

Common Interest

The Official Publication of CAI-Connecticut

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TOO OLD
FOR CIOA**

**Homeowner's
Column:
BOARD
ACCOUNTABILITY**

**Tightening the Nuts
and Bolts of the
UNIT OWNER'S
POLICY**

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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.



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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

"...I have been working with the Foundation for Community Association Research on a study of Aging Infrastructures."

Happy Spring! I know community associations are anxious to get started on Capital Projects, maintenance programs, landscaping, and enjoying the nice weather.

Many associations have spent the winter planning and meeting about larger capital projects, schedules and selecting contractors. Board members are representing the community members in the association's decisions on project specifications, contractors, professional oversight fees, and community communications.

Most recently, I have been working with the Foundation for Community Association Research on a study of Aging Infrastructures. We are in the first phase of our research. It is interesting to note that there are common themes amongst the interviewees. We will be publishing the report and our findings. Stay tuned.

A shared concern we have been hearing is the need for professional advisors, architects, engineers, and or a third party clerk of the works. Board members and committee members basically have a full-time job on their hands once these projects get started in terms of receiving the information and making decisions as the work progresses. In the end it's worth it to protect the association's assets and best interests.

I want to thank the Spring Fling Committee and the Next Gen Committee for a great event on May 8th at Auer Farm in Bloomfield. It was a beautiful day. Thanks also to Karl Kuegler and his team from Imagineers, LLC who did great work on the trash can pizza — it was the hit of the party!

Our next events are coming up in June – our Annual Paradise event in Norwalk on June 5 and the Annual Golf Tournament on June 10 at Lyman Orchards Golf Club. And don't forget about Summer Sizzler at Amarante's in East Haven. As is the case with our trigonal events, there will be excellent education programs both condo board members and community association managers, followed by fun networking. Join us! ■



March 14, 2020

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From the Chapter Executive Director

**"If you want happiness for an hour, take a nap...
If you want happiness for a lifetime, help
somebody else."**

~ Chinese proverb



Kim McClain

Courtesy CAI-CT.

We live in a stress ridden world these days. There are many well-known strategies for managing stress such as meditation, yoga, better diet, etc. Included in the mix is helping others. Research studies indicate that random acts of kindness such as buying coffee for a friend, picking up litter on your walking path or helping someone in need will enhance your mood. Perhaps you know a neighbor who could use a pick-me-up with some fresh picked flowers from your yard. Or maybe one of your condo's board members could use some assistance getting chores done around their own unit. Sometimes the simplest tasks net the greatest appreciation.

CAI-CT has a million reasons to appreciate our great volunteers. They never cease to amaze in terms of their creativity and willingness to jump in and help out. Although we do have a small staff, our major successes are due to the dedication of our volunteers who keep this organization humming along.

Educated association board members are the best investment any association can make in its health both long and short term. Yet we are continually confounded about the number of board members who believe they do not need to take advantage of any learning opportunities. With over 5,000 common interest communities in our state it is astounding to note the relatively small population that sees the benefits of discovering the many intricacies of association operations. Talk about stress relief! That old saying about 'knowledge is power' rings true. Board members who attend our programs typically find that by making some adjustments or incorporating new policies that were discussed in the program, they are more empowered to do what will help their community be on a good path.

We have some great programs coming up during the summer as well as the fall. Check them out in the calendar section and on our website: www.caict.org. Register as soon as you can to make sure we save a seat for you! ■

Legislative Update

As of press time, the General Assembly is still a few weeks away from adjournment. We are anxiously awaiting confirmation that the language pertaining to common interest communities has been removed from HB 6291 AN ACT CONCERNING PROTECTIONS FOR CERTAIN GROUP CHILD CARE AND FAMILY CHILD CARE HOMES. Over the past month or so, we have faxed over 420 petitions in opposition to this bill. (Thank you again to all of you who took the time to sign a petition!) Our lobbyists have been working diligently with the bill's sponsor to explain the significant unintended consequences of how this bill will negatively impact associations throughout the state.

We are also hopeful that the language that we worked out with the Department of Consumer Protection with respect to changes in the managers' licensing law will make it across the finish line and get passed by the House and Senate. ■



Stay up-to-date on Legislative Issues at www.caict.org.

UPCOMING CAI-CT EVENTS

M-202: Association Communications

Friday, June 21, 2019, 8:30 am • 1.5 day blended learning course
Natick, Massachusetts

Learn key communication techniques to improve resident and board relations.

This course offers communication strategies that will benefit both new and experienced managers and provide the skills to better understand owners and volunteers. You'll learn the basics of good customer service and gain the tools to effectively handle complaints, write newsletters and reports and manage public relations.

\$459 - CAI Members / \$559 - Non-Members
Visit www.caionline.org to register.

M-100: The Essentials of Community Association Management

Thursday - Saturday, July 11 - 13, 2019 • Seminar Format 2.5 days
(Thursday & Fri. 8:30 am - 5:30 pm; Saturday 8:30 am - noon)
Hartford, CT

This comprehensive community association management course provides a practical overview for new managers, an essential review for veteran managers and an advanced course for board members.

\$459 - CAI Members / \$559 - Non-Members
Visit www.caionline.org to register.

M-380: Litigation Training For Managers

Thursday & Friday, July 18 & 19, 2019 • 2 days
(Thursday 9 am to 5 pm; Friday 9 am to noon)
Southbridge, Massachusetts

Learn how to prepare for the possibility of litigation. This course covers the many topics leading up to, during, and following litigation and what the community manager can do to be prepared for any situation.

\$459 - CAI Members / \$559 - Non-Members
Visit www.caionline.org to register.

CAM ED (Community Association Manager Education) CHRO & Fair Housing

Thursday, August 1, 2019 - Open to Managers
Education from 3:00 - 5:00 pm / Networking Party 5 - 7:00 pm
Amarante's Sea Cliff, East Haven

For condominium associations, treating everyone the same under a written set of rules may seem like the best way to avoid claims of discrimination. In reality, treating everyone the same without exception can be discrimination. If a person is disabled and requires a reasonable accommodation to use and enjoy their home, the association must consider and grant such requests so long as they are reasonable. Disabilities may or may not be obvious. What can you ask in considering the request? It is not as obvious as you might think. It is important for all associations to recognize a request for reasonable accommodation and have a set procedure in place to consider and respond promptly to such requests. As in other aspects of association management, risk avoidance is the key. Being keenly aware of the types of situations that could trigger a CHRO complaint will lead to more harmonious community living.

Speakers: Kristen Schultze Greene, Esq. - Feldman, Perlstein & Greene, LLC; Christopher Hansen, Esq., Sandler, Hansen & Alexander, LLC; Michelle Dumas-Keuler, Esq. - CHRO

Join us for Summer Sizzler immediately following, included in price of admission.

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

GOOD FOR 2.0 CONTINUING ED CREDITS

HELP ED

(Homeowner Education Leader Program)
Legal & Insurance Panel

Thursday, August 1, 2019 - Open to Board Members
Education from 3:00 - 5:00 pm / Networking Party 5:00 - 7:00 pm
Amarante's Sea Cliff, East Haven

Our program is designed especially for savvy community association board members will consist of a panel of two attorneys and an insurance expert. They will delve into the topics of:

- 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.
- PLENTY OF TIME TO ASK YOUR LEGAL QUESTIONS!

Speakers: Carrie Mott, EBP — *Bouvier Insurance*
Steven J. Stafstrom, Jr., Esq. — *Pullman & Comley, LLC*
Kristie Leff, Esq. — *Bender, Anderson & Barba, P.C.*

Join us for Summer Sizzler immediately following, included in price of admission.

