

COMMUNITY ASSOCIATION CONNECTION



Winter 2025



To Air B&B or Not to Air B&B - That is the Question

Corey Auerbach, Esq.

Partner, Barclay Damon LLP & CAI WNY Board Member

Short-term rentals have become a pressing issue for community associations. With platforms like Airbnb and VRBO continuing to grow in popularity, associations must address the challenges these rentals bring while balancing the rights of homeowners. While short-term rentals can offer financial opportunities for property owners, they also present unique concerns for boards and residents alike, particularly in preserving the character, security, and cohesion of their communities.

The transient nature of short-term rentals can disrupt the sense of community many associations work hard to cultivate. A revolving door of unfamiliar guests can lead to increased noise, parking disputes, and wear and tear on shared amenities. Additionally, the constant turnover may heighten security risks, as it becomes more difficult to monitor who is entering and using community spaces. These disruptions often cause friction between homeowners who participate in short-term rentals and those who value the stability of a residential neighborhood.

For community associations, addressing these challenges requires a thoughtful approach that starts with their governing documents. Declarations, by-laws, and rules must clearly articulate whether and how short-term rentals are permitted. Without explicit language, enforcing restrictions becomes difficult and may lead to disputes. Boards may need to consider amendments to address short-term rentals, balancing the need to regulate such activity with the rights of property owners.

In addition to revisiting governing documents, associations can benefit from implementing practical measures to mitigate the impact of short-term rentals. For instance, requiring homeowners to register their rental activities with the board can help maintain oversight. This process might include providing emergency contact information for renters and demonstrating compliance with local laws.

Enhanced security measures can also help address concerns about the safety of shared spaces. At the same time, consistent enforcement of rule, including imposing fines for violations, where authorized, can reinforce the community's standards and deter unauthorized rental activity.

Short-term rentals are regulated not only by association governing documents but also by local laws and zoning regulations. Boards should stay informed about these external requirements, which often include restrictions on rental duration or registration mandates. Working with experienced legal counsel ensures that association policies align with these regulations and are both enforceable and fair.

While short-term rentals can be a divisive topic, open communication and clear policies can help associations navigate the challenges they present. By taking a proactive stance, community associations can protect the character and quality of life within their neighborhoods while respecting the rights of all homeowners.

2025- 2026 CAI WNY Board of Directors

President: Ron Bucelli
Treasurer, Oakbrook Condominium Board, Williamsville

President-Elect: Anita Smith
CEO, Kenrick Corporation, Rochester

Treasurer: Lisa Mazur
Fairwood Management, Senior Property Mgr. , Depew

Secretary: Jean Kough
Quaker Hollow HOA, Orchard Park

Board Members:

Corey Auerbach, Esq.
Partner, Barclay Damon, LLP, Buffalo

Steve Grimaldi
President, John J. Grimaldi & Assoc., Clarence Center

Marc Schneider, Esq
Schneider Buchel, LLP

Ronald Shubert, Esq.
Phillips Lytle LLP, Buffalo

Mark Wheten
Eastbrooke Condominium Community , Rochester

Angela Ramage-Wolf, Chapter Executive Director
2117 Buffalo Road, #261, Rochester, NY 14624
P: 585.505.2252 E: cai.wny@gmail.com

Website: caiwny.org **National Website:** caionline.org

Advertising Rates (per issue)

1/8 page \$85 b&w \$100 color 1/4 page \$125 b&w \$150 color

1/2 page \$175 b&w \$200 color full page \$225 b&w \$250 color

COMMUNITYASSOCIATIONCONNECTION
is published by the CAI Western New York Chapter

Publisher: CAI WNY

Newsletter Editor & Design/Layout: Angela Ramage-Wolf

Contributing Writers:

**Corey Auerbach, Esq. , Steve Grimaldi, Marc Schneider, Esq., and
Ronald S. Shubert, Esq.**

This publication attempts to provide CAI-WNY's membership with information on community association issues. Authors are responsible for their expressed opinions and for the authenticity of all presented facts in articles. CAI-WNY does not necessarily endorse or approve statements of fact or opinion made in this publication and assumes no responsibility for those statements.

