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Fall Clean Up Planning!



Nothing to Hide. Something to Protect Finding the Right Balance Between Transparency and Confidentiality in Community Associations

Corey Auerbach, Esq.
Partner, Barclay Damon LLP & CAI WNY Parliamentarian

One of the most common questions I receive from community association boards is deceptively simple: “Does the owner have a right to see that?” Whether the request involves financial records, contracts, meeting materials, or other association records, the answer is often more complicated than board members expect. Depending on the structure of the association, an owner’s inspection rights may arise from the governing documents, applicable statutes, and common law rights recognized by New York courts. As a result, the scope of a particular request often requires a fact-specific analysis rather than a one-size-fits-all answer. Yet in my experience, disputes over records are often less about the legal right to inspect documents and more about trust.

When owners feel informed about what their board is doing, records requests tend to be routine and manageable. When owners believe decisions are being made behind closed doors, requests often become more frequent, broader in scope, and more contentious. In many cases, the records request is not the problem; it is a symptom of a communication problem.

Owners have a significant financial investment in their communities and understandably want to know how decisions are made, how assessments are spent, and how the association is planning for the future. Boards that approach records requests with a presumption of openness, while still protecting confidential information where appropriate, are generally more successful in maintaining owner confidence and fostering trust within the community.

Of course, transparency does not mean every document should be disclosed. Community associations have legitimate obligations to protect confidential information, including attorney-client communications, personnel matters, information concerning delinquent owners, pending litigation, and certain contract negotiations. Board members owe fiduciary duties to the association as a whole, and part of that responsibility includes safeguarding sensitive information when appropriate. Having “nothing to hide” is not the same thing as having nothing to protect.

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2117 Buffalo Road, #261, Rochester, NY 14624
P: 585.505.2252 E: cai.wny@gmail.com

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Ron Bucelli,
Corey Auerbach, Esq.,
Marc Schneider, Esq., and
Ronald S. Shubert, Esq.

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Savoring Summer in Western New York

A Message from the President of CAI WNY

Dear Members,

As summer settles over Western New York, we are reminded once again of what makes this region such a special place to live, work, and gather as a community. From long evenings on the porch to weekends along Lake Erie and Lake Ontario, from local festivals and farmers markets to the simple pleasure of seeing gardens in full bloom, summertime gives us a chance to slow down, reconnect, and appreciate the people and places around us. Across Buffalo, NY, Rochester, NY, Niagara Falls, NY, and the many towns and neighborhoods in between, the season brings a shared sense of activity, pride, and possibility.

In Buffalo, summer often means waterfront gatherings, outdoor music, neighborhood celebrations, and renewed appreciation for the city's historic architecture and vibrant cultural life. In Rochester, the season invites us to enjoy parks, trails, arts events, and the beauty of the Genesee River and nearby Finger Lakes region. In Niagara Falls, the power and majesty of the Falls remind residents and visitors alike that Western New York is home to natural wonders that connect us to one another and draw people from around the world.

This season has also been a wonderful reminder of the strength and spirit of our association. Whether through volunteer efforts, neighborhood conversations, committee work, events, or simply staying engaged and informed, our members continue to show care for one another and pride in the community we share. Your involvement is what keeps our association active, welcoming, and forward-looking.

While we are still enjoying warm days, lake breezes, outdoor concerts, community events, and all that summer in Western New York has to offer, autumn will be here before we know it. Soon, the changing leaves will brighten streets and parks from Buffalo to Rochester to Niagara Falls, cooler evenings will return, school-year routines will begin again, and harvest-season traditions will bring a renewed sense of energy and focus. As we look ahead, our association will continue planning for the months to come, with opportunities for members to participate, contribute ideas, and help shape the work before us.

I encourage each of you to stay connected as we move from summer into fall. Watch for upcoming announcements, attend meetings when you can, reach out with suggestions, and consider lending a hand where your time and talents allow. Every voice matters, and every contribution strengthens our shared efforts.

On behalf of the association, thank you for your continued support, participation, and commitment. I hope you and your families enjoy the rest of the summer, take time to savor the beauty of Western New York, and join me in looking forward to a productive and inspiring autumn together.

