

# Community Associations Connection

RESOURCES & BEST PRACTICES FOR THOSE SERVING WNY COMMUNITY ASSOCIATIONS



## Spring Cleaning Your Governing Documents

Corey Auerbach, Esq.

Partner, Barclay Damon LLP & CAI WNY Board Member

Spring is a season of renewal, a time to clear out the clutter and make way for something better. For community associations, this can also mean taking a closer look at their governing documents—the declaration, bylaws, and rules that shape how the association operates. Many of these documents were drafted when the community was first established and, while they may have served their purpose at the time, they do not always keep pace with changes in the law, evolving resident expectations, or best practices in governance.

Over time, outdated provisions can create inefficiencies, legal uncertainties, and even unnecessary conflict among homeowners. A declaration might contain restrictions that no longer reflect how people live today, such as outdated parking rules or prohibitions on modern conveniences like solar panels and electric vehicle charging stations. Many associations also grapple with increasing concerns over short-term rentals, pets, and smoking policies, as older documents may not adequately address these evolving issues. Some documents may lack clarity, leaving boards and homeowners guessing about enforcement. Others might include cumbersome governance provisions, such as quorum requirements that are nearly impossible to meet, making it difficult for the board to function effectively. Additionally, as communities evolve, some restrictions may become impractical or unenforceable, further complicating governance. In some cases, changes in state or federal law require amendments to bring an association into compliance. Whatever the reason, updating governing documents

can help a community operate more smoothly and avoid potential pitfalls down the road.

The process of amending governing documents is typically outlined within the declaration and bylaws. While the specific requirements vary, most associations follow a structured process that begins with identifying the necessary changes. Often, the board or a designated committee will work with legal counsel to draft proposed amendments, ensuring they are properly worded and in compliance with applicable laws. Once the language is finalized, homeowners are typically given proper notice of a meeting where the amendments will be discussed. This notice usually includes an explanation of the proposed changes and, in many cases, the full text of the amendment.

At the meeting, homeowners have the opportunity to ask questions and voice their opinion before the amendment is put to a vote. Most governing documents require approval from at least two-thirds of the membership for an amendment to pass, though some may have different thresholds. In certain communities, additional approvals may be necessary. If a sponsor still owns property within the association, the governing documents may require the sponsor's written consent for amendments that could impact its rights. Similarly, some documents include provisions requiring approval from a percentage of mortgage holders before a material amendment can take effect. Failure to secure these required approvals could invalidate an amendment, making it essential for boards

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**Corey Auerbach, Esq. , Steve Grimaldi, Marc Schneider, Esq., and  
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## Spring Cleaning Your Governing Documents

**Corey Auerbach, Esq.**  
**Partner, Barclay Damon LLP**  
**& CAI WNY Board Member**

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to carefully review their governing documents before initiating changes. Boards should review their specific documents to determine whether these additional approvals apply.

If the amendment is approved, it must then be recorded with the County Clerk's office to become legally effective. Because amending governing documents requires time, effort, and legal fees, it is important to assess community support before moving forward. If an amendment is unlikely to gain the necessary votes, the board may want to refine its approach or focus on educating homeowners about why the changes are necessary. There is little value in investing in legal drafting only to see the proposal fail due to lack of consensus.

Much like spring cleaning at home, reviewing and updating governing documents may seem like a daunting task, but the long-term benefits are well worth the effort. Modernizing outdated provisions, improving clarity, and ensuring compliance with the law all contribute to a more effective and well-run community. By taking a thoughtful approach and engaging homeowners in the process, boards can help their associations move forward with a set of governing documents that truly reflect the needs of their community today.



## Calendar of Events

We are proud to present a variety of webinars to our membership as well as an increasing number of LIVE in person events. These events are held in multiple in WNY and will be advertised as available. Please consult our website for changes: [www.caiwny.org](http://www.caiwny.org)

# 2025

### Ask the Legal Experts - Wednesday May 28, 2025

(In Person Event - Rochester, 5:30 P.M. to 7 P.M.)

*The Reserves at the Canal - The Dining Room 1 Reserve Lane, Rochester, NY*

### SUMMER WEBINAR (Zoom event)

*Wednesday, June 25, 2025 - Rising Property Taxes and What You Can Do*

•

### Annual Board Leadership Training - Saturday, October 25, 2025

(In Person Event - Buffalo, 8:30 A.M. to 12:30 P.M.)