This publication is issued with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

All contributed articles must be original work; all previously published works must be accompanied by the publisher's authorization to reprint. *Community Association Connection* reserves the right to edit contributed articles for clarity and length, and reserves the right to refuse to publish any contributed article.

Permission to reprint is hereby granted provided: 1.) Notice is given to the publisher at 585.730.2485 and 2.) Proper credit is given as follows: Reprinted from *Community Association Connection*. Copyright by CAI-WNY Chapter, all rights reserved.

© CAI-Western New York Chapter 2024.

The Care & Feeding of Your Garbage Disposal

The powerful roar of your disposal's motor may convince you it can take on any garbage you throw its way, but it's important to remember that your disposal is not a trash can. Garbage disposals are designed to grind small bits of biodegradable food waste to help prevent clogged drains. Proper use and maintenance will not only extend the life of your appliance but will also spare you unnecessary and costly service calls.

Do:

Small amounts of skinless, boneless, pit-less and non-fibrous foods are safe to grind.

Don't:

Shells, skins, husks, rinds and other hard or fibrous materials should not be put in the disposal (e.g., clam shells, oyster shells, corn husks, fruit pits, banana peels, avocado skins and bones).

Large amounts of starchy foods (e.g., noodles and rice) should not be put in the disposal. Although they are easily ground, they expand in water and can clog drains.

Always:

Run *cold* water when operating the disposal. Keep the water running for at least 30 seconds after you turn off the unit.

Never:

Use *hot* water when operating the disposal.

Put non-food materials through the disposal. This includes all types of glass, plastic and metals (e.g., bottle caps, aluminum foil and plastic wrap).

Put harsh chemicals in the disposal or down the drain.

Sometimes:

Occasionally grinding bits of citrus peel helps clean and freshen the disposal.

Grinding a little ice once a month helps scrape away deposits and remove odors.

Running small amounts of eggshells or coffee grounds through the disposal is sometimes suggested to sharpen the blades; however some sources warn against the practice.

Consult your user's manual for recommendations specific to your model.

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

2025

WINTER SAFETY WEBINAR SERIES - 2025

Zoom events - Topics and Dates below: (3-4 P.M.)

- *Wednesday, February 26, 2025 - Fire Safety: Strategies and Equipment*
- *Wednesday, March 19, 2025 - Security - Keeping Your Home Safe*
- *Wednesday, April 30, 2025 - Disaster Recovery (Insurance & Strategy)*

Ask the Legal Experts - Wednesday May 28, 2025

(In Person Event - Rochester, 6 P.M. to 8 P.M.)

Brook-Lea Country Club (pending)

891 Pixley Road, Rochester 14624

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)

930 Maple Avenue, Buffalo 14221

ALSO ... - Presidents' Meetings

In-person meetings of the HOA and Condo leadership to discuss ideas and topics of importance to their communities.

Groups being formed in BOTH Buffalo and Rochester.

Please contact cai.wny@gmail.com for details

FINALLY

Watch for our big announcement in 2025 Just for Managers!

Thank You for a Successful Year

Marc Schneider, Esq.

Schneider Buchel LLP, Board Member, CAI WNY

President CAI WNY 2024

As my year serving as President of the Community Association Institute (CAI) local chapter comes to a close, I find myself reflecting on what has been a rewarding journey filled with gratitude. It has been a privilege and honor to lead the CAI WNY Chapter, an organization dedicated to serving community association boards and supporting the professionals who make them thrive.

When I joined the CAI WNY Chapter, my main goal was to make our Chapter a great resource for Boards and Property Managers by providing relevant information and educational programs. I was honored to be asked to lead our Chapter this past year.

Throughout this past year, our chapter has taken significant strides in advancing our mission. As promised, I prioritized listening to our members by meeting with managers and Board Presidents to gather their ideas on how we could better serve and improve our chapter. Their insights were invaluable, and I am proud of the collaborative spirit that these discussions fostered. Together, we identified areas of growth and crafted strategies to make our chapter even more impactful.

It was important to me that each of our members feels like they are getting significant value by being a part of our chapter. One of the ways we do that is by bringing important and relevant information that impacts Boards and property managers to our membership in a timely manner. You are all aware, this year, the Corporate Transparency Act threw community associations into a frenzy as no one knew what to do with the constantly changing information regarding enforceability and compliance. We quickly went into action and made the CTA the highlight of our upcoming meeting so that our Boards and property managers were up to date and knew how to handle compliance with the CTA. The event turned out to be our best attended event!