Warm regards,

Ron Bucelli





President, CAI WNY



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Ronald Shubert, Esq

Ronald S. Shubert, Esq. is a Partner in the Buffalo/Rochester/Albany offices of the law firm of Phillips Lytle LLP. He and his team represent multiple Community Associations throughout Upstate New York.

Condo Rules and Solar Panels

Question

I am the President of my Condominium Board. A homeowner wants to install solar panels on their roof. Do we have to allow it since the roof is a common element?

Answer

On August 2, 2021, New York State legislature passed a bill prohibiting Homeowners' Associations from unreasonably restricting the installation and use of solar power systems under the statute. Associations may not adopt or enforce any rules or regulations that would effectively prohibit or impose unreasonable limitations on the installation or the use of solar power systems.

However, please note, the solar power system must meet the requirements established by local, state and federal authorities. Also, it is important to distinguish a Condominium from a Homeowners' Association. The law does not apply to Condominiums, only Homeowners' Associations.

Therefore, your Condominium may prohibit the installation of solar panels on the roof of a Unit which is owned by the Condominium.

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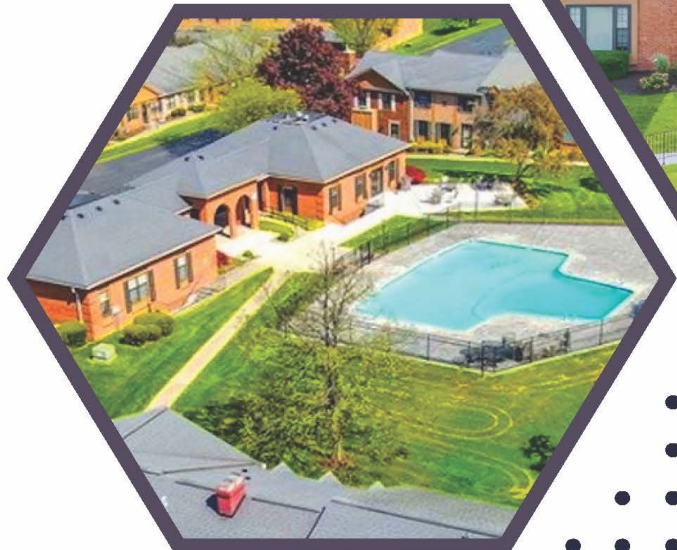
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*Nothing to Hide. Something to Protect
Finding the Right Balance Between Transparency
and Confidentiality in Community Associations*

Corey Auerbach, Esq.
Partner, Barclay Damon LLP & CAI WNY Parliamentarian

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The most effective boards do not wait for records requests to communicate with their members. They provide regular updates regarding significant projects, budgets, reserve expenditures, and other important association matters. Financial information is presented clearly, expectations are established regarding records requests, and owners are kept informed about issues affecting the community. A board that routinely communicates with its members often receives fewer records requests than a board that communicates only when required.

Successful community associations strive to achieve the proper balance between transparency and confidentiality. Owners deserve meaningful access to information concerning the operation of their community, while boards must retain the ability to protect sensitive information when necessary. When that balance is achieved, records requests become an opportunity to reinforce trust rather than a source of conflict.

Corey A. Auerbach is a Partner with Barclay Damon LLP and regularly advises condominium and homeowners associations throughout New York State on governance, operational, and legal issues.





Managing Arrears in a Challenging Economy The Cost of Inaction and How Boards Should Respond

Marc Schneider, Esq.

*CEO and Managing Partner at Schneider Buchel LLP,
Board Member, CAIWNY*

Over my more than three decades representing community associations boards, I have seen economic cycles come and go. While the challenges may change, one issue remains constant: when owners stop paying their maintenance, common charges, assessments, or other obligations, the entire community feels the impact.

Recently, we are seeing an increase in arrears. This is not surprising. Insurance costs have skyrocketed. Labor costs are up. Utility expenses continue to increase. Major repair projects are becoming more expensive, and I do not need to mention the winter last year! At the same time, many residents are feeling financial pressure of their own. Just as costs for the community associations are increasing, so are the costs for virtually every homeowner in their day-to-day expenses. Just take a stop at the gas pump or grocery store and you will know what I mean. One thing has not changed, however. That is Boards must pay the operating expenses of their associations and in order to do so they need to charge the monies needed to do so and collect them from their homeowners.