*Rizotto Ristorante (pending)*

*Please contact [cai.wny@gmail.com](mailto:cai.wny@gmail.com) for details*

*\*More updates will be announced ....*



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# ***SPRING: Refresh, Renew, REJUVENATE!***

Ronald Bucelli—*President, CAI WNY*

It's springtime in Western New York! Mother Nature is making herself heard! Whether it's the lingering snowstorm, or glorious thunderstorm – maybe you've noticed the buds on the trees? How about the flowers trying to perk up? Neighbors are coming out of their homes, shedding their parkas and taking those evening walks. The air is fresh and clean, telling us that now is the time to hit that “restart” button!

We call it “Spring Cleaning” for a reason – after a long winter, it's a good time to throw open the windows, clear the air, and let in the sunshine. (Especially, after winter in Western New York!)

Here at CAI WNY, we are in the rejuvenation mindset. Exciting changes are coming – from presidents' meetings (both in Buffalo and Rochester) as well as managers' meetings (again – both in Buffalo and Rochester). Don't worry, we're keeping our “tried and true” webinars, Board Leadership Trainings, and the ever popular “Ask the Legal Experts”. We're working on many plans – updating our website, making changes so communicating is more accessible, “spiffing up” our look and opening our doors to YOUR ideas.

But we need YOUR help.

We need to know what YOU want from US. What topics can we address for you? Speakers? Topics? What can WE do to help with your communities' needs?

The whole purpose of CAI – and our chapter specifically – is to be a support for your community. If you have a question about homeownership, collaborative community innovation, support services, board meetings, New York State Legal topics for homeowners, and the like – let us be your resource!

So, let's take advantage of the Spring weather – join us for a meeting, come to an event, get involved with your Board, say “hi” to your neighbors, catch a ballgame ... get involved!

It's a beautiful time of year and we are fortunate to live in a remarkable place of both natural splendor and wonderful people.

# *The Mess in the Mailbox*

Disgusted by all of those unsolicited credit card offers clogging up your mailbox? Tired of lugging catalogs and junk mail to the recycling bin? All of this unwanted mail creates nothing but headaches and wasted paper, so it's no wonder putting an end to it is a priority for many people. While you can't eliminate everything, you can noticeably reduce the avalanche of paper in your mailbox just by picking up the phone or hopping online.

Here are a few simple ways to put a kibosh on the heaps of junk mail that keep piling up:

**So Long, Pre-Screened Credit Offers:** If your credit is anywhere near good, credit bureaus—Equifax, Experian, and TransUnion—are selling your name to credit card companies as a hot prospect. That's why you're getting those "you've been pre-approved" offers every day.

Put an end to it by calling 1-888-5-OPT-OUT (1-888-567-8688). You will need to provide your name, address, telephone number, Social Security number and date of birth to ensure your opt-out request matches your credit record rather than someone else who shares your name. You can also opt out via the Internet at: [www.optoutprescreen.com/opt\\_form.cgi](http://www.optoutprescreen.com/opt_form.cgi).

If you prefer not to disclose your Social Security number and date of birth, the online form does not require this information. However, the website strongly urges you to provide this information because it helps ensure that your request will be processed correctly, and it protects your information from unauthorized access.

Opting out is good for five years. However, if you'd like your name removed permanently, you will be mailed a confirmation form within about five business days to sign and return. For more information see the FTC's Facts for Consumers, Prescreened Offers of Credit and Insurance at [www.ftc.gov/bcp/edu/pubs/consumer/credit/cre17.shtm](http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre17.shtm)

Remember, this won't stop all credit offers—only those that result from screening your credit report. Your bank or credit card company may still send you offers for new credit or share information about you with other companies.