As I step down from the role of President, I am pleased to remain on the Board and am committed to seeing our chapter continue to grow and thrive. I am confident that the momentum we have built together will carry forward into the hands of our incoming President, Ronald Bucelli. Ronald brings his experience as the President of his own WNY community association. I think it is fitting that our chapter will now be led by a community association member. After all, our primary purpose is to serve community associations and the individuals who dedicate themselves to their success. They know best what their associations need. I have been a strong advocate and will continue to be for increased Board member involvement in our chapter.

Looking ahead, our chapter remains steadfast in its commitment to providing relevant and desired content and education for board members and community association professionals. Together, we will continue to innovate, collaborate, and adapt to the evolving needs of our membership.

Thank you to all our members, colleagues, and friends for your support during my presidency. I also want to thank my fellow Board members and our Chapter Executive Director, Angela Ramage-Wolf, who have worked together with me this year to improve our Chapter. It has been a remarkable year, and I am grateful for the opportunity to have worked with everyone and to have led the chapter this year. Here's to a bright future for our chapter and the communities we serve.

Looking Towards Tomorrow and Serving our Members

Ronald Bucelli—President, CAIWN

My name is Ron Bucelli. I have retired from a career in Commercial Banking with an emphasis in bank operations and retail banking technology delivery systems. I served several terms as President of the Board of Managers of the Oakbrook Condominium, a 289-unit townhouse and garden apartment community located in Amherst, New York. During this time, I became very involved in the day-to-day operations of our community. This provided me with a great insight into the needs and issues Community Associations encounter daily.

It has been a little over a year since I decided to run for a Board position at the Western New York chapter of the Community Association Institute. My reason for doing so is that I was greatly impressed with, what I perceived, was the great potential that this international organization has to improve the lives of its members; especially the many volunteer board members that comprise its ranks. It resulted in my becoming a member of the Board.

For the past year, I had the opportunity to view how the Board saw its mission and how it interacted with each other. I came away with renewed respect for both its quality and commitment. I also realized what a great value membership can receive for the services that CAI provides. You can more than justify the cost of annual membership alone from just having access to the topics and discussion covered seven days a week in the online CAI Members Open Forum Digest and the association's bi-monthly "Common Ground" magazine.

The local chapter provides outstanding in person meetings at select banquet meeting sites throughout the year. Just a few recent examples are: the "Ask the Legal Experts" program which was held at the Risotto restaurant in Buffalo and the "Board Leadership Training" that also incorporated a presentation on "Effective Strategies for Dealing with Difficult Residents" that was held in Rochester. This session also had a very timely update on the Corporate Transparency Act. In my humble opinion, a Community Association cannot risk not being a member.

At the November Board meeting of the chapter, I was nominated and elected to serve as president for a one-year term, ending in 2025. I thank the Board for providing me with this opportunity and, with its continued support, will endeavor to grow the membership through the high-quality programming and support services that we plan on providing in the new year.

One program that I will personally oversee is the creation of discussion group forums for association board presidents or senior board officers to be held in both Rochester and Buffalo. These forums will allow participants to network through meeting with their peers to discuss topics they choose. The purpose is to see whether others have experienced similar situations and, if so, how they dealt with them. Based on my experience there is a definite need for this from just the networks it will create alone.

I look forward to working with you in the new year

ANDRUSCHAT REAL ESTATE SERVICES, INC.

CONDOMINIUM & ASSOCIATION MANAGEMENT
BUFFALO, NY

CERTIFIED PROPERTY MANAGER & CAI WNY MEMBER

716-688-4757

JimJr@Andrsuchat.com





*USI Insurance Services is proud to support
the Community Associations Institute
Western New York Chapter*

BONNIE GIONTA

Vice President | Property & Casualty

USI Insurance Services

300 Meridian Centre Boulevard | Rochester, NY 14618

bonnie.gionta@usi.com | 585.736.5908

www.usi.com | 855.874.0123

PROPERTY & CASUALTY | EMPLOYEE BENEFITS | PERSONAL RISK | RETIREMENT CONSULTING

© 2023 USI Insurance Services. All Rights Reserved.



