

RESOURCES & BEST PRACTICES FOR THOSE SERVING WNY COMMUNITY ASSOCIATIONS

COMMUNITY ASSOCIATION CONNECTION

FALL 2020

Why Renewing or Becoming a Member Makes Cents

Resources & Education Every Community and Professional Shouldn't Go Without!

by Kris Fulmer, Chapter Executive Director

CAI WNY members have access to practical knowledge and insights from leaders in the field, best practices, research, and tools you can use every day in this rapidly changing industry. These resources can assist you in avoiding costly mistakes and help your association or business save money!

CAI provides information, resources, and education programs to help you keep current on the latest news, laws, and issues affecting community associations, condominiums, and cooperatives, and the homeowners who call them home.

As a member, you'll also have access to a network of industry colleagues—over 40,000 of them in 64 chapters worldwide.

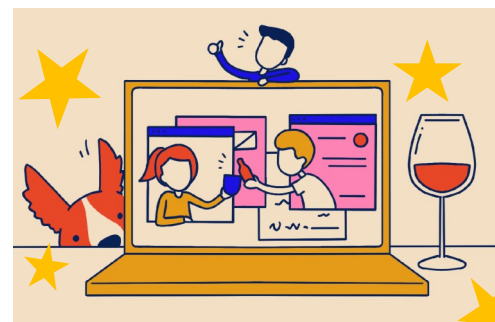


- *Common Ground*, CAI's bimonthly, full-color award-winning, magazine, is filled with information, perspectives and industry trends you can't get elsewhere
- *Community Association Connection*, CAI WNY's quarterly newsletter highlighting regional trends, legislation, and topics of interest, chapter events, tips and best practices
- Around-the-clock access to CAI's website including an extensive Education Center, research library, and Exchange message board
- Legislative and regulatory representation in Washington, D.C and state capitals via member-driven CAI legislative action committees
- Free downloadable copy of the *Board Member Tool Kit*, a great resource for anyone involved in association governance
- *Minutes*, a bimonthly e-newsletter written exclusively for board members and community leaders
- 24 hour access to CAI WNY's website with practical resources, tips, and information, as well as our member blog
- 40% discount on the retail price of CD-ROMs, electronic, and print books

Visit caionline.org to renew or become a member today!



★ CAI WNY 2020 ANNUAL MEETING & VIRTUAL HOLIDAY PARTY ★



Every member of CAI WNY will receive a Zoom link to attend our 2020 annual meeting and virtual holiday party. Attendees will be encouraged to dress in festive clothing or a hat and enjoy a beverage of their choice. There will be a brief business meeting followed by fun interactive games with gift card prizes! RSVP required

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\$195 = 1 Board member

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Visit caionline.org to join today!



2021 Sponsorship Opportunities Making Connections



Bonnie Gionta, Chapter President

It is hard to believe we are almost at the end of 2020. This year has been challenging for homeowners, community associations, management companies, and service providers alike. We have all had to adapt to a new normal involving social distancing, Zoom meetings, mask wearing, and disinfecting. When COVID-19 first struck, CAI was swift to respond by providing its members with health, safety, and legal resources. As a chapter, CAI WNY sent out information via emails and social media, and posted guides, publications, and links to our website, in addition to virtual programs and webinars.

At CAI WNY, we take our mission of supporting association members, volunteers, and professionals through education, unified advocacy, and leadership development to heart. We strive to provide accurate, up-to-date, and relevant content in our presentations and print materials. Our goal is to bring homeowner volunteer leaders, property managers, and service providers together through webinars and virtual happy hours, speed networking, trade shows, educational workshops, and speakers.

No organization is better equipped to connect the region's vast community association industry than Western New York Chapter Community Associations Institute (WNY CAI). Our sponsorship and advertising opportunities provide the most direct line of marketing to reach community association homeowners, managers, and service providers. Our 2021 Sponsorship & Advertising Package can be found on the following three pages of this newsletter. I encourage you or your company to become a sponsor of CAI WNY. If you are a homeowner leader please share this information with service providers or businesses that would benefit from making a connection with our members.

