ensures that prior decisions were enacted and that your statements are reflecting fund transactions appropriately.

### Conclusion:

Tracking multiple funds can be a difficult process. At times it's an issue stemming from technology, and other times it can be a process issue. However, to ensure your financial statements are fairly stated having procedures in place for presentation and approval of fund activity is critical. ■

*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.*


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## Navigating Success - Condo/HOA Conference

The 22nd Annual Condo/HOA Conference & Expo broke many records: number of smiles, level of positive energy, enthusiastic feedback on the education sessions, among others. We sold out our 103 booths and have nearly 500 community association managers and board members. Our experienced speakers honed in on some of the key issues affecting our common interest communities, especially aging infrastructure. Our exhibitors were very ready to help manage and solve those problems.

We are fortunate to have a very devoted Conference Committee that keeps us on a good path to success. Our numerous sponsors and volunteers generously shared their time and/or financial support which allows us to provide a truly terrific experience. The awesome team of volunteers who keep things running well during the event are simply the best. Without them we would be lost. THANK YOU!

*Be sure to Save the Date for next year – March 14, 2020!*

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*The Next Gen Committee raised \$800 from our 50/50 raffle. Well done! The winner, Steve Weir from American Integrity Restoration (AIR), gave custody of his raffle tickets to Alan Barberino, CMCA who donated the winnings back to Healing Meals! Thank you!*

*More photos on the next page...*



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Wendy Colleary

## Educating Yourself About Your Community's Governance

By Wendy Colleary

When I was young and my world was a lot smaller, I was kind of a know-it-all. I read a lot, kept my ear to the ground, and could eavesdrop on multiple conversations effortlessly. It's been many, many years since I thought I was the smartest one in the room. Access to information is now lightning fast, and what you think you know changes even quicker. I learned a long time ago there are plenty of true experts out there and it's a wise person who understands when and to whom to listen to.

Too many people think condo living is turnkey. You pay your monthly common charges and everything gets taken care of for you. If you have a problem, you blame someone else or expect them to have the answers you may already have at your fingertips. The truth is, the best, most well-run associations are those where owners and Board members are informed and involved. They know what their rights and responsibilities are, the limits of their governance, and can point to specific state statutes to back them up.

Unfortunately, many owners don't bother reading their governing documents or familiarizing themselves with the relevant state laws affecting condominiums before they buy, so have no clue what their true rights and responsibilities are. The sheer volume of paperwork generated with a loan closing can be onerous, something to get tucked away once the keys are handed over and never looked at again.

Last year, my son and his wife purchased a home in a brand new 3-unit community and were the first buyers in. Before closing on their purchase, they performed due diligence by extensively reading and sometimes questioning the content of the condominium declaration and by-laws. As a result, they were able to affect certain changes like the pro-rata percentage of ownership which had listed their unit as having the largest square footage, when in fact it was the smallest. Without this being changed, they would have been paying more than their fair share each and every month for as long as they owned their home. Knowing what is and isn't permissible has been a challenge and a hassle at times, having to come off like the bad guys, forced to address common area issues that were uncomfortable and relatively minor but still necessary. This past weekend, however, they learned one of the owners was running an Airbnb out of his unit. They had seen people coming and going, at first assuming they were overnight guests. Some detective work revealed a lovely listing on the rental



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*"Unfortunately, many owners don't bother reading their governing documents or familiarizing themselves with the relevant state laws affecting condominiums before they buy..."*

website with glowing reviews on the host's hospitality and bookings out 6 months. While their condo by-laws clearly state the practice is prohibited, it now falls to the other two owners to have to have what is sure to be a difficult discussion with this owner. Beyond the immediate safety concerns of multiple keys being handed out and strangers in common areas, there is likely a serious insurance consideration as well. This one owners' individual practice may be jeopardizing the entire building coverage as well as exposing all 3 owners to unlimited risk.