While boards should certainly approach collection matters with empathy and professionalism, they must also remember that they have a fiduciary obligation to protect the financial health of the community. Every dollar that goes uncollected must ultimately be made up by the residents who are paying their fair share.

The Biggest Mistake Boards Make

One of the most common mistakes I see is delay. A board knows an account is delinquent but hesitates to act. Perhaps the owner has always been reliable in the past. Perhaps there is a belief that the resident will eventually catch up. Perhaps board members feel uncomfortable taking legal action against a neighbor. Unfortunately, delinquent accounts rarely improve through inaction.

In fact, the longer a board waits, the larger the balance grows and the more difficult collection often becomes. We have seen instances where the arrears have reached a level that creates financial hardship for both the owner and the association by the time they are referred to us. A number of years ago, we were retained by a community with over 200 homes where approximately 20 percent of their homeowners weren't paying. The new board hired us and decided to follow our advice to pursue collections and lien foreclosure actions. Fast forward to today, that same community has almost \$1 million in their reserve account and has had an operating surplus every year for years. Once we started to collect the monies owed (including legal fees and even interest in many cases), they started to accumulate funds and were able to control their needed increases each year. That's called fiscal responsibility.

The most successful boards address delinquencies early and consistently and don't let legal fees dissuade them from proceeding. We are typically able to prove that our efforts result in more monies to the association than they spend over time.

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Managing Arrears in a Challenging Economy The Cost of Inaction and How Boards Should Respond

Marc Schneider, Esq.

*CEO and Managing Partner at Schneider Buchel LLP,
Board Member, CAIWN*

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Collections Are Not Personal

Many board members struggle with collection matters because they know the individuals involved. They see them around the community and at annual meetings. However, collections should never be viewed as personal.

The board's responsibility is not to decide whether a particular owner deserves special treatment. The board's responsibility is to ensure that everyone contributes their fair share toward the operation of the community.

When one owner stops paying, the association still has bills to pay. Vendors still expect payment. Insurance premiums still come due. Property systems still require maintenance. Employees still need to be compensated.

The burden simply shifts to the owners who are meeting their obligations.

Consistency Matters

Perhaps the most important advice I can offer boards is this: be consistent. If your collection policy calls for action after a certain period of delinquency, follow it.

Problems often arise when boards make exceptions based on personal relationships, sympathy, or assumptions about a resident's circumstances. While those decisions may be well intentioned, they can create claims of unfair treatment and undermine future collection efforts. I am not suggesting that if you have a homeowner who has a demonstrated (key word here) hardship that the Board not try to resolve the delinquency. However, resolving it doesn't mean just sitting and waiting. There needs to be a clear written agreement with a reasonable payment and remedies for nonpayment. This will ensure you don't wait a long time and then start the action needed to collect the monies, causing a significant delay and ability to collect the monies.

Consistency protects the board, strengthens compliance, and promotes fairness throughout the community.

Every association should have a clearly defined collection policy.

The policy should establish:

- When late fees are imposed (note – you can only charge them if they are permitted by your governing documents);
- When notices are sent;
- When accounts are referred to counsel;

A written policy creates expectations and removes uncertainty from the process.

More importantly, it demonstrates that the board is acting pursuant to an established procedure rather than making decisions on a case-by-case basis.

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Corey Auerbach

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Spatchcock Chicken: Easier Than You Imagine!

Chad Fetterman, Property Manager at RPG and CAI WNY Board Member

Summertime is grilling time and here is a cooking technique that not only reduces the cooking time of a whole chicken, but also leaves it juicy and delicious. Spatchcock is just a fancy term for butterflying your chicken or essentially removing the backbone of a whole chicken. This technique is quite easy and can be completed with standard kitchen shears. By removing the backbone and laying the chicken flat on the cooking surface you will cook the chicken more evenly and will be able to fully cook the legs and thighs without overcooking the breast meat.