“Future-Proofing” Your Community: Effective Strategies for Tackling Aging Infrastructure

Marc Schneider, Esq.

Schneider Buchel LLP, Board Member, CAIWNY

Aging infrastructure is a growing challenge for many community associations. Leaking roofs, outdated plumbing, and deteriorating common areas are just a few of the issues that can arise as communities age. Proper planning and financial preparation are essential to address these challenges effectively. Here’s how your community association can be prepared for necessary repairs:

1. Establish and Maintain a Robust Reserve Fund

A reserve fund is a critical tool for any community association. It is used to save for large, predictable expenses, such as roof replacements, parking lot resurfacing, or structural repairs. Alternatively, some community associations will reserve for the emergency repairs and to supplement other methods of payment for these repairs.

Many associations contemplate conducting a reserve study. However, the risk in doing so is that it will then need to become a part of your financial statement, and you will need to reserve in accordance with the recommendations. Most boards don’t want to do that as it would cause their monthly charges to increase significantly. In fact, if you look at most community associations’ financial statements, they contain a statement about the fact that a reserve study has not been performed and instead the Board is accumulating funds in a reserve account (along with a note that explains what the Board’s rights are with respect to raising capital for these needs).

An alternative is to informally (not through a reserve study) evaluate the condition of community assets with the assistance of an engineer and your management company. They can help you determine what future needs are and the way it can be paid for. You should regularly review and adjust reserve contributions and other plans to ensure adequate funding over time.

2. Develop a Long-Term Maintenance Plan

Preventative maintenance can help extend the life of community assets and reduce costs. A long-term maintenance plan should include:

- A detailed inventory of community assets, including roofs, HVAC systems, landscaping, and shared facilities.
- Scheduled inspections and routine upkeep.

Budgeting for small repairs before they escalate into larger, more expensive problems. Delaying repairs oftentimes causes the expense for the repairs to significantly increase. You should also look at the ongoing repair costs. If you are spending significant repair costs, it may be time to take on the entire project. For example, if you are making many roof repairs for roof leaks, it may be time to replace all of the roofs. This will become a one time cost and then positively impact your budget by significantly reducing repair costs. Similarly, if you are constantly fixing siding leaks or maintaining/painting siding, it may be time to switch to vinyl siding. A careful review of the annual costs of siding maintenance should be compared to the cost (and cost savings) of a one-time project.

3. Understand Financing Options

The reason why many community associations don’t reserve for the cost of the major repairs any longer is due to the availability of financing for these projects. Loans are a very popular and viable option. Here are some of the benefits and considerations of a loan vs. long term assessment or one-time assessment:

- A loan provides your association with all the money needed for the project at one time. If you assess and someone doesn’t pay their portion, you need to come up with the money so you can pay the vendor(s).
- The home owners pay the monthly fee to service the debt on the loan (the loan’s monthly payment). If a resident moves 2 years into the term of the loan, that resident only had to pay for two years’ worth of assessments related to the debt service.
- Most project life expectancy is long. This ensures that the payment for these costs is over time. Alternatively, if the Board assesses in one lump sum or over a short period, those residents who are there at that time bear the cost of the entire project and may not get to benefit from the project.

(Continued on page 15)



John J. Grimaldi & Associates, Inc.

Why is it that more than 240 Community Associations trust John J. Grimaldi & Associates with their insurance?

EXPERIENCE. Established in 1965, and specializing in community association insurance.

KNOWLEDGE. We can bring to you all the coverages you need, along with options to enhance your protection.

OPTIONS. We can offer your community association creative, competitive alternatives, utilizing insurance carriers which specialize in community association insurance.

Steven Grimaldi

SPG@Grimaldiinsurance.net

137 Summer Street • Buffalo, NY 14222

800-500-1355 • Phone: 716-636-1355



John J. Grimaldi & Associates, Inc. has been a proud member of the WNY Chapter of the Community Association Institute since 1981.