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

SUMMER SIZZLER PARTY

New Haven County Networking Party

Thursday, August 1, 2019, 5:00 - 7:00 pm
Amarante's Sea Cliff, East Haven

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.

\$10 - Board Members & Managers / \$75 - Service Providers

Sponsorships are available for this event.

CONDO INC.

Saturday, September 14, 2019
Open to Board Members & Unit Owners
8:30 am - 3:00 pm • Light Breakfast, Lunch & Education
Farmington

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



Visit www.caict.org to register and for updated information.

NEW & RENEWING MEMBERS

Welcome New Members

Associations

Ballymeade Association, Inc.
Birchwood Commons Condominium Association
Four Beaches Condominium Association
Hatfield Mews Townhouse Owners Corp.
Hillside Place at New Britain Condominium Association, Inc.
Hunter's Green Condominium Association
Long Hill Farm Association
Lydall Woods Colonial Village, Inc.
Mattabasset Condominium III
North Field Condominium
North Lake Condominium Association
Orchard Hill of Bristol
Rivermead Homeowners Association
Rope Ferry Commons
Sheltered Cove Condominium Association
Sterling Woods
Suffield Meadow Phase I, Inc. (Suffield Meadow Club, Inc.)
Villages at Loveland Hills
Webster Hill Estates

Individual Managers

Jessica Alarcon-Calderon
Linda Magee Arvers, CMCA
Dana Cutler
Joshua Franklin Dobbin
Marissa Fogarty, CMCA
David E Gottschalk
T.W. Hughes
June K. Laforge
Stephanie Leavitt, CMCA
Sandra Ann Martinik, CMCA, AMS
Doug Newman
Nancy Poliski
William Joseph Thompson, Jr., CMCA
Carol A. Tuccillo

Management Companies

Sentry Management, Inc.

Business Partners

A&J Construction

Thank You Renewing Members

Associations

Beacon Hill Association, Inc.
Billingsgate Condominium Association, LLC
Branford Business Condominium
Bryewood Condominium Association, Inc.
Candlewood Village Condominiums
Carriage Crossing Association, Inc.
Carter Heights, Inc.
Caswell Cove Condominium Association
Cedar Crest Condominium
Cedar Hollow Association, Inc.
Chapel Hill Condominium Association
Chase at Foxboro
Chateau Wood Condominium Association

Chatsworth Village
Chestnut Hill Homeowners Association
Country Walk Association, Inc.
Countryside Manor Condominium Association, Inc.
Currier Ridge Condominium Association, Inc.
Dartmoor West Townhouses Association, Inc.
Deer Hill Arms Condominiums Association
Fennwyck Estates
Ferry Landing Association, Inc.
Fieldstone Village of Orange, Inc.
First Town Square Association
Fox Hill II
Franklin Square Condominium Association
Gloria Commons Homeowners Association, Inc.
Governor's Bridge Homeowners Association
Greystone on the Lake Condominium
Guilford Mill Association
Hayes House Condominium Association
Heather Ridge Condominium Association Inc
Heatherwood Condominium Association
Hopmeadow Place Condominium
Kendall Green Condominium II Association
Knollbrook Condo Association
Lakeside Commons Condominium Association
Lambert Common Association, Inc.
Legend Hill Condominium Association
L'Hermitage Condominium Association Inc
Marina Bay Association
Mills Pond Condominium Association
Montgomery Village
Mountain Commons Condominium
New Concord Green
Newfield Commons Condo Association
North Farms Condominium Association, Inc.
Oaks Condominium Association, Inc.
Old Mill Townhomes
Palmer Landing Community Association
Parker House Association
Parkview South Condominium Association
Regency at Prospect Association
Regency Towers
River Colony of Guilford Association, Inc.
South Mill Village Association
Spice Glen Homeowners Association
Spinnaker Association, Inc.
Sterling Woods Master Association
Sylvan Point Condominium Association
The Atrium Of Portland
The Crossings Homeowners Association
The Fairways at Torrington Condominium Association, Inc.
The Meadows of Enfield Condominium Assn., Inc.
The Metropolitan Condominium Association, Inc.
The Village at Crystal Springs Condominium Assn., Inc.
Tuscany Hills Condominium Association, Inc.
Village Victoria Condominium Association
Watertown Crossing Condo Association
Westside Woods Condominium

Winnipauk Village Condominium, Inc.
Wolfpit 27 Condominium Association

Individual Managers

Margaret Behan
Catherine L. Bowman, CMCA, AMS
Joseph W. Brennan, CMCA
Kelley Brewster, CMCA, AMS, PCAM
KC Anne Budrewicz, CMCA, AMS
John F. Capone
Hakki Cinel, CMCA, AMS, PCAM
Robin Cleary
Keith William Confalone, CMCA
Kim Daley, CMCA
Alex Danis
Jessica Didomenico
Jean Dobbin
Kathy Dubai, CMCA
Sandra Edge, CMCA
Jesse Englehart, CMCA, AMS
Matthew Felner, CMCA
Kathy Finnegan
Maria C. Fossaroli, CMCA
Catherine M. Garofalo, CMCA, AMS
Melissa Gouveia, CMCA
Mary Heberger, CMCA
James Hollyday, Jr., CMCA, AMS
John Hufcut
Kent Humphrey, CMCA
Laura Lee Judge, CMCA, AMS
David Leopold, PCAM
Dawn Mattei
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Richard E. Mellin
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Kim Murray, CMCA
David Edward Paniccia, CMCA, AMS
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Shari L. Romero, CMCA, AMS
Rachael E. Rosario, CMCA, AMS
Suzanne S. Rourke, CMCA
Peggyann Routhier, CMCA, AMS
Jared Schulman, CMCA, AMS
Christine Alexandra Segal, CMCA, AMS
Alison L. Shaheen, CMCA
Leanne E. Shoop, CMCA, AMS
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Melanie Paige Sivo, CMCA
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Richard Wechter, CMCA
Chris Weiland, CMCA

Sabrina F. Wentworth, AMS, PCAM
Dianna Marie Wilson, CMCA, AMS
Sheila Zaniewski, CMCA
Barbara Zinn, CMCA

Management Companies

Axis Property Management
Barkan Management Company, Inc.
CM Property Management
Connecticut Real Estate Management, LLC
Empire Property Management Corporation
On The Mark Management
Premier Property Management
SOMAK Property Management
White & Katzman Management, Inc.

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All Waste, Inc.
Alliance Association Bank
Allied Universal
American Leak Detection
Becht Engineering BT, Inc.
Beebe Landscape Services, Inc.
BELFOR Property Restoration
Bill's Landscaping LLC
Blue Wave Pool Service & Supplies, Inc.
BrightView Landscape Services
Building Renewal, LLC
Carney, Roy & Gerrol
CCA, LLC
CINC Systems
CSC ServiceWorks
Digiorgi Roofing & Siding, Inc.
Feldman Perlstein & Greene, LLC
John C. Fiderio & Sons, Inc.
JP Carroll Construction, Inc.
Leading Edge Exteriors, LLC
Mono-Crete Step Co of Ct, LLC
Popular Association Banking
Pro-Klean Cleaning & Restoration Services
Pullman & Comley, LLC
SOLitude Lake Management
Tangible Properties, LLC
The Reardon Agency, Inc.
Tooher - Ferraris Insurance Group
V. Nanfito Roofing & Siding, Inc.
Windsor Federal Savings



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Statutory Snippet...

Does a Member have a right to review books and records of the Association? (Part 2)

c. Are there books and records which the Association can withhold or otherwise prevent a Member from reviewing?

Yes. (Common Interest Ownership Act, Subsections 47-260(c) and 260(d)).