Although you don't have total control over the information that's shared by financial companies, you do have some. For more on how to limit data sharing by banks and other financial institutions, read the Privacy Rights Clearing house Fact Sheet 24, Protecting Financial Privacy in the New Millennium: The Burden Is on You,

**Jettison the Junk Mail:** You can reduce other types of junk mail—magazine offers, sweepstakes and other national advertising mail—by contacting the Direct Marketing Association's (DMA) Mail Preference Service (MPS). This opt-out lasts for five years and can be renewed. Go to [www.dmachoice.org/dma/member/regist.action](http://www.dmachoice.org/dma/member/regist.action). There is no charge for registering online. For those who want to want to register via USPS, send \$1 check or money order to the Mail Preference Service, PO Box 643, Carmel NY 10512. (See their sample letter available at: [www.privacyrights.org/Letters/letters.htm#Junk\\_Mail](http://www.privacyrights.org/Letters/letters.htm#Junk_Mail).) The MPS will put you into the "delete" file, which is sent to subscribing organizations several times a year.


**Cut Out the Catalogs:** When you buy something from a mail-order catalog, your transaction is likely to be reported to Abacus, a company that compiles a cooperative database of catalog and publishing companies' customers. Your name is then sold to other mail-order companies that send you catalogs and offers. This explains why you are likely to receive several unsolicited catalogs after ordering anything by mail.

To opt out of the Abacus database, write to Abacus, P.O. Box 1478, Broomfield, CO 80038 or email [abacusoptout@epsilon.com](mailto:abacusoptout@epsilon.com). Include your full name and current address (and previous address if you have moved recently). For more information, visit [www.abacusoptout.com](http://www.abacusoptout.com).

You'll have to notify companies yourself that do not participate in the DMA and Abacus opt-out programs. Contact the customer service department and request that your name and address not be shared with other companies. Contact magazines, charities, nonprofit organizations and professional associations to which you have either donated money or joined.

It may take a few months to see results, but eventually the mess in your mailbox will thin out.





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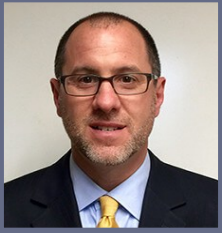
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## ***Paying Attention to HOA and Condo Arrears: Why Acting Fast is Critical in a Changing Economy***

**Marc Schneider, Esq.**

***Schneider Buchel LLP, Board Member, CAIWN***

As economic conditions shift, Boards of Homeowners Associations (HOAs) and Condominiums (Condos) and their property managers must remain vigilant in monitoring assessment and common charge (collectively “assessments”) arrears. Rising inflation, interest rate fluctuations, recent unemployment increases, and economic uncertainty can significantly impact homeowners' ability to pay their monthly fees to their associations on time. Failure to address delinquent charges promptly can lead to financial instability for the association, forcing boards to make difficult decisions that could otherwise be avoided with proactive management.

### **The Importance of Acting Quickly**

Delinquencies, if left unchecked, can snowball into severe financial shortfalls, limiting an association's ability to maintain common areas, fund reserves, and provide essential services. The sooner a community association board acts on unpaid assessments, the higher the likelihood of successful recovery. Not only is it a lot easier to collect two months' assessments than 2 years' worth of assessments in court, but homeowners are also more likely to catch up on payments when the debt is still manageable. A smaller balance gives them a better chance to pay, borrow, or use savings, whereas a large, overwhelming debt may lead them to give up entirely and stop paying altogether. That is why associations that implement early intervention strategies significantly increase their ability to recover the monies owed and stronger financial health.

### **Here's why timely action matters:**

- Prevents budget shortfalls: Associations rely on monthly assessments to cover essential services like landscaping, maintenance, insurance, management, payroll and reserves. A growing delinquency rate can lead to the need for special assessments or increased dues for paying members.
- Reduces legal and collection costs: The longer an account remains unpaid, the more expensive it becomes to collect. While we typically recover legal fees, they are still a drain on present association funds until they are recovered. Early-stage intervention minimizes legal fees and collection expenses.
- Maintains property values: Boards that enforce payment obligations maintain property values by ensuring common areas and amenities are well-kept. Moreover, a community with high delinquencies can run into difficulty when homeowners try to obtain mortgages in connection with their purchases or refinances.
- Avoids disproportionate burden on paying members: When delinquencies rise, the financial burden shifts unfairly to responsible homeowners who must make up the difference until the monies are recovered (assuming they are all recovered).

### **Budgeting for Bad Debt**

While every association hopes for 100% collection, a realistic approach involves budgeting for bad debt. Associations should analyze historical delinquency rates, economic trends, and reserve needs when setting their budgets. Allocating a percentage of expected revenue to a bad debt expense line item ensures the association collects the monies needed to pay their budgeted expenses.