THANK YOU TO OUR PRECIOUS METAL BUSINESS SPONSORS

PLATINUM

**ANDRUSCHAT REAL ESTATE SERVICES, INC.
BARCLAY DAMON LLP
FAIRWOOD MANAGEMENT GROUP
JOHN J. GRIMALDI & ASSOCIATES, INC.
KENRICK CORPORATION
SCHNEIDER BUCHEL LLP
USI INSURANCE SERVICES**

GOLD

PHILLIPS LYTTLE LLP

SILVER

**HURWITZ FINE, P.C.
LAWLEY INSURANCE SERVICES, INC.
GALBO GROUP**

BRONZE



Assessment Collection, Rentals, Reverse Mortgages, Board Seats

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:

Please explain the appropriate steps to take and when to take those steps when a Homeowner falls behind on the Association assessments.

ANSWER:

Your Association should adopt an assessment policy which involves the Board, management company and attorney.

Typically, the management company will forward a past due notice to the Unit Owner in compliance with the Declaration and By-Laws of the Association (typically 15 days after the assessment is past due). Usually, the delinquency will be turned over to the Association attorney once the Unit Owner is 30 days in arrears. At that point, the attorney sends a "30 day demand letter". If the debt remains unpaid, a lien is filed. The lien should be foreclosed once the Unit Owner is, either one (1) year delinquent or the amount due is more than \$5,000.00.

QUESTION:

When a bank foreclosure has been commenced, how can we "get ahead" of the process to get the money owed to the Association?

ANSWER:

Once A lender commences a foreclosure, it is very difficult to "get ahead" of that foreclosure. The Association should have in place a collection policy so that it proactively collects past due assessments. Typically a bank will not start a foreclosure until a Homeowner is at least six months behind in the payment of a mortgage, and usually the bank foreclosure is a long process (more than one year). For this reason, I recommend that an assessment collection policy be adopted by the Board of Directors and that it be strictly followed

QUESTION:

We have a Unit that has a "reverse mortgage" on it and the Homeowner is now deceased. What is our recourse?

ANSWER:

A reverse mortgage is no different than a purchase money mortgage in that it is a lien on the property and, if not paid upon the death of the Homeowner, the bank or holder of the mortgage, will foreclose it. In the case of a purchase money mortgage, the Homeowner borrows money from a lender to purchase the home. In the case of a reverse mortgage, the Homeowner borrows money against the equity in the home.

There are several ways of dealing with the situation of unpaid assessments. The first being contacting the executor of the estate and, if satisfactory results are not achieved, the Association can foreclose its Association lien, subject to the reverse mortgage.

(Continued on page 13)

*Barclay Damon LLP proudly partners
with condominium and homeowners'
associations for all their transactional
and legal compliance needs.*

- Legal Advice and Counsel
- Drafting and Amending Governing Documents
- Enforcement of Rules and Regulations
- Dispute Resolution
- Collection of Assessments



Corey Auerbach

*Partner at Barclay Damon and
CAI WNY Immediate Past President*

BARCLAYDAMON.COM

200 Delaware Avenue, Buffalo, NY 14202 | 716.856.5500



Assessment Collection, Rentals, Reverse Mortgages, Board Seats

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.

(Continued from page 11)

QUESTION:

I am the President of a Homeowners' Association and have the following questions regarding the conduct of Board Meetings and voting.

- I. At an Annual Meeting, does the Association have to allow for nomination from the floor; and
- II. If there are three Board positions available, and four candidates running, can we require Owners to vote for three on the ballot or would it be deemed void.

ANSWER:

Your Bylaws govern whether or not nominations from the floor are allowed. If you wish to require Owners to vote for three positions on their ballots, or their ballots will be deemed void, you must amend your Bylaws accordingly.

QUESTION:

What restrictions can a Board legally place on Homeowners regarding rental of their homes and can the Board set a limit on the number of rentals in their community?

ANSWER:

The Association Declaration and Bylaws can be amended to place rental restrictions on the Units. I recommend that current Owners be grandfathered and allowed to continue renting their Units. 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 Units 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 Units 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 Units are occupied by tenants.

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

Fairwood

MANAGEMENT

a division of



GALBOGroup

Maintenance Services:

Inspections & Repairs

Groundskeeping

Snow Shoveling

Emergency Response

Ready to elevate your community? Let's talk about how our services can help!

Management Services:

Financial Management

Board Meeting Support

Resident Communication

Contact Us!