The association must withhold its records from inspection and copying to the extent that they concern the following matters:

- (1) Personal information, which means information capable of being associated with a particular individual through one or more identifiers, including, but not limited to, a Social Security number, a driver's license number, a state identification card number, an account number, a credit or debit card number, a passport number, an alien registration number or a health insurance identification number, and does not include publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media;
- (2) Personnel, salary, and medical records relating to any specific individual, unless the individual agrees to waive the records' protection from disclosure to the requesting unit owner; or
- (3) Information whose disclosure would violate any law, including but not limited to, CIOA as amended.

The association may withhold the following records from inspection and copying that concern the following matters [Subsection 47-260(d)]:

- (1) Contracts, leases, and other commercial transactions for the purchase of goods or services that are under current negotiation;
- (2) Existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (3) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for the enforcement of the declaration, bylaws, or rules;
- (4) Communications with the association's attorney that are protected by the attorney-client privilege or the attorney work-product doctrine; in other words, confidential communications between the attorney and the association for the provision of legal advice and documents prepared by the attorney for the association in connection with existing or potential lawsuits involving the association;
- (5) Records of an executive session of the board; and
- (6) Files and records for individual units other than the unit of the requesting unit owner. ■

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

Legally Speaking...



Adam Cohen, Esq.

Is My Condo Too Old For CIOA? *The Answer is Almost Always No*

By Adam J. Cohen, Esq.

Many association officers and management companies are surprised to learn that the Common Interest Ownership Act applies retrospectively in several important ways to communities created long before its own 1984 effective date. Understanding this is crucial to determining which laws apply when issues come up concerning the board's administrative powers, recordkeeping requirements, dues enforcement procedures, and in nearly everything else the association does. Older condos which assume they have blanket immunity from the newer statute — or who don't comply with prior laws easily forgotten under the more widespread modern practices — can find themselves in very hot water. Connecticut adopted the Common Interest Ownership Act ("CIOA") in 1983 to update and expand state laws governing communities in which the owners share property responsibilities. These typically include condominiums, where every owner owns a fraction of the common areas in addition to his or her own unit; planned communities in which common areas are owned by a corporate entity of which each unit owner is a member; and cooperatives, where the residents are merely members of such a corporate entity which owns not just the common areas but also the units themselves. It had become clear by the early 1980s that existing laws were not comprehensive or flexible enough to handle this booming segment of the residential industry.

Based on a model law proposed for states throughout the nation, CIOA was Connecticut's third law to regulate these types of communities. The second law, the Condominium Act of 1976, had been more limited and completely replaced the first law, the Unit Ownership Act of 1963, for virtually every condominium created after December 31, 1976. But the number of new communities exploded after that. Reluctant to change the ground rules under which thousands of communities were already operating by 1984, Connecticut lawmakers instead chose to leave the Condominium Act on the books when they adopted CIOA. Instead, they left complicated instructions on how to tell which of the two laws would apply depending on the type of community and the situation it faced.

CIOA always applies to communities which were created after January 1, 1984 except for a small number of specialized, nonresidential, or conversion communities in very limited circumstances. Otherwise, no part of the Condominium Act ever applies to these newer communities in any way. CIOA also applies to nonresidential and pre-1984 communities to the extent they may choose to "opt in"

"Older condos which assume they have blanket immunity from the newer statute — or who don't comply with prior laws easily forgotten under the more widespread modern practices — can find themselves in very hot water."



by amending their founding documents to explicitly say so. Still, they cannot adopt the "rights, powers or privileges" CIOA offers without its "correlative obligations, liabilities and restrictions" — in other words, they must take the law's burdens with its benefits.¹

CIOA goes on to say that most of its provisions, which it specifically lists out, also apply to communities created before January 1, 1984 — again with narrow exceptions for those which are nonresidential, were created by special legislation, or have fewer than twelve units and no development rights. The most important of these provisions deal with the powers of the association's board; how meetings must be noticed and conducted; association records and resale certificates; how to collect unpaid dues and fines through liens and lawsuits; and the procedures for amending the declaration. Other provisions of CIOA which also apply to older communities relate to unit deeds, municipal codes and taxation; the effects of merging or consolidating communities; and the kinds of court awards available for violating CIOA. Nearly all of the major CIOA amendments adopted in 2010 also apply to communities regardless of their age. Still, CIOA has two important caveats for its retrospective provisions: they "apply only with respect to events and circumstances occurring after January 1, 1984, and do

not invalidate existing provisions of the declaration, bylaws or surveys or plans of those common interest communities.”²

Communities created before 1984 are not governed by CIOA’s default rules on unit boundaries, certain mortgagee rights, the contents of the bylaws, and a few other provisions. This can be a trap for the unwary. For example, an amendment to the bylaws of an older condominium would be unenforceable unless recorded in the town’s land records according to the Condominium Act, but the same amendment would be perfectly valid if the condominium had “opted in” to CIOA or was declared in 1984 or later, because CIOA requires only that amendments to the declaration, not the bylaws, be recorded.³

Since so many communities are newer and therefore need not do so, boards and management companies might easily forget to comply with the recording requirement for older condominiums, leaving their bylaw amendments unenforceable.

The moral is that a community can never assume that only the Condominium Act governs its affairs simply because it was created before 1984. Instead, the board or management company must very closely examine its declaration, bylaws, and other founding documents on a case-by-case basis and compare them to the complex statutory directives for determining which law will govern a particular situation. The Condominium Act or other prior law will generally only apply if it is invoked in the founding documents by name, if those documents are specifically inconsistent with CIOA on the issue, or if the issue is not addressed in the statutory sections CIOA enumerates as superseding the older law. Otherwise, CIOA will almost always govern.


Every community and management company should therefore work closely with its attorneys to make sure it is following the right law for everything it does and every issue it faces. ■

END NOTES:

1. See Conn.Gen.Stat. §§ 47-214, -215, -217, and -218.
2. See Conn.Gen.Stat. §§ 47-216 and -217.
3. Compare Conn.Gen.Stat. § 47-80(a) with § 47-248.

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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Financially Speaking...



Daniel Levine, CPA

Other Accounting Compliance

By Daniel Levine, MBA, CPA

As many know, or soon find out, the accounting function of their community can be quite complex to those without a financial background. Since the association is a formal corporation and therefore considered a business, there are many reporting deadlines to make sure are not missed. One category of these is the information reporting required by the Internal Revenue Service (IRS). While most are aware about filing income tax returns annually, information reporting requirements have different deadlines and rules.

This article will focus specifically on a common information reporting requirement for associations: Form 1099 Miscellaneous (1099-Misc) and is framed as a “frequently asked questions” to help provide an overview of the requirements.

What is Form 1099-Misc. and what is reported on it?

1099-Misc. is a type of form that the IRS requires businesses to file to report income paid to certain 3rd parties.

There are multiple types of income that are reported on the form, but the more common types reported are:

- Rents paid to a 3rd party
- Payment for services performed by someone who isn't an employee (non-employee compensation)
- Prizes and awards paid to a 3rd party
- Payments to an attorney

Why do I have to file Form 1099-Misc.?

The simple answer is the association is required to by the Internal Revenue Service to prepare them and faces penalties if they don't.

However, the IRS has implemented this reporting, not to just put more work on businesses, but uses the forms to track income received by unincorporated businesses and individuals. By receiving a 1099-Misc from the association the IRS can then match that against the total income reported by the 3rd party on their tax return to see if there are any discrepancies.

Who do I send Form 1099-Misc to?

The IRS has specific rules governing who receives a 1099-Misc. In general, the following rules apply to whether you should send a 3rd party a Form 1099-Misc:



“This article will focus specifically on a common information reporting requirement for associations: Form 1099 Miscellaneous...”