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# *Five Guidelines for Dealing with Contractors*

Thinking of remodeling your kitchen, building an addition, or embarking on some other construction project that will require the services of a contractor? If it's something that needs association approval, don't forget to follow the steps of our design review process.

Once that's completed and you're ready to break ground, keep your project nailed down with five simple guidelines:

- 1. Reconcile your contractors' objectives with your own.** You want your project to be completed on time and on budget. Contractors want to maximize their compensation. Design a compensation plan that, at each stage of the project, maximizes your contractors' profits when they achieve your objectives.
- 2. Nothing drives down prices like competition.** Any price you obtain without competition will be higher than a price you obtain with it.
- 3. Write down everything you expect.** Effective competition requires a complete, accurate, and final definition of the goods and services involved in the project.
- 4. Use standard forms for your contracts.** Just realize there's no such thing as a standard project and customize your contracts accordingly.





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## Fiduciary Duties, Voting Irregularities, Hoarders, and Rental Contracts

**Ronald Shubert, Esq**

Ronald S. Shubert, Esq. is a partner in the law firm of Phillips Lytle LLP. He represents over 400 Community Associations in Upstate New York State.

### **QUESTION**

I live in a Condominium Association and was wondering what duty the Board of Managers owes to the Owners? Also, can a Board Member be removed?

### **ANSWER**

The duty is called a “fiduciary duty” which arises out of a relationship in which one person or entity (the Board) is entrusted to control the decisions or interests of another (the Owners). The Board of Managers of a Condominium exercises control over the affairs of the Owners and based on this special relationship the Board of Managers owes a fiduciary duty to the Owners. Simply put, the Board must perform its duties in good faith and in the best interest of the Owners and owe to the Owners their undivided loyalty. This standard is breached when a Board Member acts in his/her own interest.

Accordingly, a Board Member must remain informed of the Association affairs at all times; attend and participate in all meetings and be prepared for the meetings; be knowledgeable about the Declaration, Bylaws, Rules and Regulations; ask for professional assistance in situations where required; at all times advise the Board of conflicts of interest.

When faced with conflicts of interest the Board Members should disclose the conflict and abstain from voting.

Some examples of breach of fiduciary duty are failure to file a lawsuit before the statute of limitations expires; failure to properly maintain the property; failure to give notice to the insurance carrier when an accident occurs and failure to properly fund reserves. If a Director doubts whether he or she is acting properly, he or she should ask themselves the following question: “Would a prudent person in a similar situation after making reasonable inquiry make the same decision?” If the answer is yes, then there is no self-dealing conflict of interest, and the Director is acting properly.

As to the removal of a Board Member, the Bylaws of the Condominium (or Association) provide a procedure by which a Board Member can be removed for cause or without cause by a vote of the community. Typically, cause is defined as behavior which is not in the best interests of the Condominium, conflict of interest, etc. Before a Board Member can be removed, however, they have a right to be heard. Removal is a drastic measure but has been used by communities in the past.

In the end, it is up to the community to elect members to the Board who are competent, do not have hidden agendas, and are acting in the best interest of the entire community.

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## *Spring Cleaning: Inspect as Winter Thaws*

This winter has been long, frigid and snowy. As the deep freeze begins to melt away, prepare your home for spring. The steps you take now can help avoid costly maintenance and repairs later. Here's what to do inside and outside your home:

- Inspect the roof and gutters. Check the roof for damage; it's been taking a beating all season. Then clear gutters of debris; a clog can lead to water damage.
- Check the HVAC system. Hire a professional to clean and service your system. You also should clean or replace filters; it'll help ensure your system is running efficiently, keep energy costs in check and remove extra allergens from your home.
- Clean and repair driveways, fences, decks and patios. Spray away salt, sand and deicers. Then fill any cracks, holes or gaps.
- Examine windows, doors and seals. Look for damage. Sealants can crack in extreme cold, leading to water damage and drafts. Clean the windowpanes, drapes and blinds too.
- Inspect paint inside and outside. Make any necessary paint repairs or try a fresh look.
- Replace smoke detector batteries. If you didn't do this when daylight saving time began, do it now.
- Steam-clean floors and carpets. Remove salt, sand and deicing chemicals.
- Examine your chimney. Hire a chimney sweep to check the exterior for damage and clean the flue.
- Vacuum underneath and behind your refrigerator. A dusty, dirty fridge also increases electric bills.
- Clean out the refrigerator, freezer and pantry. Toss expired foods, clean surfaces and reorganize.
- Declutter closets. Donate, repurpose, recycle or set aside clothes for a garage sale.