Without our sponsors, CAI WNY would not be able to offer the programming and networking events, outreach, and publications needed to advance our mission and assist those serving community associations. I thank you in advance for your support and hope you and your family have a safe and happy holiday season!



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2021 WESTERN NEW YORK CAI Sponsorship & Advertising Package



Making Connections

Benefits

Make direct connections

No organization is better equipped to connect you with the region's vast community association industry than Western New York Chapter Community Associations Institute (WNY CAI). Our sponsorship and advertising opportunities provide the most direct line of marketing to reach community association homeowners, managers, and service providers.

Make each dollar count

Every dollar your business invests in CAI WNY supports our mission to provide resources and support to community association members, volunteers, and professionals through education, unified advocacy, and leadership development. Our chapter's operating funds are spent primarily on programming and networking events, outreach, and publications geared towards the advancement of community associations.

Make each measurable returns on your investment

Expand your marketing reach and dollar by sponsoring and advertising with CAI WNY. Each event draws members and participants from the greater Rochester, Buffalo, and Syracuse areas, as well as Ellicottville and Chautauqua, New York. Our quarterly newsletter, *Community Association Connection*, and annual *Membership Directory* is emailed to our 200 plus members and posted to our website. Print copies (50+) of our newsletter are distributed to sponsors and property management companies within the region to be shared with their customer base.

Drive more visitors to your website by investing in an inexpensive ad banner on one of our high traffic web pages (300 hits per week). Increase your visibility by becoming a Platinum Precious Metal Sponsor and have you company logo featured on the CAI WNY home page, blog, and Marketplace page with a direct link to your website.

All Precious Metal sponsors will be featured on social media in addition to the Marketplace pages of *Community Association Connection*, *CAI WNY Membership Directory*, CAI WNY website, and the enclosure sent with free gift to all members.

2021 Calendar of Events

Due to COVID-19, all events are currently scheduled as webinars. When feasible, we will begin in-person events to include venues in both Rochester & Buffalo. Please consult our website for changes: www.caiwny.org

February 25—Pond Management

March 25—Landscaping Panel

April 22—Climate Change

May 20—Refreshing Older Units

June 17—Legal Panel

September 23—Speed Networking

October 21—Mentally Ill & Aging Homeowners

November 6—Board Leadership Workshop

December 2—Annual Meeting



- Logo on all event media. Name on 2020 Precious Metal Sponsors poster at entrance, or in virtual background . Acknowledgement during all events.
- Business Sponsorship announcement with logo and link to website on Instagram, Twitter, Facebook, and LinkedIn.
- One post on industry topic of your choice to CAI WNY blog.
- Free 1/4 page ad in all four editions of the CAI WNY newsletter, *Community Association Connection*. Article submission to all four editions.
- 1/4 page ad included with logo alongside Marketplace listing in enclosure sent with free gift to all members from sponsors
- Logo displayed on home page, blog page, and Marketplace page of CAI WNY website with link to your website.
- 1/4 page ad included with logo alongside Marketplace listing in Membership Directory



- Name on 2020 Precious Metal Sponsors poster at entrance, or in virtual background . Acknowledgement during all events.
- Business Sponsorship announcement with logo and link to website on Instagram and Facebook.
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- Logo included alongside Marketplace listing in enclosure sent with free gift to all members from sponsors
- Name displayed on home page and blog page of CAI WNY website. Logo and business name listed on Marketplace page. All linked to your website
- 1/8 page ad in CAI WNY membership directory & logo listed alongside business name on Marketplace page
- 15% discount on event sponsorships



- Name on 2020 Precious Metal Sponsors poster at entrance, or in virtual background. Acknowledgement during all events.
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- 1/8 page ad included with logo alongside Marketplace listing in enclosure sent with free gift to all members from sponsors
- Name displayed on home page and blog page of CAI WNY website. Business name and logo listed in Marketplace page. All linked to your website
- Logo listed alongside business name on Marketplace page in Membership Directory.
- 10% discount on event sponsorships



- Name on 2020 Precious Metal Sponsors poster at entrance, or in virtual background. Acknowledgement during all events.
- Business Sponsorship announcement with logo and link to website on Facebook.
- Logo included alongside Marketplace listing in enclosure sent with free gift to all members from sponsors
- Name displayed on home page and blog page of CAI WNY website. Business name and logo listed in Marketplace page. All linked to your website
- Logo listed alongside business name on Marketplace page in Membership Directory.
- Article submission to all four editions of *Community Association Connection*.