As part of my job as a condominium lender I read governing documents all the time. Some can be intimidating on the surface, lengthy and with lots of legalese. While some of the information can be glaze-worthy, there are nuggets within that convey lots of useful information including what is and isn't allowed, and who is responsible for what. It ought to be required reading. ■

*Wendy Colleary is Vice President of Commercial Lending Business Development at Windsor Federal Savings. She currently serves as Chairperson of the CAI-CT Membership Committee and is a member of the CAI-CT Board of Directors.*





Kelly A. Freitas, Esq.

## The Rise of AirBnB: Short Term Rentals and Enforcement By Common Interest Communities

By Kelly A. Freitas, Esq.

Over the past ten years, more and more owners of residential property are making individual rooms or entire residences available for short-term rental, offered through hosting platforms such as AirBnB and VRBO and online travel sites such as Expedia and Kayak. When short term rentals involve units in common interest communities, they can create new concerns and new challenges for associations.

Short-term rentals are not going to affect every community. For some communities (more likely ones in urban areas, or near tourist attractions), this may be a significant issue as a larger number of unit owners wish to participate; for other communities, short-term rentals may be non-existent.

### Why are associations concerned about short-term rentals?

The most frequent concerns that are raised regarding short-term rentals in common interest communities are:

1. The presence of strangers who are given access to parking garages, shared hallways and other common areas;
2. The presence of strangers who do not know, understand or care about the requirements of association documents and rules;
3. Uncertainty about insurance as it is unclear whether short-term rentals would constitute a “commercial use” of a unit and impact - or increase the cost of - coverage and
4. Concerns that short-term rentals will create mortgage underwriting issues and impact the ability of the community to adhere to FHA approval standards, which could, in turn, result in an inability of owners to obtain favorable mortgage rates.

There are no state-wide laws in Connecticut that limit short-term rentals. A few municipalities have addressed the issue, but the requirements and regulations are inconsistent.<sup>1</sup> If an association wants to ban or limit short-term rentals, the best – and perhaps only – avenue to do so is through the provisions of its governing documents.

### Does the association have the ability to prohibit short-term rentals?

Most governing documents in Connecticut contain some limitation on short-term rentals and transient use. Additionally, most governing documents contain a requirement that leases be in writing. Generally, these provisions are contained in the declaration under Restrictions on



*“There are no state-wide laws in Connecticut that limit short-term rentals.”*

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Use or Restrictions on Leases. In communities created prior to 1984, they may be contained in the bylaws as well.

Before taking any action against a unit for short-term rental, know what your documents say. The language of these limitations can greatly differ from one document to another. There are two types of action the association can take:

1. Action against the unit owner for renting the unit in violation of the governing documents and
2. Action against the unit owner for violation of the rules or damage to the common elements or other property caused by the transient occupant. If the Association’s objective is to stop short-term rentals, then the action will have to be against the unit owner.

If your governing documents do not contain a limitation on short-term rental, before taking any action to regulate or ban short-term rentals, you will likely need to amend the governing documents, which will require a unit owner vote.

Even if your documents do contain a restriction that prohibits short-term rentals, based upon the language, it may be necessary to

*[Continues on page 22.]*

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## SHORT-TERM RENTALS...from page 20.

adopt a Rule that further articulates the limitations on short-term rental and specifically bans renting rooms or units through short-term hosting platforms such as Airbnb. The language of the rule will depend on what was included in the governing documents. Both Section 47-261b(f) and *Weldy v. Northbrook Condominium Association, Inc.*, 2789 Conn. 728 (2006), suggest that an Association has authority to adopt a rule such as the one above, which would clarify the provisions of the declaration and/or bylaws or ensure that the Association remained in compliance with mortgage underwriting requirements. Once such a rule is in place, the Association can fine (after notice and hearing) unit owners who violate the rule and may be able to obtain an injunction against the unit owner if the violation continues.