To begin, fully thaw your whole chicken and then remove any giblets that are placed inside the cavity. Place the chicken breast side down on your working surface and cut out the backbone. I find it easiest to grab the “tail” of the bird and cut along the backbone following the edge of the backbone along both sides. If you have not done this before, there is no need to be intimidated, once you get the hang of it the process is quick and simple. *You can discard the backbone once removed along with any giblets as they will not be used in this process, however I do recommend that you place them in a freezer bag and freeze them to make chicken stock at a later time.* Now rinse off the bird with cold water and pat dry with paper towels. Finally, place the bird on your working surface breast side up and with both palms firmly press down on the breastbone until you hear a crack and the bird lays flat. Now set the bird aside in your refrigerator while you prepare the injection and rub.

Let’s now prepare an injection for the chicken. If you do not have a meat injector syringe, you can get a good quality syringe off Amazon for \$20 or less. Injecting what is essentially a marinade into the bird not only adds flavor but it will also help keep the meat from drying out during the cooking process. In a small saucepan, combine ½ cup of unsalted butter, 6 oz. of your favorite beer, 2 Tbsp kosher salt, 2 Tbsp Worcestershire sauce, 2 Tbsp of your favorite hot sauce, 1 Tbsp of soy sauce, 2 tsp garlic powder, and 2 tsp of onion powder. If you only have salted butter in your refrigerator, reduce the amount of kosher salt in the injection to 1 Tbsp. to prevent the injection from becoming too salty. Once everything is combined, heat the saucepan over low heat and stir occasionally until the salt is dissolved. You want to make sure everything is dissolved to prevent the mixture from clogging up the needle in your syringe. Set the mixture aside and keep warm (not hot) so that the butter does not begin to solidify.

Now let’s prepare the rub for the outside of the bird. Feel free to substitute your favorite barbeque rub if you would prefer. To prepare the rub simply mix 1.5 tsp salt, 2 Tbsp smoked paprika, 2 tsp black pepper, 1 tsp garlic powder, 1 tsp ground coriander, ½ tsp ground cumin, and 1 tsp lemon zest (optional) together.

You will now remove the bird from your refrigerator and inject the breast, thighs, and legs with the injection you made. Try to minimize the amount of times you place the needle into the various chicken parts to limit the amount of holes made to keep the injection from squirting out. I like to place the needle into the chicken part in one location and then by moving the needle in and out, without fully removing the needle, create a couple of “pockets” for the injection. Then begin to slowly inject the bird while simultaneously slowly removing the needle from the chicken. You will notice the meat start to swell, and some injection may spill out of the meat, this is normal.

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Managing Arrears in a Challenging Economy The Cost of Inaction and How Boards Should Respond

*Marc Schneider, Esq.
CEO and Managing Partner at Schneider Buchel LLP,
Board Member, CAIWN*

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Monitor Arrears Regularly So Adjustments Can be Made

Too often, boards do not focus on receivables until budget season or until cash flow becomes a concern.

I encourage boards to review delinquency reports on a monthly basis and identify trends before they become significant problems. If there is a trend, a board should consider adjusting the budget and consequently the monthly charges to account for the lost revenue from the non-payment residents. You can always re-adjust the budget when the monies are ultimately collected. This will ensure the association can pay its bills timely. The earlier issues are identified, the more options a board typically has available.

Remember Your Fiduciary Duty

One concept I frequently discuss with boards is that collections are not merely an accounting issue. They are a governance issue.

Board members have a fiduciary duty to act in the best interests of the community as a whole. That means protecting the association's finances, preserving property values, maintaining common areas, and ensuring the community remains financially stable.

Allowing significant arrears to accumulate can jeopardize all of those objectives.

While no board enjoys pursuing collection actions, failing to do so can create far greater problems for the association and the residents who depend upon it.

A Proactive Approach Is the Best Approach

Economic conditions may be uncertain, but the board's responsibilities remain the same.

The associations that navigate these challenges most successfully are the ones that establish clear collection policies, monitor arrears closely, communicate effectively, and take prompt action when necessary. Boards that act early, act fairly, and act consistently are typically in the best position to protect their communities and minimize the long-term impact of rising arrears.

Of course, make sure to consult with your experienced counsel on all of these issues.