WESTERN NEW YORK CAI 2021 Sponsorship & Advertising Form

PRECIOUS METAL SPONSORSHIP

I will be sponsoring at the following level:

PLATINUM \$1000 GOLD \$750 SILVER \$500 BRONZE \$250

___ I will be paying in full ___ I would like to pay in installments

If paying by installments, first installment will be due upon registration. Second installment will be billed in June and due July 1, 2021. With my signature below, I affirm that I am authorized to make the above commitment on my company's behalf. I have read and understand the benefits associated with this sponsorship and agree to pay in accordance with CAI-WNY payment terms. I understand this form becomes a contract when signed.

AUTHORIZED SIGNATURE: _____

***Once we receive written notice to confirm a sponsorship, no refunds will be given.**

I will also commit to:

WEBINAR SPONSORSHIP

___ \$250 logo on advertising & virtual background of webinar of my choice, company rep. may address attendees for two minutes

BOARD LEADERSHIP WORKSHOP

Event Sponsor

___ \$250 (2 available) logo on advertising & virtual background, company rep may address attendees for two minutes

Tote Sponsor

___ \$150 (8 available) logo and name on tote, company listing and logo in program

PRINT ADVERTISING (full page 7.5"w x 10"h) (1/2 page 7.5"w x 6.25"h) (1/4 page 3.625"w x 4.625"h) (1/8 page 3.625"w x 2.325"h)

Community Association Connection

CAI WNY's quarterly newsletter, Community Association Connection, is distributed via email, print and our website to members and industry professionals.

1/2 page ad \$200 ___Feb ___May ___Aug ___Nov 1/4 page ad \$150 ___Feb ___May ___Aug ___Nov

1/8 page ad \$100 ___Feb ___May ___Aug ___Nov

Membership Directory

Once a year the CAI WNY Membership Directory is distributed via email and our website.

___ full page add \$225 ___ 1/2 page ad \$200 ___ 1/4 page ad \$150 ___ 1/8 page ad \$100

WEBSITE AD BANNER

___ Member Resources page \$300 ___ Membership page \$250 ___ Event Registration page \$250

Company Name: _____ Contact Person: _____

Company Address: _____ City: _____ State: _____ Zip: _____

Office Phone: _____ Email Address: _____

Website Address: _____ Amount Enclosed \$ _____

PLEASE SEND CHECK MADE PAYABLE TO CAI WNY TO:

CAI WNY, PO Box 764, East Rochester, NY 14445

Please email logos and ads to cai.wny@gmail.com Please direct all questions to Kris Fulmer, Chapter Executive Director, at 585-730-2485 or cai.wny@gmail.com.



Repairing & Renovating Common Elements

Ronald Shubert, Esq.

Ronald is a partner in the law firm of Phillips Lytle LLP and presently represents more than 400 community associations in New York State.

QUESTION:

Last month our Condominium Board decided to undertake a common hallway renovation project and imposed a special assessment on each Unit Owner. The special assessment was based upon each Owner's percent interest in the common elements, as stated in the Declaration of Condominium. I recently found out that four Unit Owners (the only Unit Owners in one of the twelve buildings) had decided to opt out of the project and have not paid the special assessment for the hallway renovation. Can they do this?

ANSWER:

Work undertaken on the common elements must be paid for by all the Unit Owners. The four Unit Owners who decided to opt out might feel that this is fair since there is no need for them to pay for renovations they don't want for their building and don't get. However, there are significant flaws in such reasoning.