716.656.9700 | maintenance@fairwoodmgmt.com





“Future-Proofing” Your Community: Effective Strategies for Tackling Aging Infrastructure

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

(Continued from page 8)

- **These loans are not mortgages** and are typically secured by the assessment and monthly charges (as well as bank accounts and similar collateral).

-

Condominiums vs. HOAs: It's important to note that taking out a loan usually requires a vote of the unit owners in condominiums, while HOAs typically do not need such approval. Associations should review their governing documents and consult legal counsel to understand the requirements.

4. Educate and Involve Members

One of the biggest challenges in addressing aging infrastructure is gaining member support. Associations should:

- Hold informational meetings to explain the condition of community assets and the need for repairs.
- Provide clear, detailed information on the costs of the upcoming projects and the Board's approach to payment of the anticipated costs.

Highlight the risks and potential costs of deferring necessary maintenance.

5. Leverage Professional Expertise

Partnering with professionals can make a significant difference in planning and executing repairs:

- Hire qualified engineers, architects, or contractors to assess and address infrastructure needs is extremely important. The most common problem I encounter is when boards don't hire an engineer or other professional to determine the scope of the project and instead rely on a contractor. When an issue arises, it is often difficult to hold the contractor responsible as the contractor will say they did what they contracted to do. The cost savings of the professional often pales in comparison to the cost of the dispute. I have seen boards have to redo an entire project and be left with a long lasting litigation to recover monies spent on a failed project.
- In that regard, it is imperative that Boards have their attorneys draft contracts not only with the vendors but also with the professionals (such as an engineer).

Work with the community's management company and accountant to develop effective budgeting and funding strategies.

Conclusion

Proactive planning and financial preparedness are essential for community associations to address repairs in aging communities. By maintaining a strong reserve fund, exploring and utilizing available financing options, and fostering transparent communication with members, associations can effectively manage the challenges of aging infrastructure. With careful planning, these communities can ensure their long-term sustainability and continue to provide a high quality of life for their residents.



KENRICK
CORPORATION
ROCHESTER, NY



Respect. Commitment. Consistency.

www.kenrickfirst.com

585-424-1540
3495 Winton Place, Bldg. D-4, 14623

MORE THAN A LAW FIRM. A PARTNER.



Phillips Lytle is proud to sponsor the WNY Chapter of Community Associations Institute. We stand together with them as they continue to offer professional development, networking opportunities and other resources to their members.

Believing in and supporting organizations that make our community stronger. That's The Phillips Lytle Way.



Phillips Lytle LLP

PHILLIPSLYTLE.COM

ONE CANALSIDE, 125 MAIN STREET, BUFFALO, NY 14203 (716) 847-8400

NEW YORK: ALBANY, BUFFALO, CHAUTAUQUA, GARDEN CITY, NEW YORK, ROCHESTER | CHICAGO, IL | WASHINGTON, DC | CANADA: WATERLOO REGION

© 2024 Phillips Lytle LLP



**PROUD PARTNER OF
COMMUNITY ASSOCIATIONS INSTITUTE
WNYS CHAPTER**

**INSURANCE
EMPLOYEE BENEFITS**

Lawley

Stuart Scheff | Partner
sscheff@lawleyinsurance.com
716.636.5818
lawleyinsurance.com



Winter Wildlife




GALBOGroup
Masonry
&
Specialty Contractor
"Where Vision is Built"



Highmark Stadium



Why Amend Your Legal Documents?

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.

Sooner or later every Homeowners' Association and Condominium is faced with the question of whether 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 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 enforce
- 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, 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.



Schneider Buchel LLP
PREEMINENCE IN COMMUNITY ASSOCIATION LAW

Your home, our priority.
**Protecting your
community's future.**

**A full-service law firm for cooperatives,
condominiums, and homeowners associations**



Long Island 516.393.5555 | New York City 212.485.9400

Buffalo 716.400.0617 | Rochester 585.608.0750 | Syracuse 315.530.1628

schneiderbuchel.com

For more information, contact Marc H. Schneider, Esq.: mschneider@schneiderbuchel.com

THE MARKETPLACE

ACCOUNTANTS

ASPHALT & PAVING

Robinson Paving, Inc.
PO Box 266
East Aurora, NY 14052
716.983.2496
cwendypave@aol.com
Wendy Burke