Spatchcock Chicken: Easier Than You Imagine!

Chad Fetterman, Property Manager at RPG and CAI WNY Board Member

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Once you are satisfied the bird is filled, discard any remaining injection. Now grab the rub you have prepared or your favorite rub. You can use a binder to help the rub stick to the meat although it is not necessary. If you prefer not to use a binder, simply pat the bird dry with paper towels and apply the rub to both sides of the bird starting with the side without the skin. If you would like to use a binder, you most likely already have one on the bird. You can use the injection that has spilled out of the bird as a binder, but a small amount goes a long way. Wipe up any excess amount of injection first and then simply spread the remaining injection around both sides of the bird with your hands. Finally apply the rub to both sides of the bird.

Now it's time to grill! You will want to set up your grill for two-zone cooking, where one side of your grill is hot and the other is cooler. If using a charcoal grill, light the charcoal using your preferred method and when they begin to ash over, simply place the hot coals on one side of the grill. When placing the top of the grill on, place the top vents on the opposite side of the grill from where your hot zone is. If using a gas grill, simply ignite the burners on one side of the grill and leave the burners on the other side off. Your target cooking temperature will be anywhere from 325 to 375 degrees. If you prefer to keep your grill closer to 325 the chicken will take on a little more smoke flavor but take a little longer to cook. If you prefer your grill at 375, you will be able to get the skin on the chicken crispy much easier. Once your grill is up to temperature, place the chicken on the grates, on the cool side of the grill, with the skin side up, and the breasts towards the heat source. One advantage of using a two-zone cooking setup and preparing your chicken this way is you should not have to flip the chicken during the cooking process. Now simply maintain an even cooking temperature and sit back and enjoy the wonderful smell coming from your grill.

The chicken should take approximately an hour or so to cook. According to FDA guidelines, poultry is safe once the breast meat reaches an internal temperature of 165 degrees and the legs/thighs reach an internal temperature of 175 degrees. This can be easily checked with an instant read thermometer. If you do not have one, pick one up. A good quality instant read thermometer is relatively inexpensive and a valuable grilling tool allowing you to easily monitor the internal temperature of the meat you are cooking so that you do not overcook it and dry out the meat. If your chicken is getting close to being done and the skin is still rubbery you can crisp the skin up by simply flipping the chicken over so that the skin side is facing down and place it over the hot side of the grill. If you do this, it is extremely important not to leave the chicken unattended. Once placed over hot charcoal or burners, the skin will crisp quickly and if you walk away from it you risk flare ups that can burn the skin quickly.

It may appear like there are many steps to this, but once you do this you will discover how easy it is. Also, if you do not have a meat injector or instant read thermometer, do not worry, simply skip injecting the meat. By injecting the meat you do not have to wait for the chicken to marinate, but you can just as easily marinate the chicken by placing it along with the mixture into a Ziplock bag and place it in your refrigerator. If just marinating the chicken, you should marinate it for at least a couple of hours and if possible overnight for the best results. I encourage you to give this a try and you will be amazed at how easy it is to impress your family and friends at your next cookout with some delicious summertime grilled chicken.

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Emergency Preparedness for HOA Boards: Severe Weather, Power Outages, and Community Disruptions

When severe weather, power outages, or other disruptions affect a community, residents often look first to their HOA Board for clear information, calm decision-making, and coordinated action. While public safety agencies manage emergency response, HOA Boards play a vital supporting role by preparing common areas, communicating with residents, coordinating vendors, and helping the association recover quickly.

START WITH A WRITTEN EMERGENCY PLAN

A written emergency plan gives the board, management company, vendors, and residents a shared playbook before a crisis begins. The plan should identify the most likely risks for the community, such as thunderstorms, flooding, high winds, winter storms, wildfire smoke, prolonged heat, utility outages, blocked entrances, or disruptions to essential services.

The plan should also define who has authority to act, who communicates with residents, who contacts vendors, who documents damage, and how decisions will be made if the full board cannot meet immediately. Even a simple plan is better than improvising during a stressful event.