The common elements of a building belong to everyone and even though the four Owners are the only occupants of the particular building, they are not the only ones affected by the renovation of the building. Potential purchasers look at the complex as a whole and if one of the buildings is not renovated, it may adversely affect the sales price of a Unit in another building in the complex. Repairs and renovations to the common elements must be shared by all Owners whether or not the use of that common element, pursuant to the Condominium Declaration and By-Laws.

What this means is that, even people who live on the first floor of a high-rise, and who never use the elevator, must contribute in the event the elevator needs repair. In addition, if a Board decides to renovate only a few buildings, the cost of those renovations must be paid by all the Unit Owners and not just those living in the buildings renovated.

QUESTION:

When the Developer conveyed the Association property to our Homeowners Association, it included a perimeter wood fence which provided privacy to many of the townhomes in our community. During a recent windstorm the fence blew over and the Association has elected not to replace it. Several homeowners are considering suing the Association since they believe that the Association must replace the fence. What do you think?

ANSWER:

The Association does not have to replace the fence. In a recent New York State Supreme Court decision, the Court found that a determination to rebuild a fence is entirely discretionary and that there is no "general mandate to keep improvements to the common property in a particular form." In addition, the Court stated that the standard of review articulated in Levandusky v. One Fifth Avenue Apartment Corp., which is analogous to the Business

Judgment Rule, controls such a situation. The Business Judgment Rule prohibits judicial inquiry into actions of corporate directors taken in good faith and in the exercise of honest judgment in the lawful and legitimate furtherance of corporate purposes. Accordingly, unless the Home Owners can demonstrate that the Board has breached its duty to the Home Owners in this matter, the Board has no obligation to replace the fence.

QUESTION:


In our Condominium, we have recently covered the "texture 1-11" siding, which was stained red, with yellow vinyl siding. Several Unit Owners told us we had no authority to make such a radical change which they claim is prohibited by the Condominium Declaration. Is this true?

ANSWER:

Most Condominium Declarations prohibit the Condominium Board of Managers from changing the exterior building materials or colors that were initially selected by the builder or the developer of the Condominium. You should examine your Condominium Declaration and By-Laws to ascertain whether or not it contains such a prohibition and, if it does, and your Condominium Board wishes to change exterior colors or materials, that Section could be amended.

THE PLACE

Phillips Lytle is pleased to support WNY-CAL.
We look forward to the continued growth,
advocacy and investment that make our
community the place to be!

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CAI's Guide to Holiday & Religious Displays



Community association board members may choose to develop a holiday and religious display rule that is easy for residents to follow and easy to enforce. Have a happy holiday with these tips.

- * Engage residents in a conversation on whether your community association would benefit from a rule for holiday and religious displays.
- * Consult with your community association manager and attorney of your community decides it would benefit from a rule. These experts can help make sure your policy is consistent with your association's governing documents as well as state and local laws. Create a holiday and religious display rule only if necessary.
- * Include community consensus in the rule. It may include the start date and end date of when decorations may be displayed, hours when lights and displays in yards or balconies may be on, and specifics regarding size, sounds, and placement.
- * Ensure that the policy is clear, enforceable, and reasonable.
- * Request feedback from residents throughout the process.
- * Communicate new information to all residents after the policy is adopted and remind residents of the rule prior to the holiday season.
- * Review your policy regularly and determine if it needs to be updated.

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Be on High Alert to Avoid Cyber Attacks



Bonnie Gionta, CIC

With the COVID-19 pandemic impacting the globe, opportunistic cyber criminals are leveraging our fear and need for information to gain access to individuals' computers and personal information through phishing and other spoofing schemes. These major threats require risk mitigation, risk management and/or risk transfer strategies as the crisis unfolds.

The Threat of Malware and Bad Actors is Real and Growing

- The Johns Hopkins COVID-19 infection rate map was laced with suspicious malware by bad actors exploiting human desire for information on the pandemic.
- Consider that malware software such as keyloggers are being hidden in emails, notifications, and social media posts, and may appear to be from trusted government agencies such as WHO and CDC.
- Watch out for fake domains for meeting and school applications such as Zoom, Google Classroom and other trusted platforms.
- Expect to see additional phishing emails from hackers posing to be delivery companies, online sellers, brokers and investments firms.
- There is the potential of a devastating impact as the result of the loss of personal information, such as login credentials to financial institutions. At a minimum it could lead to the theft of funds and fraudulent charges, damaged reputations and even more.