• Question #1: Are they incorporated?

- If they are incorporated (a C Corp or S Corp), then the 3rd party is exempt from having to receive a Form 1099-Misc unless there is an exemption carve out. (See #3 below)
- If they are not incorporated (such as a LLC or sole proprietor), then they may need to receive a Form 1099-Misc depending on the next question.

• Question #2: Did the association pay them more than \$600 for a reportable income type?

- Note: purchases of goods (materials from a local hardware store), would not require reporting of Form 1099-Misc.
- If the answer to question 1 is “No” and the answer to question 2 is “Yes,” then they should receive a 1099-Misc.

• Question #3: Do they fall under any exemption carve out?

- Not all 3rd parties who are incorporated qualify to be exempt from receiving Form 1099 Misc.

- Attorneys are the most common exemption carve out an association will encounter.
- Per the IRS instructions:
 - “Reportable payments to corporations.:
 - The following payments made to corporations generally must be reported on Form 1099-Misc.
 - Attorneys’ fees reported in box 7.”
 - “The term “attorney” includes a law firm or other provider of legal services. Attorneys’ fees of \$600 or more paid in the course of your trade or business are reportable in box 7 of Form 1099-MISC, under section 6041A(a)(1).” of the Internal Revenue Code.
- Tax Identification Number
- 3rd Party Information
- Business Name
- Address
- Tax Identification Number
- Total amount of payments paid to the qualifying 3rd party
- These amounts should not include any state levied taxes imposed on the association by the seller of the services.
- For example, the most typical tax that is included on services is sales tax. Sales tax should not be included as part of the reported income to a 3rd party.
- The total amount of payments would be inserted into the appropriate box on the form depending on the type of payment reported (rent, non-employee compensation).

How do I know if a 3rd Party is incorporated?

For every 3rd party that the association pays over \$600 it is good practice to receive from them a Form W-9. This is a form published by the IRS that the 3rd party business would complete and return to the association. As part of the form they would indicate if they are an incorporated entity as well as provide their tax identification number and mailing address.

How do I fill out Form 1099-Misc.?

To fill out a 1099 accurately you will need the following information:

- The association’s general information
- Business Name
- Address

When preparing the Form 1099-Misc you will see that there are various versions also known as “Copies”

- Copy A is the form that is prepared and sent to the federal government
- Copy B is the form that is prepared and sent to the 3rd party
- Copy 2 is the form that is prepared and sent to the state (if the state requires 1099-Misc reporting)
- The association should keep a copy of what was filed for itself as well, although there is no specific “Copy” printed for its records.

Lastly, the IRS requires a summary form to accompany the

[Continues on page 31.]



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Spring Fling

It seems like Doug has nicely summarized a great event! Given all the rain we had been having, we wondered how much Spring there would be at our Annual Spring Fling event. Fortunately, the weather gods cooperated, and we had a delightful day. Our community association managers had the opportunity to attend an education program about litigation. Our association board members attended a program covering topics such as smoking and medical marijuana; neighbor to neighbor disputes and directors and officers liability insurance. And then...wow! We had an amazing networking event with trash can pizza, freshly made ice cream, local beer, wonderful food made by Healing Meals, plus great conversation!

Many thanks to our wonderful Spring Fling Committee!

Co-chairs: Linda Schaller, *M & S Paving and Sealing, Inc.*
Ellen Sias, *Total Asset Management*

Marcy Ventresca, *New Look Painting and Construction, Inc.*; MJ Tanzella, *Westford Real Estate Management, LLC*; Sabrina Wentworth, *Westford Real Estate Management, LLC*; Sandi Martinik, *White & Katzman*

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On May 8th I attended the Spring Fling at Auer Farm in Bloomfield. It was a great venue, and the "trash can pizza" lived up to the hype. Connecting with Healing Meals, and seeing their youth volunteers in action was awesome. What a great way to kick off the season!

Doug Miller

Vice President, SPS



(above) Kristen Schultze Greene, Esq. & Kasey Burchman, Esq. - Feldman, Perlstein & Greene, LLC speak to managers on litigation.



(left) Dave Pilon, EBP - Bouvier Insurance; Greg McCracken, Esq, EBP - Jacobs, Walker, Rice and Barry, LLC and Chas Ryan, Esq., EBP - Pilicy & Ryan, P.C. speak to board members on insurance and legal issues.



(above) Karl Kuegler, Jr. explains the art and science of Trash Can Pizza to the Healing Meals volunteers.



(above) Kristen Schultze Greene, Esq. - Feldman, Perlstein & Greene, LLC; Lon Brotman, PCAM; Chris Hutwelker, CMCA; Mike Pierson, CMCA and Tayler Dontigney, CMCA - Westford Real Estate Management, LLC

(below) Bill Jackson, EBP – BELFOR Property Restoration & Carrie Mott, EBP - Bouvier Insurance



(above) Wendy Colleary, EBP - Windsor Federal Savings; Debra Yannizze, CMCA; Sharri Kellner, CMCA; Helen Failla, CMCA - Imagineers, LLC; Chas Ryan, Esq., EBP - Pilicy & Ryan, P.C.



(above) Marcy Ventresca, EBP - New Look Painting & Construction, Inc. & Linda Schaller, EBP - M & S Paving & Sealing, Inc.



(above) Victoria Locke; Gina Passacantando; Tracy Melendey and Karl Kuegler, Jr., CMCA, AMS, PCAM – Imagineers, LLC



(right) Dan Levine, CPA - Tomasetti, Kulas & Company, P.C.



Homeowners Column...



Ed Potter

Board Accountability

By Ed Potter

The Boards of many homeowner associations have broad powers that enable them to make decisions that do not necessarily have broad support from community members. The decisions made by these boards often go unchecked because most community members see few ways to challenge their boards: few are willing to try to force out existing board members and serve on boards themselves and most are unwilling to initiate legal action against their boards when no other options seem available. Legal action is expensive and time consuming. Boards have many means of contacting association members and control the message – email, US mail as well as postings on locked community bulletin boards and control of the number and agendas of association meetings. Community members who do not support board actions are at a clear disadvantage.

Governing documents of associations are often complex and difficult to understand. Associations are governed by their Declarations and Bylaws as well as by the Common Ownership Interest Act (CIOA). If a community also has a Tax District, additional rules apply. The experiences at what shall be referred to in this article as Association X may be instructive to both board members and homeowners in other communities.

Community X, with 500 houses, is governed by both a Homeowners' Association and a Tax District. It has extensive recreational and community facilities. When originally formed it was governed by just an Association. After several years the Association created a Tax District. The Association is responsible for the maintenance of the exterior of all the houses; the Tax District is responsible for maintenance of the common facilities, which include two lodges, one with an indoor pool and community room, used year round, and one with an outdoor pool and community room primarily used three months of the year.

The bylaws of the Association limit the authority of the board to, without support by a majority of all homeowners, expand the existing facilities, borrow funds and spend more than a fixed amount on a project without homeowner approval; the lease with the Tax District gives the Tax District powers to expand facilities, borrow and spend that are less restrictive than the rules the Association must follow. When the Association authorizes the Tax District to do things the Association cannot do, legal questions arise which have never been addressed.

In the Association, there is one vote per unit; owners of each unit can cast one vote either in person at a meeting called to have a vote, or by proxy. All votes on Tax District matters must be cast in person: by statute, no absentee ballots or proxies are permitted. For most



"Boards have many means of contacting association members and control the message...Community members who do not support board actions are at a clear disadvantage."

votes, a majority of homeowners who vote on an issue determine its outcome: there is no minimum number of votes needed to approve most measures.