### Should the Association take action to prohibit short-term rentals?

The executive board has discretion to determine whether or not to take enforcement action under Conn. Gen. Stat. 47-244(g)(1-4).<sup>2</sup> Before the board takes any action against unit owners, it is helpful to articulate the problem with the short term rental (other than simply that it is a violation of the documents). If an association ends up in court it is generally more persuasive for a court to hear from unit owners and occupants that have been affected and see documented complaints (which could range from doors to common hallways being left

ajar, noise complaints, damage to property, violations of association rules and regulations by transient occupants or even problems obtaining mortgages on units at favorable rates) than to be arguing over whether a provision of the governing documents has been violated. Know your community, know the complaints and problems with the short-term rental and talk to the unit owner about the violation before deciding whether to take action.

### How do you know if there are short-term rentals in your community?

Most short-term rental sites do not show the address of units for rent, so if you suspect that a unit is listed on one of these sites, you will have to search for the listing by area (which could be by town or a specific neighborhood), by the name of the person you believe has listed the unit (known as a “host”), or by searching for amenities located in your association (for example if you have an underground parking garage, pool, community gym, or if you are walking distance to a popular venue or train station). The best way to determine whether short-term rentals are occurring in your community is to observe. If you frequently observe strangers or out-of-state license plates that stay for short periods of time, do not know their way around the community or the location of amenities or do not appear to be staying with anyone from the community, these can be signs of a short-term rental. On the more extreme end, if there are written instructions near the entrance to the unit on how to enter, a lockbox, or a keypad entry, these can also indicate a short-term rental. If you suspect a short-term rental is occurring, ask the unit owner or ask the strangers.

*“The best way to determine whether short-term rentals are occurring in your community is to observe.”*

While not every association will encounter short-term rental issues, for those that do, the good news is that you may already have the document provisions to deal with them. For associations that have or want FHA approval, check your documents to make sure there is a restriction on short-term rentals. ■

*Kelly Freitas is an associate with Feldman, Perlstein & Green, LLC, in the firm’s civil litigation practice where she frequently represents communities in their litigation matters.*

### END NOTES:

1. While two bills were proposed in 2018 (Senate Bill No. 256 and House Bill No. 5434), neither became law. Some municipalities, such as Hartford, have adopted zoning regulations and permitting requirements for short-term rentals. Hartford Zoning Regs §3.5.1(E).
2. Section 47-244(g) of CIOA provides that the executive board does not have a duty to take enforcement action if it determines that:
  - (1) The association’s legal position does not justify taking any or further action;
  - (2) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with law;
  - (3) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association’s resources; or
  - (4) It is not in the association’s best interests to take enforcement action.



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## Manager's Column...



Reggie Babcock



Rich Wechter, CMCA

### Being Practical, Part LIV Managing Small Associations

By Reg Babcock and Rich Wechter, CMCA

In this column, we tackle various topics of interest to association boards of directors and our fellow community association managers with the intent of imparting practical advice. This issue's column addresses the management of small associations and the unique challenges that boards and their managers face in handling small associations. Small associations are just as important as large associations. Revenue derived from property management cannot be the driving force behind the level of effort property management companies expend in performing their duties and responsibilities.

We will examine various issues that arise with small associations and offer recommendations on how boards and their property managers can effectively deal with such associations. We intend to address the management of large associations in our next article.

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

We are not setting a specific number in defining a small association. In some cases, the classification of a small association is purely subjective. To a manager with a portfolio of mostly 100 plus associations, an association of 50 units may be considered a small association. For other managers, an association of 20 or fewer units may fit the definition of a small association. For purposes of this article, either example will be considered a small association.

Small associations run the gambit from vibrant and engaged boards and residents to those that are hardly heard from. Managers, however, must be prepared to manage both types of small associations and we, accordingly, offer a few issues that managers face when managing small associations and suggested approaches to deal with these issues. We recognize that there are other issues that can be raised and may address them in a future article.

#### B. Issues and Suggestions

##### 1. Absence of Board Participation

In many small associations, one must pull teeth to get any unit owner to run for the Board or serve as an officer of the Association. In many cases, board members serve multiple officer positions, subject to their respective association governing documents. This puts an undue strain on those board members who volunteer their time and serves as a deterrent to other unit owners who do not want to commit to an excessive amount of time in serving on the board. This creates a vicious cycle of limited participation on the board by unit owners which puts



*"Small associations run the gambit from vibrant and engaged boards and residents to those that are hardly heard from."*

more responsibilities on the property manager and the unit owners who are on their respective boards.