Follow Mitigation Best Practices

- Exercise caution in handling any email ("phishing"), text message ("smishing") or voice calls ("vishing") with a COVID-19-related subject lines/attachment/hyperlink/topics or headers.
- If you don't recognize the sender, you should delete without opening.
- Don't trust links, documents or texts – hover over links and check for misspellings and unrelated addresses (e.g. googleclassroom\com).
- Navigate directly to trusted sources e.g. CDC, FEMA, NIH for updates and new information.
- Be cautious of social media pleas/articles/links related to COVID-19 – these may be phishing items.
- Do not provide personal/financial information in response to online/offline phone solicitations.
- Remember password functions should always be turned off on computer.
- Do not access financial or other accounts from mobile devices or through public Wi-Fi.

Network Protection Practices

- Do not use the internet provider's router—purchase a separate router network for home.
- Ensure home wi-fi networks are secure—use WPA2 or WPA3 security and a unique password.
- Passwords should be a minimum of 12 characters.
- Change administrator credentials from factory settings.
- Set-up a guest network for all visitors, family and your mobile devices.
- Use one device for financial transactions and keep it on the home network.
- Disable all "smart home" devices with recording capability when discussing confidential matters, especially voice activated "smart speakers" such as Alexa, etc.
- Enable security features on any devices—PINs, fingerprint authentication, or facial recognition.
- Use password management systems such as Last Pass or Keeper to protect your credentials.

View USI's full report, [Cyber Exposures and the COVID-19 Quarantine](https://www.usi.com/public0-health-emergencies), at www.usi.com/public0-health-emergencies.



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New York State Legislative Action Committee (LAC) 2020 Executive Summary



Frank M. Lysiak, CMCA, Executive Director

As we come to a close on this our calendar year 2020, your New York State Legislative Action Committee had very little legislative business activity taking place as a result of the COVID-19 pandemic and the abbreviated legislative participation calendar as a result of the pandemic.

Some of you may welcome this lack of activity since so often there are a number of legislative actions taken to negatively impact the Community Associations, Condominiums and Co-Operatives within New York State in particular our affiliation with the City of New York area.

Needless to say, while the intentions of various legislators maybe in the right place, there is often little understanding and/or resulting legislation that does not impact our quality of life, our finances or complicates the traditional processes of managing our various associations.

So while we saved the time and effort this year, we need to maintain our focus during the forthcoming years since many pending legislative bills will regain their momentum based on the changes in 2020 because of the election results that could not necessarily work in our favor given such items as tax code changes to enhance depleted State of New York and local municipal budgets.

Also, our Legislative Action Committee - Western New York Chapter that currently consists of five (5) members to include Ronald Shubert, Esq., Phillips Lytle, LLC, Jean Kough, Quaker Hollow HOA, Jim Andruschat, Andruschat Real Estate Services, Carole Riehlmann, Cross Creek HOA and Mary Fildes, LMM Properties, we will see these capable personnel move on from their service during the forthcoming two years on behalf of the NYS- LAC of Western New York due to term limits established by our close partnership with Community Associations Institute who provides significant support and monies to our continued effort to serve you.

Therefore, please contact myself or Kris Fulmer, your Chapter Executive Director if you have an interest in serving on the NYS-LAC since we will use the year of 2021 to provide you with a committee orientation and participation in our meetings to provide you with an opportunity to take a more permanent role as a Legislative Action Committee member.

Keep in mind that we are looking for individuals within the three (3) main categories of CAI membership to include Homeowner Board Members, Business Partner Members and the Community Management Company personnel with a limitation of no more than one (1) person from each company or association.

In closing, please enjoy your holidays and stay healthy during this most unusual time in our lives.



STAY SAFE.