Several years ago a new board was elected, unopposed. It made as its mission to change as much of the physical characteristics of the community as it could.

One of the first things the board did to make it easier for it to achieve its long term goals was to amend the lease between the Association and the Tax District. It is common for bylaws to require notification of unit owner mortgagees if the District is planning to spend significant funds or borrow money. The board amended the lease to remove this requirement for Tax District projects only (the requirement remains for Association projects.) One can argue that the board, before removing a common underwriting protection given to mortgagees, should have notified the mortgagees of this proposed change — it did not.

To "update the community" the board proposed changing the colors of all the buildings in the community. A vote was held: about 30% of unit owners narrowly approved the color changes. There was strong opposition by many association members both to the idea of changing the colors, to the choices presented and to the colors ulti-

[Continues on page 16.]



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BOARD ACCOUNTABILITY...from page 14.

mately chosen. Many homeowners felt the color changes were unappealing and unnecessary; “decorating” issues such as this are often no win situations, and wise boards often take the approach “leave well enough alone.” Needless to say, the color changes have generated a lot of discord and anger within the community. The board has refused to revisit the color changes after the first buildings were repainted.

Two years ago the board proposed a \$2 million expansion of the lodge building that contains the indoor pool. The board ignored the spending limits and spent \$70,000 for architectural fees. The board suffered no consequence for its illegal spending: complaints were made but no further action was taken.

This followed a previous project the cost of which also exceeded its spending limits without proper authorization.

The Board controlled the dialogue and the message for the lodge expansion; it was able to send out repeated emails and mailings to homeowners in support of its proposal.

How do homeowners who oppose the board’s action combat something like this?

To get the ability to respond to all the board’s communications, a homeowner requested from management a copy of the email list used to communicate with unit owners. The board did not initially agree to provide the list but the board’s legal counsel advised it that it was required to do so. The list was provided.

Communications were no longer one way: opponents of the project could send messages to homeowners in response to board correspondence.

After a contentious meeting and emails and letters the \$2 million proposal was defeated by a significant margin. The ability to communicate directly with homeowners by email was important in defeating this proposal. It was even more important a year later.

One year later, the board proposed a \$1 million modification of the lodge that contains the outdoor pool. Homeowners have historically supported all proposed expenditures to maintain and upgrade the community facilities; in this situation many homeowners felt the proposal presented by the board was far too grandiose and included many unnecessary and expensive additions to the facility. The proposal contained seven distinct standalone items presented as a package: homeowners could not vote on the items individually.

A vote was held after another contentious meeting: the proposal passed by a two vote margin, only 30% of eligible voters voted in favor. The board saw this as a great victory and vindication, though there was intense opposition to the proposal and certainly no broad show of support. Some of the board saw only that the vote passed. Angry homeowners, in an unprecedented move for the community, chipped in and hired an attorney for advice.

A careful review of the bylaws of the Association and of the Common Ownership Interest Act revealed that homeowners could call for a special meeting by submitting to the board a petition signed

[Continues on page 30.]



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Manager's Column...



Reggie Babcock



Rich Wechter, CMCA

Being Practical, Part LV Managing Large 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. Our previous article addressed the management of small associations. This issue's column now addresses the management of large associations and the unique challenges that boards, and their managers face in handling large associations. Large associations can be an incredible challenge to even the most experienced and energetic property managers.

We will examine various issues that arise with large associations and offer recommendations on how boards and their property managers can effectively deal with such associations.

A. Setting the Table on this Topic

We are not setting a specific number in defining a large association. In some cases, the classification of a large association is purely subjective. To a manager with a portfolio of mostly 20 plus associations, an association of 50 units may be considered a large association. For other managers, an association of 100 or 200 or more units may fit the definition of a large association. For purposes of this article, either example will be considered a large association.

Large 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 large associations and we, accordingly, offer a few issues that managers face when managing large 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. Managing Board and Committee Communications with Property Managers -Too Many Cooks Spoil the Meal

In many large associations, there are many committees made up of both board members and non-members that participate in the governance of the association. These include committees that deal with finances, landscaping, maintenance, security, communication, and social events. In associations with many or all of such committees, there can be multitudes of unit owners who are communicating with property managers on numerous issues, often on a daily basis. Property managers can open their respective computers on a daily basis and be deluged with e-mails from various committees and mul-



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"In many large associations, there are many committees made up of both board members and non-members that participate in the governance of the association."

iple members of the same committee. These e-mails may, in many cases, be duplicative and bog down the property manager.

We suggest a number of things that property managers can do to properly manage increased board and committee participation. The first thing to do is to set reasonable and effective lines of communication between board members and committee members with the property manager. Committees should have one person who communicates with the property manager on all issues, regardless of the structure of the committee. Countless hours are wasted by property managers in responding to multiple members of committees. A second suggestion is to have committees consolidate their communications to reduce the hordes of e-mails inundating property managers. There is nothing sacred about sending one e-mail per subject. Time is money and energy and consolidated communications save both time and energy of property managers. A third suggestion is to utilize association vendors to respond to specific inquiries that they can more properly and effectively respond to. A property manager should not need to

get into the weeds in deciding whether to plant a particular species of a tree or shrub. The association's arborist or landscaper should be the ones to handle such a matter. A fourth suggestion, germane to board members, is to have board members streamline their communications with property managers by assigning one particular board member per topic. Utilizing presidents for all administrative matters, treasurers for all financial matters, maintenance directors for all maintenance matters, etc., will aid in the ability of property managers to better manage their large associations. Finally, property managers should, to the extent their respective management companies have extensive support staff, utilize their support team as no property manager is an island.

2. Establishing and Maintaining a Vendor Base

We noted in our last article that 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. With respect to large associations, it is somewhat easier to get vendors to want to service such associations. However, with a larger base of vendors comes its own problems. Larger associations generate many more work orders and projects. In some cases, the work load can overwhelm association vendors. To better handle vendors at large associations, we offer a few suggestions. First, nurture and maintain a "Go To" vendor for all areas (roofing, painting, plumbing, etc.). There is nothing more beneficial for a property manager to know than that a particular problem will be

handled by a reliable and trustworthy vendor. We definitely sleep better at night when we know that a roof leak or plumbing leak is being handled by such a vendor. A second suggestion is to develop a Plan "B" for all trades. Your Go To vendor may, on a particular occasion, be on vacation, tied up on other matters, or simply not capable of handling that matter. Furthermore, to quote an old expression, "Only the rocks live forever." We have all experienced situations when a board member or an entire board declares that a long-standing vendor is no longer welcomed on a property for whatever reason, or for no reason at all. Having a Plan B in place saves a lot of angst and time. Finally, and not less significant, vendors working at large associations need to have full knowledge of the particular large association. Many large associations have a multitude of building and roofing structures, landscaping components, etc. Your large association vendors need to be prepared to handle all of these variations.

3. The Larger the Association, the More That Can Go Wrong

Picture a world with large associations without roof leaks, plumbing leaks, roadway deterioration, dead or dying trees and shrubs, poor grass, or construction deficiencies. Now wake up and realize that you were just dreaming about "Fantasy Condominium Association". That fantasy community simply does not exist. For as long as there are developers, the world that we actually live in will never resemble our fantasy world of peace and quiet and no problems. In boxing, they say that the bigger the fighter, the longer and harder the fall is to the canvas. This sounds like the end of the world. Well, it might just be,

[Continues on page 20.]