We suggest a number of things that small associations can do to increase board participation. The first thing to look at is the number of board positions established by their respective association governing documents. Associations under 50 units should seriously consider lowering the number of board positions to 3. There should never be a need to have more than 5 board positions for a small association. Another suggestion is to form committees and encourage unit owner involvement. A committee member today is a board member tomorrow. Another important suggestion is to define the role of board members and officers in writing and distribute it to all unit owners. Many unit owners have no idea what a board member or association officer does and may be encouraged to participate if they better understand the duties and responsibilities asked of them. A further suggestion is to limit the number of board meetings. At most, smaller associations need to meet no more than every other month, and at least, they need to meet quarterly or semi-annually. This will also aid in increasing participation on the boards of smaller associations. Finally, it is critical

*[Continues on page 26.]*





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**MANAGER'S COLUMN...from page 24.**

that boards and managers set a civil tone of management and governance as many unit owners will run away from involvement if they see nothing but anger spill out of board or unit owner meetings. It should be the norm of small associations that the tone of all meetings reflects a tight neighborhood of civil people rather than mirror what we see in Hartford and Washington, D.C.

**2. Avoid the Strong Person Association Leader**

In many small associations, one unit owner is established as the all-powerful, all-controlling leader who directs every aspect of the association. This is generally a result of the absence of board involvement by most unit owners. This style of governance poses many problems for both association and property managers. For fellow unit owners, it deters most unit owners from seeking involvement on their board as they feel intimidated by the strong personality of the association leader. The longer the association leader retains control, the harder it is to develop a roster of new board candidates. For fellow board members, such style of governance can deter other board members from performing their duties and responsibilities and, in some cases, may lead to the resignation of fellow board members who become disillusioned with a one-person rule style of governance. For managers, it is usually difficult to work with the strong person association leader and the risk of being considered a “puppet” of such a person is quite high. In many cases, property managers become referees in settling disputes between the strong person association leader and the rest of the board. This role of property managers detracts from the work we should be doing to effectively manage associations.

We suggest a number of things that can avoid such a scenario. First, other board members need to be encouraged to speak up and fulfill their fiduciary responsibilities as board members. Associations are enriched by multiple voices of governance. Second, property managers need to seek the approval of the whole board and not solely the strong leader. While the strong leader can make a property manager's life miserable, our fiduciary duty is to the whole board and to the whole community. Finally, if all else fails, property managers should ensure that there is a paper trail of what appropriate actions the board should be taking and the failure of the board to follow that advice. If a change of leadership occurs down the road, it should be beyond dispute that the property manager attempted to manage the small association in accordance with CIOA, notwithstanding the unwillingness of the strong person association leader to follow that advice.

**3. Gaining Vendor Interest**

Many outside vendors shy away from working for small associations for a variety of reasons. The most prominent of these reasons is money. They just do not see the profit in servicing a small association and are either unwilling to submit a bid or submit a bid way beyond reasonableness. We suggest a number of actions to secure healthy vendors and reasonable bids. First, widen the field of vendor candidates. There are companies out there looking for work that can perform the tasks sought. Fight the tendency to only seek vendors within a narrow geographical area. Second, look at vendors who you are already doing

business with at other properties. Good vendors will look to take on additional work for those property managers who treat them with respect. Finally, prepare bid specifications that are realistic given the size of the association. Do not seek to address more than is reasonable.

**4. Lack of Money**

Small associations generally have less in reserve and greater difficulty in securing the large amounts of money necessary to complete capital improvement projects. Many small associations find themselves paralyzed when faced with multiple capital projects, let alone a single capital project. This leads, in many cases, to the inability to complete any necessary capital project, further placing a small association into a dark hole that they cannot get out of. There are a few suggestions we offer to avoid this scenario. First, it is critical to prioritize all of the work that a small association must complete. Second, all possible revenue approaches must be considered. While association loans are the general approach to take, the poor reserve position many small associations find themselves in may cause boards to seek more immediate revenue measures by way of a special assessment without a loan as the only viable option in the short term. In the long term, small associations must be prepared to have a healthy enough reserve to secure an association loan. Accordingly, small associations must look to building up their reserve position just as large associations do.