Prepare lawn equipment. Make sure your lawn mower and weed whacker are clean, gassed up and ready for the first spring cut

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**Ronald Shubert, Esq**

Ronald S. Shubert, Esq. is a partner in the law firm of Phillips Lytle LLP. He represents over 400 Community Associations in Upstate New York State.

## Fiduciary Duties, Voting Irregularities, Hoarders, and Rental Contracts

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### **QUESTION**

At the Annual Meeting of our Condominium Board, two Unit Owners counted the votes, and announced the results. After the Meeting was adjourned, the Property Manager

took the ballots and the paperwork back to her office. Without direction from the Board, the Property Manager re-counted the votes and came up with a different result. What is the status of the election?

### **ANSWER**

The answer depends on whether the vote counters on the night of the Election were appointed inspectors of election or not. Inspectors of election are appointed by the Board pursuant to the Condominium By-laws and their job is to determine the eligibility of voters and of validity of proxies, count the ballots and make a report of the election results.

The object of the appointment of inspectors of election is to ensure that the election is conducted with fairness to all Unit Owners. Accordingly, at the end of the election, the results reported by the inspectors are considered final.

If later the inspectors come to the conclusion that the results were wrong, it will be appropriate for them to prepare a revised report with the correct results. If they refuse, any Unit Owner could take the matter to court.

If, on the other hand, the vote counters are not official inspectors of election, the results they announce have no greater claim to correctness or validity, then the managing agent's count.

Since the object of the vote is to determine the will of the Unit Owners, an effort should be made to determine who is right. It would be appropriate for the vote counters to review or re-count the ballots to determine if they or the managing agent made a mistake and to seek candidates who were properly elected.

### **QUESTION:**

We believe one of our Association Members has become a hoarder in that her Unit is filled with old newspapers, magazines, boxes, etc. At what point, if ever, should we intervene and who would we call?

### **ANSWER:**

If you believe that there is a life and safety issue, I would suggest contacting the Building Department of your local municipality, Crisis Services, or if appropriate the County Adult Protective Services Unit.

In my experience, a call to Crisis Services will result in a visit by a Crisis Services Team who will assess whether or not there are mental health issues that need to be addressed and they then can make a referral to Adult Protective Services.

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## Fiduciary Duties, Voting Irregularities, Hoarders, and Rental Contracts

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Of course, the other concern is fire safety which can be addressed by the local Building Inspector or Fire Marshal. Dealing with this situation is difficult because there is a fine line between respecting the rights of an Owner and protecting the community from a potentially dangerous situation.

### **QUESTION:**

Our Board is considering adopting restrictions on rentals and has several questions regarding legality, limits on numbers of rentals, review of leases and how restrictions will affect mortgages when homes are sold.

### **ANSWER:**

Generally, the Association Declaration and Bylaws can be amended to place rental restrictions on the Homes. I recommend that current Owners be grandfathered and allowed to continue renting their Homes. There are many variations of how rental restrictions can be implemented. Associations can prohibit rentals altogether or set a limit of approximately 10% of the Homes that can be rented. Exceptions can be made for extenuating circumstances, etc. The growing desire for rental restrictions has been the result of the secondary mortgage market which is uncomfortable with lending to communities where more than 10% of the Homes are not owner occupied. In addition, the insurance market has made it clear that they too are concerned about Associations where more than 10% of the Homes are occupied by tenants.

As a result, most communities are amending their legal documents to provide for rental restrictions.