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MANAGER'S COLUMN...from page 19.

unless you have a plan to deal with what is coming next. Here are a few suggestions to cushion the fall to the canvas, or, hopefully to avoid the knockout punch that is coming. First, you need to get ahead of all of the misery that will come as the many projects and problems develop. You need to develop plans, more plans and finally, even more plans. Working behind the problems rather than getting ahead of them will never get you to avoid the knockout punch. Second, you need to educate your board members and unit owners on what the issues are and how to address them. Let us repeat this: Education is the name of the game. Property managers must lay out all of what large associations face and pull no punches in that effort. You cannot be a shy wallflower when it comes to the massive amount of matters and the money it will take to address such issues. Finally, it is essential with such massive ventures that you keep excellent records of these projects. An isolated construction deficiency today is an epidemic tomorrow.

4. Amount of Time Needed to Manage Large Associations Can Bury Property Managers

Finally, it goes without saying that the breadth and scope of matters that arise at large associations can “bury” even the ablest property manager. There are only 24 hours in a day and sleep is still a requirement for some of those hours. We simply suggest that property

managers maintain a good balance in their lives and use the working hours as efficiently as possible. Organize, organize, organize. Consolidate matters being handled during site visits and meetings with vendors, board members and committee members as well as unit owners and tenants. As best as possible, avoid wasting time. Schedule visits at times to avoid traffic. Keep your schedules as tight as possible to eliminate down time at properties. Make every day, hour, minute and second count. Finally, when the work day and night is over, do something else. Kiss your spouse, significant other, and/ or pet (not necessarily in that order). Please do not forget to have a life outside of our work.

C. Conclusion

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

“...it goes without saying that the breadth and scope of matters that arise at large associations can “bury” even the ablest property manager.”



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You Ask, We Answer— Your Most Common Spring Lawn Questions

The care you give your lawn now will keep it lush and green well into the fall. Here are the questions we hear the most when we're out evaluating people's lawns.

Why is my lawn not greening up in certain areas?

This depends a lot on the conditions on your property, as well as the current weather. Here are a few common culprits:

- **Disease.** If you've noticed that only specific patches of your lawn seem to be struggling, it's possible that what you're actually seeing are the effects of a lawn disease. To get the right treatment, you should reach out to an expert to diagnose the issue.
- **Insects.** There are a variety of insects that feed on grass roots and blades in the spring, producing results that look very similar to disease. As with diseases, these can be difficult to diagnose unless you know what to look for, but they are treatable.
- **Temperature.** If it's still early in the season, it's possible that temperatures have not warmed up enough to bring your lawn out of dormancy. This can be especially true for turf in low or shady areas, as it is soil temperature (not air temperature) that kicks off growth. Even then, different varieties of grasses green up at different soil temperatures.

Is there a wrong way to mow?

Yes! To cut down on the risk of disease and stress, you should only mow when grass is dry and avoid mowing during the heat of the day. When it comes to ideal grass blade length, most varieties do well at around 2 ½ to 3 inches, though in the heat of the summer, you may leave it slightly longer. When you mow, aim to remove no more than one third of the grass blade each time.



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What's the best way to conserve water when watering my lawn?

To encourage more drought-resistant roots, you should only be watering 2-3 times a week, ideally in the morning. The key, however, is to water deeply for around 20-30 minutes. If the weather is particularly dry and this watering schedule isn't working, you may want to consider a wetting agent. This organic soil treatment maximizes water penetration, so that a smaller amount of water can have a bigger impact on the health of your lawn. ■

This article was reprinted with permission courtesy of SavATree. It originally appeared in their "Timely Tips" Spring/Summer 2019 issue.

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C.F. from Hartford County, Connecticut writes:

Dear Mister Condo,

I live in a small condo complex. We have a nice park like setting. Unfortunately, that brings in non-residents to walk their dogs, or jog. The front entrance to our complex has a sign posted Private Property No Soliciting. In the past I have had to speak to people coming onto the property to walk their dogs and who let them relieve themselves on our property. I had to even call the police on one person since telling them three times this is private property for residents living here only did nothing to deter them other than to smile and come back again the next day. Please tell me what are the issues of allowing the “public” to use our land. I see liability first and foremost. I feel that if I pay for insurance, taxes and upkeep of the land, then it should be just for the residents living here to use.

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

J.C. from Middlesex County writes:

Dear Mister Condo,

How much notice is required to owner if management company needs to enter?

Mister Condo replies:

J.C., there are a few different answers to your question so let’s review why the management company might need to enter your unit. In the event of an emergency, say a flood or a fire, if the management company has your key and entering your unit can prevent further damage or save a life, the only notice may be a knock on the door followed by entry. If the event is a non-emergency, say an inspection or a sump pump replacement or such, then the management company should follow the notice requirements as outlined in your governance documents. Typically, unit owners, especially those whose units have access to association-owned items such as boilers, air conditioners, water valves, etc., are allowed a 24-hour notice to prepare for the management company intrusion. This is

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very common in converted buildings where association access to such items were not part of the original building plans. It is possible that your documents are silent on the subject in which case you may not have to provide access at all, regardless of notice. The courts often side with unit owner's right to enjoy their home versus management company access. The ideal situation is for you and the management company to work out an agreement that lets them get in to do their work but allows you minimal invasion of time and space to do so. Check your documents first but do try to be reasonable as well. I'm sure the management company only needs to get in to your unit for work that benefits you and all of your neighbors as well. Good luck!

Did you know that you can follow Ask Mister Condo on Facebook? Just search for "Ask Mister Condo" on Facebook or go to <https://www.facebook.com/AskMisterCondo/> and Like the page!

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Rich Bouvier, CIRMS

Tightening the Nuts and Bolts of the Unit Owner Policy

By Rich Bouvier, CIRMS

Since the average premium for a well-written Condominium Unit Owners Policy usually runs between \$250 and \$350 per year, it is certainly worth the extra effort to take a close look at the available coverages and be certain you have done your best to purchase the coverage that best suits your needs. Important policy enhancements can cost as little as \$9 per year and many are not automatically included on the standard “Condominium Unit Owners Policy” also known as the HO-6 policy. Furthermore, if you are an investor and rent your unit, you too can purchase a comprehensive policy to cover your interests as a landlord under the “Dwelling Fire Policy” form.

Despite the low premiums, there are many line items to take into consideration. Fortunately, there is an order to these policies, and we will touch upon each section.

Condominium Unit Owner Policies are broken into two parts:

Section 1 - Property Coverages and Section 2 - Liability Coverages.

Starting with “Coverage A - Dwelling Coverage,” this refers to the physical coverage to your unit. With the July 2010 changes to the Common Interest Ownership Act (CIOA) in the State of Connecticut, the amount of physical dwelling coverage each unit owner may be responsible for was changed. In a previous article, I have explained what “All In” master policies cover and how unit owner purchased and installed improvements such as flooring upgrades or the increased cost of construction of a recently renovated kitchen are now covered by the master policy. This major change may allow some unit owners to reduce the amount of dwelling coverage they need to carry. While I would never recommend removing this coverage altogether, I try to suggest an appropriate amount of coverage that is reasonably priced and would afford worthwhile coverage in situations where unit owners could be held responsible for certain costs related to covered losses. My recommended dwelling coverage amount is \$25,000, but this amount may vary depending on the details of your association’s governing documents and the master policy specifics. Please keep in mind that if your association has formally “Opted Out” of the “All In” coverage requirement, you should consult your board of directors or property manager to verify what your insurance obligations are to your unit.

Aside from purchasing the correct amount of dwelling coverage, there are endorsements available at low cost to enhance this coverage. For an additional premium many insurance providers allow you to expand the “Perils Insured Against.” This may be referred to as “All Risk” or “Open Peril” coverage, but keep in mind, this may vary between insurance providers.