ATTORNEYS

Barclay Damon LLP
200 Delaware Avenue
Buffalo, NY 14202
716.858.3801
cauerbach@barclaydamon.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@treveetcristo.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

Alliance Association Bank
3101 Middlewood Rd
Midlothian, VA 23113-2169
804.938.5175 Fax: 702.818.8091
rsmall@allianceassociationbank.com
Robert Small

AvidXchange
1210 Avid Xchange Ln
Charlotte, NC 28206
(315)729-9583
John McDermott

Axos Bank
4350 La Jolla Village Dr Ste 140
San Diego, CA 92122-1244
877.357.2265 ext.1124
loconnor@axosbank.com
Laura O'Connor

CINC Capital, LLC
10 Wildbird Ln.
Hilton Head Island, SC 29926-2766
770.365.3331 Fax: 843.342.3042
Robin Storey, CMCA
robin@cinccapital.com

First Citizens Bank
15950 W Dodge Rd
Omaha, NE 68118
(402)871-3017
https://firstcitizens.com/

Erin Kremser

National Cooperative Bank
250 Park Ave Ste 900
New York, NY 10177-0903
212.808.0880
mehrlich@ncb.coop
Marty Ehrlich

Pacific Premier Bank
15301 Dallas Pkwy Ste 850
Addison, TX 75001
(408)515-8269
Matt Baron

Pinnacle Financial Partners
530 Johnnie Dodds Blvd Fl 2
Mt. Pleasant, SC 29464
(815)325-8108
Michael Roche, AMS, PCAM

Popular Association Banking
7900 Miami Lakes Dr W
Miami Lakes, FL 33016-5816
800.233.7164 Fax:305.821.7284
mhime@popular.com
Molly Hime, Senior Vice President

SmartStreet powered by BANC of California
3320 Holcomb Bridge Rd
Peachtree Corners, GA 30092
(770)326-9664
Sally McCray

DOCUMENT PROCESSING

CondoCerts
8455 Lenexa Dr.
Overland Park, KS 66214-1550
913.725.1330 Fax: 913.725.2058
kross@condocerts.com

EMERGENCY CLEAN-UP & RESTORATION

Paul Davis Resporation
1075 Buffalo Rd
Rochester, NY 14624 585.647.9933

Servpro
801 Industrial Blvd
Gallatin, TN 37066
(615)451-0600
Tammy Williams

INSURANCE

Distinguished Programs
1180 Avenue of The Americas Fl 16
New York, NY 10036-8401
212.297.3100 Fax: 212.297.3130
rmcfadden@distinguished.com
Renee McFadden

Ian H. Graham Insurance
15303 Ventura Blvd. Fl 12
Sherman Oaks, CA 91403-5817
(818)742-1430 Fax: (312)381-6710
sylvia.tagle@aon.com
Sylvia Tagle, Senior Vice President

John J. Grimaldi & Associates, Inc.
137 Summer St.
Buffalo, NY 14222
716.636.1355
Steven Grimaldi, CIRMS

Lawley Insurance
501 John James Audubon Pkwy Ste. 302
Amherst, NY 14228
716.636.5800
sscheff@lawleyinsurance.com
Stuart Scheff

USI
USI Insurance Services
300 Meridian Centre Blvd, Suite 100,
Rochester, NY 14618
New Mailing Address: 726 Exchange St.

Ste 618, Buffalo, NY 14210
585.736.5908 Fax: 585.736.5850
bonnie.gionta@usi.com
Bonnie Gionta, CIC, VP

LAKE & POND MANAGEMENT

Solitude Lake Management
2844 Crusader Cir Ste 450
Virginia Beach, VA 23453-3113
979.279.2946 Fax: 979.279.2016
info@solitudelake.com
Brendan McCarthy

LANDSCAPE COMPANIES

BrightView Landscape Services
1960 S Yale St
Santa Ana, CA 92704
(818)737-2620
Francesca Smiley

MANAGEMENT COMPANIES

Andruschat Real Estate Services, Inc.
P.O. Box 448
Getzville, NY 14068
716.688.4757
James Andruschat, CPM, AMS, President