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## ***Paying Attention to HOA and Condo Arrears: Why Acting Fast is Critical in a Changing Economy***

*Marc Schneider, Esq.  
Schneider Buchel LLP, Board Member, CAIWN*

*(Continued from page 8)*

### **Effective Strategies for Collecting Assessments**

1. **Clear and Consistent Communication:** Educate homeowners about the importance of timely payments. Include clear due dates, late fees, and consequences of non-payment in all association documents and newsletters. Keep in mind, late fees and the right to recover legal fees as well as any other penalties must be in the By-Laws or Declaration. If they are not there, you should consider seeking an amendment to the governing documents to permit same. Most homeowners will support these types of amendments when you explain that if they don't pass them, the expenses become those of the entire community (those that do pay).
2. **Early Intervention:** Implement a structured follow-up process. Send reminders and demand letters promptly once an account becomes delinquent. If the monies owed exceed two months, they should be referred to your association's attorney.
3. **Flexible Payment Plans:** Offering structured payment plans for homeowners facing temporary hardships can be a win-win solution, ensuring some level of repayment while preventing full-blown defaults. However, make sure any agreement reached is put in writing and contains a remedy and penalty for non-compliance.
4. **Leverage Technology:** Online payment portals, auto-debit options, and electronic reminders make it easier for homeowners to stay current.
5. **Professional Collection Services:** If initial efforts fail, working with a specialized law firm experienced in association delinquencies can improve recovery rates. Our firm has a department that exclusively handles these types of collections. I have seen many associations hire collection agencies or an "attorney" who is not a community association attorney with experience in handling these matters; only to find their delinquencies increase.
6. **Legal Enforcement:** Association Boards have strong legal tools at their disposal, including liens, foreclosures, and lawsuits. Ensuring that governing documents and collection policies are properly drafted can facilitate enforcement actions. Don't fear taking legal action. Not taking legal action is typically a lot more expensive. Think of it this way – every month you delay in taking action is another month you are not collecting your revenue for a particular unit and a month longer that you will not have a paying homeowner.

### **A Real Life Story**

Our firm represents a community association that had 20% of its homeowners not paying. Several years later, they have a very healthy reserve account of almost 1 million dollars and only a few unit owners who are not paying of the over 200 units. They had previously thought not spending on legal fees was a savings for them and cheaper than pursuing the collection of the arrears. They learned that we recovered far more than they spent each year on legal fees and are so happy they followed the advice to pursue the collection of the arrears! In fact, not only did we recover significant legal fees, but we also recovered significant amounts of interest on the outstanding balances; which was a bonus for the association who did not expect to actually get more than they were owed on the base charge and legal fees.

**Conclusion** Ignoring community association assessment arrears can create severe financial strain and lead to long-term consequences for the community. Proactive policies, effective collection strategies, and sound financial planning can mitigate risk and ensure a stable, well-funded association. Now more than ever, associations must take a disciplined approach to collections to safeguard their financial health in a shifting economic climate.

Board members and property managers must stay ahead of the curve—acting decisively today will prevent financial distress tomorrow.

# ***Blooming Success:***

## ***Essential Spring Tasks for Your Community***

Ciminelli Real Estate Corporation

Spring's arrival signals a time for renewal and it's also the perfect time to proactively address maintenance and plan to ensure a beautiful, well-maintained community. By focusing on checklists, safety, landscaping, and community events, associations can maximize homeowner benefits and preserve property values.

### **Spring Preparation Checklist: The Foundation**

Create a Spring preparation checklist to ensure nothing is overlooked. Prioritize your list and assign tasks to committees, vendors, or volunteers. Your Spring checklist should include these key elements:

- **Community Walkthrough:** Identify winter damage and safety concerns. Encourage board and owner involvement.
- **Preventative Maintenance Inspections:** Schedule vendor inspections for roofs, exteriors, gutters, HVAC, etc. Document your inspection findings thoroughly with photos; addressing small issues saves long-term costs.

### **Spring Safety & Maintenance: Protecting Your Community**

Spring brings the potential for severe storms and changing outdoor conditions. Protect your community with these valuable safety tips:

- **Spring Storms:** Ensure drainage systems function; inspect gutters and drains. Remind owners of water damage responsibilities.
- **Outdoor Safety:** Inspect common areas (playgrounds, pools, etc.) for problems. Address safety concerns promptly.

### **Landscape and Grounds: Enhancing Your Community's Beauty**

Longer, warmer spring days will certainly reveal problems once covered by snow. Transform your community with these essential Spring cleanup tasks:

- **Spring Cleanup:** Coordinate pruning and debris removal.
- **Planting/Gardens:** Replace dead plants; plan annual flower plantings.
- **Lawn Care:** Schedule reseeding, aerating, and fertilization.