The next line item under the Property Coverage section is



“Aside from purchasing the correct amount of dwelling coverage, there are endorsements available at low cost to enhance this coverage.”

“Coverage C - Personal Property.” This coverage refers to the contents of your condominium unit. This may be your clothing, furniture, televisions, computers, etc. The amount of coverage to be purchased is truly up to the individual unit owner. There isn’t an easy formula to determine a proper amount of coverage, but taking an hour to review your entire unit and estimating replacement costs for your personal property will help you decide to purchase \$50,000 or \$250,000 worth of coverage and be sure to request “Guaranteed Replacement Cost” coverage on your personal property. Keep in mind, there are coverage limitations on many items. These are usually items of unique or fluctuating value such as gold, jewelry, antiques, fine arts, silverware, firearms or oriental rugs. In order to purchase proper coverage, discuss these items with your insurance agent. Some insurance companies may require current professional appraisals to add such items onto your policy for an additional premium.

If you cannot live in your unit due to a covered loss, you may face the expenses for temporary housing. These are examples of costs covered under “Coverage D - Loss of Use.” Under the usual HO-6 policy, this coverage is typically 20% of the Personal Property coverage limit, but you can increase this coverage limit upon request for an additional premium.

Section 2 - Liability Coverages consist of two line items: Coverage E - Personal Liability and Coverage F - Medical Payments to Others.

With most HO-6 policies, “Coverage E - Personal Liability” is available at coverage limits of \$100,000, \$300,000 and \$500,000. There are a handful of insurance companies that can offer this coverage up to \$1,000,000. My recommendation is to purchase as much Personal Liability coverage that you can afford. We see most unit owners purchase \$300,000 or \$500,000 of Personal Liability and if you were to do a cost comparison between the two amounts, it is usually a very small increase in premium to have the higher amount of coverage. This coverage is to provide protection to you for a claim or suit made against you for “bodily injury” or “property damage.” Be certain to read your policy form language to fully understand what “bodily injury” and “property damage” occurrences are. This coverage can also be supplemented with a Personal Umbrella policy. The best advice is to ask your insurance agent what Personal Liability coverage is available and to make the final decision with the guidance of your agent based upon your own liability exposures and concerns.

“Coverage F – Medical Payments to Others” is an included coverage under the HO-6 policy. The usual included amount is \$1,000, as with most coverage, this can be increased for an additional premium. To briefly summarize this coverage, it will pay the reasonable medical expenses for those invited onto the insured premises as well as coverage off premises for specific circumstances when those covered have sustained a ‘bodily injury.’ This coverage does not apply to you, the unit owner, or regular residents of the condominium unit. Common examples of **Medical Payments to Others** include: medical, surgical,

x-ray, dental, ambulance, hospital and funeral expense up to the specified policy limit. There are coverage limitations as to who is covered, where coverage applies and for how long coverage is available after the date of loss. Albeit small, this is a useful coverage and increasing your coverage limit to \$5,000 or more, where available, is not a costly coverage enhancement.

Included under the “Additional Coverages” of both **Section 1 - Property Coverages** and **Section 2 - Liability Coverages** of the HO-6 policy you will find Loss Assessment coverage. This is a small, yet important item included with the HO-6 policy at \$1,000 and increasable at an additional premium. Keep in mind that Loss Assessment coverage can apply to both property related losses as well as liability related losses. For Loss Assessment coverage to apply, there are required coverage triggers and I highly recommend that you review these items under the policy sections mentioned above and be sure to call your insurance agent for clarification.

As for other available coverages the list is long. Two common additional coverages are **Sump Pump Failure / Water Back Up Coverage** and **Identity Theft** coverage. The limits and details of these coverages vary from insurance company to insurance company. From my experience they are usually available, relatively inexpensive and it is worth the extra few minutes to discuss them with your insurance agent to see if you can benefit from them as part of your condominium unit owner’s policy.

As with all insurance policies, the initial task of obtaining one can seem a bit overwhelming, but with the assistance of a professional

[Continues on page 35.]



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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.

What Is Needed In a Good Construction Contract?

By Timothy Wentzell, P.E.

First and foremost, an effective construction contract starts with the specifications. Clear specifications, more than anything else, are what enable a common interest community to obtain the level of performance and standards that they desire. Depending on the type of contract, the specifications may include very detailed requirements as to how the project is to be undertaken and (often in even greater detail) the materials to be used, as well as a mechanism for approving substitutes. These technical details are often supplemented by standard technical specifications, such as (for example, for a paving project) state or possibly federal requirements for paving materials and conditions or (for example, for a roofing project) a document such as The Steep Roof Manual that similarly specifies many of these kinds of details. In this way, the specifications may only need to specify, for example, the type of asphalt and thickness, whereby the actual chemistry of the mix, temperatures at application, etc., would be stated by the standard specifications. Having these types of details can then assure that all bidders on a project, as well as the selected contractor, have a clear idea of the performance criteria.

In addition to these technical requirements, good specifications should delineate the general requirements for the project, such as (for example, in the case of the roofing project) posting notices and warning signs, barriers, etc., for a safe project and the general work conditions such as acceptable hours of work, where materials are to be stored, etc. Generally, this should be followed by clear acceptance standards that typically would include or reference some means of



“Depending on the type of contract, the specifications may include very detailed requirements as to how the project is to be undertaken...”

dispute resolution, such as arbitration. Also, a party such as an independent engineer or project overseer should be named who would be responsible for the initial interpretation of the specifications, deciding their meaning, and enforcing the requirements, subject to either party’s right to arbitration or other means of dispute resolution.

Furthermore, the specifications should clearly describe the insurance requirements for general liability, including the limits of liability, construction work in progress, automobiles, etc., that would be appropriate for the project at hand. They should clearly delineate the named parties on the insurance certificates and who should receive these certificates.

Certainly, good specifications would also need to outline a schedule both with regard to starting date and completion date. Along with this, depending on the type of contract, fair and reasonable penalties for late completion should be added, such that a contract cannot hang out indefinitely while a contractor finishes other projects that may seem of greater urgency. Lastly, good specifications should clearly designate payment terms and conditions and, in the case of most construction contracts, the retainage to be held until final completion.

Certainly, if these topics are addressed – as appropriate, for the type of contract – a common interest community has a far greater chance of obtaining the services they desire in a prompt and professional manner. ■

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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Shared Solar = Solar for Condos!

By David Desiderato

Solar for everyone is within reach!

Imagine: every condo resident, or as many or few who so choose, will soon be able to power their homes with 100% renewable solar electricity, AND save 10% or more on utility bills.

Condo associations interested in renewables have long faced huge hurdles, starting with getting members to agree on major capital projects that may seem less urgent than other projects. Then there's finding a suitable site or roof layout; selecting and working with developers; or finding engineering contractors to set up complicated submetering arrangements.

With shared solar, each individual electricity customer can choose to buy some or all of their power by participating in a large solar array located away from their homes — next door, or several towns away — with the savings automatically reflected on their monthly bills.

In 2018 the Connecticut Legislature approved a shared solar program (Public Act 18-50, Section 7) that starts in January 2020. During 2019, important details are being worked out by state agencies, and legislators may improve the law before they adjourn in early June. But this much is clear: about one million Connecticut electricity customers who could not previously install solar at their homes — because they lived in a multi-family structure, or didn't have the right roof, or had too much shade — will soon be able to go solar.



“With shared solar, each individual electricity customer can choose to buy some or all of their power by participating in a large solar array located away from their homes — next door, or several towns away...”

CT Fund for the Environment (CFE) has championed shared solar for several years because of its potential to exponentially expand the use of renewables and stabilize our high electricity costs, some of the highest in the nation.