KEEP WELL.



The best way to prevent the spread of illnesses, such as COVID-19, seasonal flu, and other respiratory viruses and germs, is to practice everyday preventive actions, including:

- Clean your hands often. Wash your hands often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, use a hand sanitizer that contains at least 60% alcohol. Cover all surfaces of your hands and rub them together until they feel dry.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Avoid close contact with people who are sick.
- Stay home as much as possible.
- Keep 6 feet of distance between yourself and other people.
- Cover your mouth and nose with a face mask when around others. You could spread COVID-19 to others even if you do not feel sick.
- Cover coughs and sneezes. If you are in a private setting and do not have on your face mask, remember to always cover your mouth and nose with a tissue when you cough or sneeze or use the inside of your elbow. Throw used tissues in the trash.
- Clean AND disinfect frequently touched surfaces daily.



Back to Basics

Consider the Rule of Three to Restore Balance to Your Aquatic Ecosystem

Erin Stewart & Katelyn Behourek of SOLitude Lake Management

When developing a management plan for a lake or pond, it is important to keep its purpose and priorities in mind. Is it strictly aesthetic? Is it used for fishing or recreation? Maybe it facilitates irrigation, drinking water, fire suppression, or stormwater collection?

An effective freshwater management program can be compared to the importance of each leg on a “three-legged stool.” Just like the legs supporting the stool, many water resources are interdependent, meaning that the actions taken in the watershed could cause imbalances that have negative consequences downstream.

Think of each “leg” of this metaphorical three-legged stool as representative of the (1) physical, (2) chemical, and (3) biological components of a freshwater resource. If one part of this trinity breaks down, the others will follow. To ensure each of these aspects is protected, it’s important to understand the ways in which they contribute to the health of a waterbody and how to identify imbalances when they arise.

The first leg of the stool—the physical characteristics of a lake or pond—includes features such as size, depth, volume, bottom substrate, water source and exchange through the system. These are major components that can affect how a lake or pond responds to environmental conditions. For instance, shallow ponds with excessive build up of bottom muck and sediment, or those with limited water movement, will be more likely to experience algae and weed growth than a large, deep lake or one with lots of movement.

The chemical characteristics, the second leg of the stool, refer to natural water quality components that can be measured, such as temperature, dissolved oxygen, pH, nutrients, water clarity, dissolved metals, salts and many other parameters. Poor water quality in lakes and ponds often occurs when these parameters become imbalanced in one direction or another.

This is often caused by polluted runoff

entering the waterbody that contains fertilizer, pet or wildlife waste, landscaping debris (grass clipping and leaves) and other organic materials. This process of nutrient “pollution” is one of the most common causes of chemical imbalance in a freshwater ecosystem.

The third biological component of the stool comprises all living things, including algae, plants, bugs, fish and microorganisms. Nutrient pollution is an example of how one component can directly affect another; nutrients encourage algae and aquatic plant growth. While moderate levels of growth are natural and provide habitat and food for fish and wildlife, algae and aquatic weed growth can proliferate under imbalanced conditions.

Without proper management, nuisance algae and vegetation can block sunlight, limit access for fishing and boating, and compromise aesthetics. As these increased populations of plants and algae decay as part of their natural lifecycle, they will release more nutrients into the waterbody to fuel additional growth, creating a vicious cycle.

In the process, the risk of fish kills, offensive odors, accumulation of bottom muck and nuisance insect populations can all increase—further offsetting the balance of the waterbody’s physical, chemical and biological characteristics.

Having knowledge about the benefits of proactive management, and sustainable tools and technologies at our fingertips, adds a fourth, stabilizing “leg” to the “three-legged stool.” With a proactive management in place—even if one of the other components is slightly out of balance—the stool may wobble but will not fall over. In other words, problems that might normally be detrimental for a lake or pond can be identified and resolved early on, before they can impact other aspects of the ecosystem.

A proactive approach is most effective when it accounts for all elements of an ecosystem. Vegetative buffer management, shoreline stabilization, aeration, regular stormwater inspections, and even sediment removal are all proactive ways to support the physical leg of the stool.