Ciminelli Real Estate Services, Inc.
50 Fountain Plz Ste 500
Buffalo, NY 14202
(716)425-4350
Noelle Hofmeyer

Fairwood Management
5586 Main Street, Suite 102
Williamsville, NY 14221
716.656.9700
Dan Grabowski

Harmon Homes Realty, Inc.
1281 Seneca Creek Rd
Buffalo, NY 14224
(716)675-9056
Michael P. Harmon, AMS

Kenrick Corporation
3495 Winton Place, D-4
Rochester, NY 14623
585.424.1540
asmith@kenrickfirst.com
Anita Smith

Vacation Properties
PO Box 51
Chautauqua, NY 14722
https://www.votehoanow.com/
(503)420-8663
William Soffel

MANAGEMENT SOFTWARE

BuildingLink
85 5th Ave Fl 3
New York, NY 10003
(860)941-0040

CINC Systems
3055 Breckinridge Blvd Ste 310
Duluth, GA 30096-7562
404.314.0682 Fax: 678.205.1469
vickie@cincsystems.com
Vickie Johnson, CMCA, AMS

ClickPay
411 Hackensack Ave
Hackensack, NJ 07601-6328
201.733.4422
phixson@clickpay.com
Patrick Hixson

eUnify, Inc.
4960 S Gilbert Rd Ste 1 PMB 43
Chandler, AZ 85249
(480)802-4284
http://www.appLega.com

Vantaca, LLC
26659 Terry Cove Dr
Orange Beach, AL 36561

(855)582-6822
Sean Hoyle

PAINTING CONTRACTORS

CertaPro Painters
7220 Porter Rd.
Niagara Falls, NY 14304
716.381.9330
DVentresca@certapro.com
Dominic Ventresca

POWERWASH SERV.

All Clean Powerwash
4330 Route 96
Shortsville, NY 14548
(585)703-8491
Luke Abbott

PUBLICATIONS & PRINTING

Welcome Link
8455 Lenexa Dr.
Overland Park, KS 66214-
1550913.725.3114
fsummerlin@uhlig.com
Felicia Summerlin

RESERVE STUDIES

Association Reserves
55 Madison Ave Ste 400
Morristown, NJ 07960
(201)777-4604
Brian Weaver, CMCA, AMS, PCAM

Reserve Advisors, LLC
4600 N Fairfax Dr Ste 404
Arlington, VA 22203-1560
703.812.0580 Fax: 571.406.5331
mbaldry@reserveadvisors.com
Baldry, Michelle, RS

ROOFING

GAFF Roofing Material Manufacturer
12506 Misty Lake Ct
Midlothian, VA 23114
(804)248-9763
Tony Vallance

SECURITY SERVICES

Allied Universal
455 Delaware Ave. Ste. 101
Buffalo, NY 14202
716.852-0738
kelly.kehoe@alliedbarton.com

Windows & Doors

LiftMaster - Chamberlain Group
300 Windsor Dr
Oakbrook, IL 60523
(571)888-2799
Josh Anderson

VOTING SERVICES

The Inspectors of Election, LLC
2794 Loker Ave W Ste 104
Carlsbad, CA 92010
(858)329-0009
http://www.theinspectorsofelection.com
Kurtis Peterson

VoteHOANow
13500 SW Pacific Hwy PMB 213
Tigard, OR 97223
888.823.1493
info@votehoanow.com
Cathi Sleight, CMCA

Interested in having your business listed in THE MARKETPLACE? contact Angela Ramge-Wolf at cai.wny@gmail.com



Condominium and Homeowner Association Law

Hurwitz Fine's Condominium and Homeowner Association Law practice group focuses on community association board representation, assisting clients in the drafting, review and revision of governing documents and helping guide sponsors and developers of condominium and homeowners' association offerings through the process of preparing and filing their submissions with the NYS Attorney General's Office.

Contact:

Evan Y. Bussiere, Esq. | eyb@hurwitzfine.com

Niagara Falls State Park



\$195 = 1 Board member

\$230 = 2 Board members

\$320 = 3 – 15 Board members

Visit caionline.org to join today!

www.caionline.org

Join Now!



The Liberty Building
424 Main Street, Suite 1300
Buffalo, New York 14202

716-849-8900 | www.hurwitzfine.com



Skating on the Canal