CFE has just produced a Shared Solar Toolkit to speed adoption of shared solar by educating groups and communities about the law and what it means to be subscribers, and encouraging people to identify sites and connect with potential developers (it includes a list of solar companies interested in shared solar).

The Shared Solar Toolkit is available on CFE's website or for download at <https://tinyurl.com/yx9e23sp>. There's more information on shared solar on the CFE website on our shared solar page (www.ctenvironment.org and search shared solar).

CFE will attend CAI-CT events in the coming months to share information about the new law, and is eager to visit with community associations across the state to explore how we can use shared solar to address the climate crisis and control electricity costs in a big way. Contact CFE by emailing sharedsolar@ctenvironment.org. ■

David Desiderato is the Shared Solar Organizer for the CT Fund for the Environment (CFE).



Courtesy CAI-CT.

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BOARD ACCOUNTABILITY...from page 16.

by 20% of homeowners. The original bylaws of the Association allowed for the calling of a special meeting of homeowners if a petition was submitted by 25% of homeowners; this percentage was reduced to 20% by the Common Ownership Interest Act which overrode the percentage in the bylaws.

A petition calling for the scheduling of meeting to vote on having a second vote on the proposal was prepared and distributed to homeowners using the homeowner email list (the reason the petition did not call for revote was to prolong the process as long as possible). Within two weeks petitions were signed and returned by more than 20% of homeowners and presented to the board.

Fortunately a majority of board members realized that it would not be prudent to challenge the petition and move forward with the project. A compromise was reached: rather than scheduling a vote to vote again on the proposal, the board agreed to skip that step and go directly to a new vote that permitted homeowners to vote separately on each item in the proposal.

The result was that items totaling half the original cost were approved and half were rejected. The community approved upgrades to existing components of the lodge and rejected all but one of the new features that would have substantially changed the appearance of the lodge building.

What can be learned from this story?

For boards:

Before embarking on projects that call for major changes to a community, at significant expense to homeowner, a board should first seek feedback from community members and learn if they support the proposed changes in full or in part. This is essential. A board should also evaluate whether some possible changes that some community members might support (such as dramatic color change)

es) add any value to the community and justify the extreme division within the community that such sensitive issues often create. If a proposal is approved by a minority of homeowners, the board should realize that it does not have a mandate to move forward but should instead re-evaluate its proposal try to develop an alternative that will be supported by a greater number of homeowners. It is not wise to move forward with unnecessary changes if doing so proves extremely divisive to the community. A board that moves forward on major changes without having widespread support is perceived of as arrogant and can cause homeowners to oppose board proposals not on the merits of those proposals but as a protest against a heavy-handed board.

For homeowners:

Study your governing documents to learn what might be done to challenge board decisions.

Try to not allow the board to control all communications. If your community has an open message board, encourage homeowners to use it. If management uses a list of homeowner emails demand a copy of that list. ■

Edward Potter managed co-ops, condominiums and homeowner associations for over eleven years. He has also served as a committee chairman, board member, treasurer and president of a large HOA for over ten years.

Editor's Note: CAI-CT encourages submission from our readers. Their views are their own and may not necessarily reflect the policies and opinions of CAI-CT. We encourage all common interest community board members to be mindful of Public Act 06-123 which states that all board members should be educated about the operations of associations. This can be accomplished by attending Condo Inc. which is offered at least three times per year throughout the state. All potential unit purchasers should avail themselves to information about what to know before you buy on our website: www.caict.org and the CT Department of Consumer Protection: www.ct.gov/dcp.



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FINANCIALY SPEAKING...from page 11.

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Form 1099-Misc is reported on by calendar year. These forms are due to the 3rd party and the government by January 31 of the subsequent year being reported on. For example: Calendar year 2018 1099-Misc were due by January 31, 2019.

What if I don't file Form 1099-Misc.?

If you miss the filing date for 1099-Misc the IRS may assess a penalty. Penalties depend on when the correct information is filed and is as follows:

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- \$270 per information return if you file after August 1 or you do not file the required return.

A common issue with reporting by the deadline is receiving confirmation from the 3rd party if they are incorporated or not, and

what their tax reporting identification number is. If an entity doesn't provide their W-9 to the association, then withholding on behalf of the 3rd party should be done for any payments made to the 3rd party and remitted to the IRS. To best protect the association, no payment should be made to a vendor unless you receive a completed Form W-9 from the vendor first.

Conclusion

Compliance can be a tricky thing and there are many potential pitfalls to associations who aren't aware of certain compliance items. Form 1099-Misc. is a simple form but requires a great deal of information to be obtained beforehand. New board members should be made aware of these deadlines and understand their procedures to comply with deadlines to avoid unnecessary penalties.

Note: The above rules are only meant as a general explanation of Form 1099-Misc, the association should consult a professional for any specific questions related to compliance reporting to the Internal Revenue Service. The above explanations are based on current reporting requirements which can be subject to change, are not all encompassing, and may not be applicable to specific circumstances. ■

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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CLASSIFIED SERVICES...from page 33.

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UNIT OWNER POLICY...from page 25.

insurance agent, purchasing proper coverage for your individual needs can be a straightforward task. In light of the relative low cost for a well-written unit owner policy, it is certainly worth the effort to enhance your policy to truly protect yourself.

Below is a brief list of some of the areas where I see unit owners left without adequate insurance:

Coverage A, Dwelling: I usually recommend \$25,000 unless a unit owner absolutely knows what their maximum exposure is. Be sure to consider wind/hail deductible exposures created by master policies as these can be quite high. We're seeing more wind deductibles required with coastal associations. The financial responsibility of claim related repairs can transfer from the association to the unit owner through a violation of a Written Maintenance Standard or specific language contained in the community's governing documents.

Coverage C, Personal Property: This coverage item will fluctuate. I like to see folks start at \$50,000 to \$75,000 on average and up from there. Note that antiques, fine arts, silverware, jewelry and other items of unique value should be appraised and added to a policy separately for the most appropriate coverage.

Coverage D, Loss of Use: This is among the most important coverages when a catastrophic loss occurs. After a fire, it may take 12-18 months to restore a condominium building back to occupancy. This coverage will pay for temporary housing expenses when you can't live in your unit after a claim. 12 months cost of rent for an equivalent unit is a great starting point.

Coverage E, Personal Liability: This is liability protection for the unit owners. The most obvious example of a claim is a guest that slips and falls inside the boundaries of "The Unit" and sues the owner for injuries, but this coverage will follow the unit owner worldwide. If you accidentally knocked someone over at the grocery store, you may find yourself having to defend a lawsuit. Purchase as much as you can afford – I prefer to see this start at \$500,000. It may only cost about \$18 more to bump coverage up from \$300,000.

Coverage F, Medical Payments: This is coverage for guest related injuries that are small and don't require a lawsuit, such as x-rays or emergency room visit after a loss within a unit. We like

to see some coverage here and most policies will throw in \$1,000. \$5,000 is a good idea all day.

Loss Assessment: This is a coverage that requires a bit of attention. I like to see at least \$10,000 applied here and we can go up from there. As mentioned previously, there are specific coverage triggers and limitations, but for the cost I wouldn't go without Loss Assessment.

Sump Pump Failure, Water Back Up: This is a dirty and expensive cause of loss that can create an exposure to unit owners. This is not limited to units with sumps and sump pumps, but any drain (toilet, sink, washing machine, etc.) whose drain flows the wrong way. With the heavy rains this spring, we've seen an uptick with these claims. Most master insurance policies for the association will contain some coverage for the damage to the building components, but there will be a master deductible to consider and the master policy provides no coverage to unit owner property damaged, such as furniture or personal property. ■

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



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