### **Community Engagement: Building a Stronger Community**

Engaging resident volunteers for cleanup and planting not only helps to revitalize your surroundings, but it also builds a strong sense of pride and fosters a connection among residents. Consider creating a yearly beautification event, with a social gathering afterward (barbecue, ice cream social).

Spring is approaching! By taking these preventative and proactive steps together with others in your community, you can create a vibrant and welcoming environment for all to enjoy, making this Spring season your most successful yet.

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# *Who is Responsible for the Master Policy Deductible?*

Steve Grimaldi, President of John J. Grimaldi & Associates  
*Board Member, CAIWN*

In today's insurance market, Board members are often finding themselves in a position of having to accept higher deductibles as a basis for renewing coverage at an affordable premium. Increasing deductibles may be appropriate in some instances, but it also raises the question as to who is responsible to pay for this higher deductible, the Association or the unit owner.

Most Association documents spell out who is responsible for payment of any deductible under a master policy. This responsibility usually lies with the Association. This situation may cause an Association to see the amount being paid out for claim deductibles increase and cause a budget to begin to move into the red. In addition there is no way to budget for the number of claims an association may have in one year. Other documents are specific, requiring the unit owners to be responsible for the Association deductible for damage which occurs to the interior their unit.

Other Association documents are silent on the issue of who pays the deductible. Most documents require the unit owner to maintain their unit, so some boards hold the unit owners responsible for damage to the interior of their unit, following the maintenance model.

The first thing a board needs to do is review their documents as they relate to deductibles. Verify who is responsible based upon the verbiage. If the Board feels a change would be in the best interest of the entire community, then an amendment would need to be drafted and presented to the unit owners for review and a vote.

Having the unit owner pay the association deductible is not as bad as it sounds. Most Unit owners insurance companies will cover this expense under the HO-6 policy. Each owner should be encouraged to contact his/her insurance agent to determine if they have the right coverage to pay for this deductible.

In addition to this change, the Association should set up a procedure for small claims. Submitting claims that exceed the association deductible by less than \$100 is not in the best interest of the Association. Insurance carriers typically pay at a minimum \$500 to adjust one loss. Even though the Association is receiving \$100 for a claim, it is actually costing you insurance company \$600.00 for the loss and the expense in adjusting the loss. Submitting these types of claims negatively affect the Associations loss report when it comes to competitively pricing your insurance at renewal.

Establishing both a deductible and small claim procedure and communicating those procedures to all unit owners will help solidify the financial wherewithal of your Association. Once these procedures are communicated to the unit owners then it is up to them to take the steps necessary to protect themselves.



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## ACCOUNTANTS

## ASPHALT & PAVING

## ATTORNEYS

**Barclay Damon LLP**  
200 Delaware Avenue  
Buffalo, NY 14202  
716.858.3801  
cauerbach@barclaydemon.com  
**Corey A. Auerbach, Esq.**

**Hurwitz Fine, P.C.**  
1300 Liberty Building  
Buffalo, NY 14202  
716.849.8900  
eyb@hurwitzfine.com  
**Evan Y. Bussiere, Esq.**

**Phillips Lytle LLP**  
One Canalside, 125 Main St.  
Buffalo, NY 14203  
28 East Main St., Ste. 1400  
Rochester, NY 14614  
Buffalo: 716.847.5491  
Rochester: 585.223.2000 ext 5491  
rshubert@phillipslytle.com  
**Ronald S. Shubert, Esq.**

**Schneider Buchel LLP**  
666 Old Country Road - Suite 412  
Garden City, New York 11530  
516.393.5555  
MSchneider@schneiderbuchel.com  
**Marc Schneider, Esq.**

**Trevett, Cristo, Salzer & Andolina**  
2 State St. Ste. 1000  
Rochester, NY 14614  
585.454.2181 ext 118  
blaforte@trevettcristo.com  
**William LaForte, Esq.**

**Woods Oviatt Gilman LLP**  
1900 Bausch & Lomb Place  
Rochester, NY 14604  
585.987.2824  
krossbrown@woodsoviatt.com  
**Kelley Ross Brown, Esq.**

## BANKS

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