*“Small associations generally have less in reserve and greater difficulty in securing the large amounts of money necessary to complete capital improvement projects.”*

**5. Amount of Time Expended by Property Managers**

There is no “one size fits all” approach to managing small associations or the quantification of the amount of time that a property manager should allot to manage a small association. The best advice we can provide to our brethren property managers is to avoid getting bogged down with minutiae while providing proper attention to the small association residents. There is a tendency to offer “boutique” services to a small association simply as a result of the fact that there are fewer residents. As long as the property manager and property management company can provide such services without jeopardizing the level of service provided to all other associations, then such “boutique” services are a plus to the small association. We simply suggest that care be given to overpromising such a level of service.

**C. Conclusion**

Management of small associations offers a number of unique issues and challenges to property managers. We believe that the relationship between property managers and small associations can be strong and productive. We hope that this article will aid property managers and small associations in developing a strong and healthy relationship. ■

*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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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.

## PAVING ISSUES

By Timothy Wentzell, P.E.

Probably one of the most daunting tasks approaching common interest communities as they age is the condition of their roadways and parking lots. As communities reach their mid-teens through early twenties, they invariably start to see different types of pavement failures occurring. The three most common types of pavement failure are as follows:

- Alligator cracking is a structural failure that is caused by repetitive load applications that are greater than what the pavement was designed. It can also be caused by excessive earth movement under the pavement. The failure can be either in the surface, base, or sub-base layers of the pavement. Cracking usually first begins in the wheel path with small, longitudinal cracking and progresses to an alligator pattern.
- Edge cracking is similar to alligatoring, only it is located within 1-2 feet from the edge of the pavement. Failure begins at the edge of the road and progresses towards the wheel path. Pavement edge failure will result in worsening of the wheel path condition by allowing moisture intrusion in the subgrade soils and base materials.
- The last type of pavement distress is random block cracks. This type of cracking will divide the pavement into rough rectangular pieces. This type of cracking is usually the result of water penetration into the subgrade and causes frost heaves or expansion and contraction of the asphalt in normal weather conditions.

Depending on the significance of the pavement failure and how the pavement was constructed with regard to the sub-base, base, thickness of pavement, and the level of degradation, the methodology of remediation can vary. The two most common methods of repair and/or replacement for common interest communities are referred to as reclaiming or overlaying. A general description of these is as follows:



**Reclaiming.** This process, which is often called in-place reclaiming, is where the existing pavement is ground up and mixed with the existing base. This enhances the base stabilization properties and has the net effect of thickening and reinforcing the base. The greatest advantage to this is that both pavement layers are now new and can be expected to have a useful service life of approximately 15 to 18 years. The disadvantage of reclaiming is that this process is much more of a major construction undertaking, as the parking lots and driveways will inevitably be unusable for a longer period of time. It will be necessary to dig approximately six inches outward from the existing curbs during this process, therefore requiring some re-landscaping to return the site to its existing condition. In addition, there will be excess materials from this process that will need to be removed to maintain

some of the existing grades, as this process adds 2½ to 3 inches of material overall.

**Patching and Pavement Overlay.** Patching and overlay consist of cutting out the worst alligator areas, the cracks with wide separation, and some of the areas where the existing pavement would not provide a suitable base. These areas are then patched with new asphalt, including sealing the edges with tack coat where the cutouts have been done. Then some of the small cracks may be sealed and a shimming process that involves a machine overlay of a thin layer of stickier asphalt is done, where necessary, to correct irregularities in the pavement surface as well as to reinforce some areas that, although damaged, are in relatively good condition. Then an overlay of class 2 bituminous asphalt would be applied on top of the existing pavement, resulting in a new wear surface. We would typically recommend, based on the conditions of the pavement, that a two-inch overlay be done, as this would be less likely to exhibit what is called reflective cracking, a phenomenon where the existing cracks appear



through the new asphalt, which is very difficult to prevent. However, a thicker overlay will reduce this. In addition, the worst damaged areas of curbing are also typically replaced.