These tools limit the influx of runoff and pollutants, prevent erosion and sedimentation, increase water movement and maintain the depth and structural components of a lake or pond.

Some of the more advanced management strategies utilize nutrient-locking products or beneficial bacteria to cycle and remove excess nutrients from the water column, reducing the potential for chemical imbalances. New technologies like nanobubble treatments can be used alongside these solutions to increase beneficial dissolved oxygen concentrations and enhance overall water quality.

Aeration of all types can also help foster the health of fish, wildlife and beneficial insects through the biological food chain. These proactive tools can help give more “stability” to a freshwater management plan so serious, costly problems are far less likely to arise.

Whether mosquitoes and bad odors are keeping you away from the water or nuisance algae is causing an eyesore around your property, there are always ways to counteract the issues you are experiencing. It is important to bring in a professional to educate you about the best proactive approaches for your waterbody and help design a custom management plan before problems get out of hand.

Just like a master carpenter would use his knowledge and expertise to build you the best seat, a certified and trained lake management professional will take each “leg” of the aquatic resource into account to achieve your unique goals and objectives.

Erin Stewart and Katelyn Behounek are Aquatic Biologists with SOLitude Lake Management, a nationwide environmental firm that provides sustainable lake, stormwater pond, wetland and fisheries management solutions. Learn more about this topic at www.solitudelakemanagement.com/knowledge



Why Amend Your Legal Documents?

Ronald Shubert, Esq.



Sooner or later every Homeowners' Association or Condominium is faced with the question of whether or not to amend its legal documents. The desire to amend the legal documents may arise from a variety of sources. Documents become outdated with the passage of time and are no longer consistent with changes in laws and regulations currently being applied to community associations and condominiums in the jurisdiction.

Operational practices and activities over time also may have shown that the documents contain provisions that are not workable for the condominium or association. In some cases, the documents may be found to contain conflicting provisions or errors.

It is not an easy task to amend or redraft documents for a Condominium or Homeowners' Association. Before a Community Association decides whether or not it is ready to amend its documents, it should ask itself the following questions:

Are the Directors or Managers misled as to their duties and responsibilities by relying on outdated provisions?

Are the Members being misled into believing the documents accurately describe members rights, the legal procedures to be followed and other matters regarding project and association operation?

Do documents conflict with federal or state law i.e., satellite dish standards (federal), voting provisions (state)?

In cases of conflict between the legal documents and the law (statutory or case law), which has changed since the adoption of legal documents, the new law will prevail. This can certainly cause confusion to the Owners and Members.

Once the decision to amend or re-write the legal documents has been made, the attorney should review the current declaration, bylaws, and rules and regulations and provide new documents that:

- Eliminate obsolete provisions.
- Eliminate provisions no longer observed or enforced
- Eliminate provisions that conflict with current laws.
- Eliminate sponsor rights that are no longer being used such as two-class voting, exemption from use restrictions, etc.
- Clarify ambiguous provisions.
- Tailor the documents to fit the living experience of the Owners and Members.
- Provide for changes in the technology, i.e., satellite dishes, and electronic communication.

- Make the documents more user friendly (better organization, table of contents, etc.)
- Eliminate errors or mistakes.

My experience is that a Community Association should consider amending its documents after 5 years, but certainly a total re-write is in order after 10 years, so as to incorporate the changes in statutory case law. Generally, if the documents are reasonably up-to-date, it might not be necessary for a total re-write, but instead only an amendment. Amendments are more efficient and certainly less expensive than a total re-write.

If the document is old (more than 10 years) then a total re-write is in order. Whether the document is amended or rewritten, a membership vote of 67% is usually required. Once the amendment is approved, it becomes effective and binding when recorded in the County Clerk's Office.

All Homeowners' Associations and Condominiums should review their legal documents to ascertain whether the time has come to amend or re-write. All the Associations whom I have worked with in re-writing their legal documents have been very pleased with the finished product, since it has made their job as a governing body easier since they have documents that are up to date, enforceable and coherent.



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