Re-paving can be a complex task for an association to decide upon as certainly understanding what makes for a suitable base (for instance, at what level of degradation is it reasonable to consider an overlay?) will affect the final product and the expected life to be received. There is nothing more discouraging for a condominium association to undertake a large project and, within two or three years, see the pavement look almost as bad as it was before starting the task. Therefore,

a careful review of what makes up an appropriate re-paving process is critical. For example, many associations have pavement elevations in front of garage doors or units that can affect future drainage and this needs to

be taken into account as part of the planning for a project as well as the condition of drainage systems under the pavement and whether items such as storm drains structures need to be rebuilt or can be reutilized all need to be considered when undertaking this type of task.

However, one of the more significant decisions involves the methodology of how replacement pavement is purchased. For example, municipalities and other government entities almost always purchase

pavement on a per tonnage basis, thereby insuring that they receive the depth or thickness that was contracted for or, if they don't, they are not liable for payment. A typical homeowner, however, typically only specifies the thickness of the pavement for a driveway and pays a lump sum. Thus, it is easy to recognize the effect on a large paving project where a significant amount of the cost of the paving program is for purchase of the asphalt materials (for example, if a project is specified as having a two-inch compaction thickness and the contractor applies an inch and a half, that would be a 25% reduction in the material cost for the contractor and would certainly affect his profitability).

[Continues on page 30.]

*“There is nothing more discouraging for a condominium association to undertake a large project and, within two or three years, see the pavement look almost as bad as it was before starting the task.”*

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### TECHNICAL EXPLANATIONS...from page 29.

Therefore, many common interest communities elect a bit of a hybrid system of the two methods used when a homeowner may buy a new driveway and how municipalities purchase pavement.

We have used this method successfully on many projects over the years. This is where a calculation is undertaken with regard to the expected amount of pavement to be utilized and, using certified weigh slips from the material suppliers (i.e., the asphalt plan), payment is made based on the actual asphalt received; however, with a cap on the tonnage such that the association has a good handle on what the final cost of the project would not exceed.

Certainly, there are other methodologies, but this is one to be considered as certainly, once the pavement is in place, it can be difficult for a homeowners association to determine the actual installed thickness.

Another important issue with paving projects is the fact that asphalt is very much dependent on the price of crude oil and, hence, its price can vary significantly from season to season, sometimes lately, even from the beginning of a season to the end of the season. This makes budgeting for projects like these very difficult. However, if there is good news in this picture, because of the current high price of paving, many people are postponing these tasks, making the availability of quality contractors better. Thus, now is a good time to get onto their schedule for the upcoming season. ■

*Please address any questions or areas of interest that you would like answered in future columns to Timothy Wentzell, P.E., (860-289-8121) (e-mail: ConnPropEng@cox.net).*



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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:

### J.C. from Middlesex County writes:

Dear Mister Condo,  
How much notice is required to owner if management company needs to enter?

— — —

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

### C.P. from Middlesex County writes:

Dear Mister Condo,  
My daughter bought a condo where her association fees are \$450.00 per month. Due to future major roof improvement job her payment will increase by \$300.00. We feel the seller had to know about this upcoming project and didn’t reveal this very crucial information. The other choice to pay would be a one-time payment for \$22,000.00 per unit. There are 40 units. Something doesn’t seem legal here. Your thoughts.

### Mister Condo replies:

C.P., I am sorry for your daughter’s predicament. It is quite possible that the previous owner was aware that there was a possibility of a Special Assessment but unless the Special Assessment had already been passed and levied against the unit owners of record, it is unlikely that they did anything illegal. In fact, the knowledge that this Special Assessment was looming may have been a very important factor in his/her decision to sell. You can and should speak to an attorney to make sure the seller had already been informed of the assessment and failed to provide that information. If they signed a disclosure statement where they lied about the Special Assessment, you may very well have a case. All the best!

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Scott Sandler, Esq.,  
CCAL

## Staggered Terms, In Simple Terms

By Scott J. Sandler, Esq., CCAL

There are a number of potential benefits to electing board members to staggered terms. Unfortunately, the process and requirements for creating staggered terms can be very confusing.

### What are Staggered Terms?

Staggered terms for board members are multi-year terms under which the terms of individual directors expire on a rotating basis. At each annual meeting, the owners conduct elections only for those directors whose terms are expiring. The terms of other board members have not yet expired, and those board members will remain on the board.

### What are the Benefits of Staggered Terms?

By default, the terms of all board members expire annually. This means that the association must elect a new, full board every year at the annual meeting.

By serving on the board the board members gain invaluable knowledge and experience. They have spent the past year or more learning about association governance and developing experience concerning how best to serve the community. If the directors' terms last for only one year, and they choose not to serve another term or are not reelected, that knowledge and experience is lost.

Staggered terms allow for more seasoned and experienced board members to work with the newer board members. Information and experiences can be shared and passed on, rather than lost in the transition from one group of board members to another.

### How are Staggered Terms Set?

**Statutory Authority.** Most Connecticut associations are incorporated as nonstock corporations. As such, they are governed by the Connecticut Revised Nonstock Corporation Act ("Nonstock Act").

Under Section 33-1086 of the Nonstock Act, a nonstock corporation may stagger the terms of directors, only to the extent provided for in its bylaws or certificate of incorporation. If staggered terms are permitted under the bylaws or certificate of incorporation, then the Nonstock Act requires the corporation to place directors of approximately equal number, into groups, and to elect each group as follows:

- The first group is elected for a one-year term.
- The second group is elected for a two-year term.
- The third group is elected for a three-year term.
- And so on. . .



*"Staggered terms allow for more seasoned and experienced board members to work with the newer board members."*

The Nonstock Act provides for no more than five groups of directors. At each successive annual meeting, the successors to the directors whose terms are expiring are elected for a term of two, three, four, or five years, as the case may be.

**Documentary Authority.** The bylaws of most Connecticut communities permit the owners to elect board members for staggered terms.

The typical provision states that at least one-third of the members of the board must expire annually. This limitation (which is very common, though not required by law), limits the extent to which the association can create groups as provided for under the Nonstock Act. For example:

- **Three Member Board.** The association can create three groups of directors. Each group consists of one director.
  - Director #1 is elected for a term of one year.
  - Director #2 is elected for a term of two years.
  - Director #3 is elected for a term of three years.
  - All successors are elected for a term of three years.

*[Continues on page 34.]*



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## STAGGERED TERMS...from page 32.

- **Five Member Board.** The association can create two groups of directors. One group consists of three members, and one group consists of two members.
  - The directors in one group are elected for a term of one year.
  - The directors in the other group are elected for a term of two years.
  - All successors are elected for a term of two years.



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- **Seven Member Board.** The association can create two groups of directors. One group consists of four members, and one group consists of three members.

- The directors in one group are elected for a term of one year.
- The directors in the other group are elected for a term of two years.
- All successors are elected for a term of two years.

- **Nine Member Board.** The association can create three groups of directors. Each group consists of three members.

- The directors in group #1 are elected for a term of one year.
- The directors in group #2 are elected for a term of two years.
- The directors in group #3 are elected for a term of three years.
- All successors are elected for a term of three years.

### Who Decides on Whether to Set Staggered Terms?

Under Subsection 47-245(b) of the Connecticut Common Interest Ownership Act, the board of the association cannot set the terms of the directors. This power is reserved to the unit owners.

Therefore, the owners present at the annual meeting, in person or by proxy, may vote on whether to elect the board members for staggered terms. The vote requires the approval of a majority of the total number of votes cast, assuming that a quorum is present. ■

*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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## The Future Is Here:

### *A Technological Break-Through in Sustainable Lake & Pond Management*

By Bo Burns

**A**lgae: it comes in many forms and colors. It's slimy, stinky and can ruin the beauty and function of your community lakes and ponds. It's also one of the oldest known organisms on this planet, which might explain its knack for survival, even under the toughest conditions. Over time, common interest communities and property management companies have learned to pick sides when it comes to the safe eradication of stubborn and harmful algal blooms - some in favor of natural management techniques; others in support of applying EPA-registered algacides to ensure the job gets done. But this year, a new game changing technology will make the management of stubborn algae blooms a no-brainer with more long-lasting results that are beneficial for the environment.

Nanobubble aeration is a premium innovative technology designed to exceed the capabilities of traditional lake and pond aeration systems by providing up to 79,000x more oxygen! Put simply, nanobubbles are like traditional aeration systems on steroids. Produced by compact on-shore generators, these ultra-fine bubbles are completely invisible to the eye and about 1 million times smaller than ordinary bubbles. As a result of their tiny size, nanobubbles have no natural buoyancy and do not rise to the surface of the water and burst like you might

expect. Amazingly, they remain within the water column for up to 2-3 months, providing unparalleled oxygenation to struggling lakes and stormwater ponds in your community.

The benefits of a continuously oxygenated lake or pond are enormous. First, oxygen is a key player in the battle against undesirable nutrients by facilitating the conversion of phosphorus to forms that do not sustain algae development. Excess nutrients can easily enter community lakes and ponds in the form of grass clippings, lawn fertilizers, trash, and droppings from dogs, geese and other wildlife. The presence of oxygen also helps to balance pH and other related water quality parameters that encourage the growth of fish, native organisms and beneficial phytoplankton - rather than detrimental bacteria like E. Coli, and cyanobacteria species that can be toxic to humans and wildlife and are believed to contribute to degenerative diseases like ALS, Alzheimer's and Parkinson's.

Another amazing benefit of nanobubbles? In addition to engulfing an entire aquatic ecosystem in concentrated oxygen, nanobubbles are negatively charged and, therefore, attracted to positively charged organic matter in the water column. When they connect with positively charged metals and pollutants, including dangerous cyanobacteria

*[Continues on page 39.]*



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**LAKE & POND...from page 35.**

toxins, nanobubbles cause them to implode(!), holistically cleansing the waterbody from the inside out.

This innovative water quality solution did not just appear overnight. Nanobubbles have been used in the medical field, the oil and gas business, food preparation areas, and even the beauty industry for purification purposes. Through many promising tests and trials, we've learned some exciting things: Property owners who utilize nanobubbles can expect to significantly reduce and even eliminate reliance on traditional algaecides. Nanobubbles have no negative impacts on fish and wildlife when monitoring and managing dissolved oxygen levels—in fact, research suggests nanobubbles help make fish more active, lead-

ing to better fishing and recreation. Nanobubbles help strengthen the health and longevity of the entire food chain, starting from the smallest beneficial organisms in your pond and ending with your family.

Nanobubble aeration isn't just a quick fix or band-aid; it's a custom, data-driven solution rooted in years of scientific study and first-hand monitoring experience. The technology doesn't necessarily replace regular proactive management strategies, but it is truly one of the missing pieces to the puzzle of sustainable freshwater management. Used in conjunction with traditional tools like floating fountains, buffer management, mechanical hydro-raking and regular lake and pond inspections, nanobubbles can help keep your water resources healthier and prettier for much longer periods of time, while eliminating nuisance algae and dangerous cyanotoxins before they begin causing problems.

Nanobubble aeration is poised to transform the entire way we approach the management of lakes and ponds and will be an invaluable tool as urban development and undesirable nutrient loading continue to increase. This new technology in to the freshwater management realm will serve to further enhance water quality in your community and throughout the world. ■

*Bo Burns is a Market Development Manager at SOLitude Lake Management. This article is the first in a series featuring new break-through technologies that will revolutionize the management of lakes, stormwater ponds, wetlands and fisheries in 2019.*



(left) before, and  
(below) after.



Courtesy CAI-CT.

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