BUILD RELIABLE COMMUNICATION CHANNELS

Communication is one of the most important services an HOA Board can provide during an emergency. Residents need to know what happened, what the association is doing, what actions they should take, and where to find updates. Because power, internet, and cellular service can be unreliable during a disruption, boards should use more than one communication method.

- Maintain updated resident contact information, including email addresses and phone numbers.
- Use multiple channels, such as email, text alerts, community portals, posted notices, phone trees, and door-to-door outreach when necessary.
- Designate one board member, manager, or communications lead to issue official updates.
- Prepare message templates in advance for severe weather alerts, power outages, amenity closures, blocked roads, boil-water notices, and recovery updates.
- Remind residents that life-safety emergencies should always be directed to 911 or local emergency services.

PREPARE COMMON AREAS BEFORE SEVERE WEATHER

Before forecasted severe weather, the board should focus on reducing preventable damage and keeping common areas safe. This includes inspecting drainage areas, clearing debris from storm drains, securing outdoor furniture, reviewing tree hazards, checking sump pumps or lift stations where applicable, and confirming vendor availability for emergency cleanup.

Boards should also review contracts for snow removal, landscaping, tree service, restoration, towing, gate repair, generator service, and security support. Pre-approved vendors and clear spending authority can save valuable time when roads are blocked, common facilities are damaged, or immediate mitigation is needed.

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Emergency Preparedness for HOA Boards:

Severe Weather, Power Outages, and Community Disruptions

PLAN FOR POWER OUTAGES AND UTILITY INTERRUPTIONS

Power outages can affect gates, elevators, lighting, security systems, heating and cooling, water systems, communication tools, and access to common facilities. The board should know which systems depend on electricity, which systems have backup power, and which vendors can respond if equipment fails.

- Keep emergency contact information for utility providers and critical vendors in one accessible location.
- Identify priority common-area systems, such as gates, access controls, elevators, pumps, lighting, and fire or security equipment.
- Test generators and backup systems according to manufacturer and vendor recommendations.
- Post instructions for reporting outages and hazards, including downed wires, gas smells, flooding, and blocked access points.
- Consider whether community facilities should close during outages for safety, security, or liability reasons.

PREPARE FOR BROADER COMMUNITY DISRUPTIONS

Not every emergency is weather-related. Communities may experience water main breaks, sewer backups, road closures, civil disruptions, cyber incidents affecting management systems, public health concerns, or vendor interruptions. HOA Boards should consider how the association will maintain essential operations if normal services are unavailable.

Continuity planning should include access to association records, insurance policies, governing documents, banking contacts, vendor agreements, owner contact lists, and emergency spending procedures. Key documents should be stored securely and be available to more than one authorized person.

ENCOURAGE RESIDENT PREPAREDNESS

The HOA is not a substitute for individual household preparedness. However, boards can encourage residents to plan ahead by sharing seasonal reminders, emergency contact information, and preparedness resources. Residents should be encouraged to maintain household supplies, charge devices before storms, plan for medications and medical equipment, prepare for pets, and know how to receive local emergency alerts.

Boards should also consider residents who may need additional assistance during an emergency while respecting privacy and applicable laws. A voluntary emergency contact or wellness-check program can help neighbors look out for one another without placing the association in the role of an emergency responder.

DOCUMENT, RECOVER, AND IMPROVE

After an event, the board should document damage before cleanup whenever it is safe to do so. Photos, vendor invoices, incident logs, resident reports, and board decisions may be important for insurance claims, contractor coordination, and future planning. The board should also communicate repair timelines and explain any temporary restrictions on amenities or common areas.

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THE MARKETPLACE

ACCOUNTANTS

ASPHALT & PAVING

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
100 South Clinton Ave., Ste. 2900
Rochester, NY 14604
Buffalo: 716.847.5491
Rochester: 585.238.2000
rshubert@phillipslytle.com
Ronald S. Shubert, Esq.

Schneider Buchel LLP
Main
666 Old Country Road - Suite 412
Garden City, New York 11530
516.393.5555
Buffalo:
300 International Dr # 100
Buffalo, NY 14221
(716) 400-0617
Rochester:
75 S Clinton Ave suite 510
Rochester, NY 14604
(585)608-0750
MSchneider@schneiderbuchel.com
Marc Schneider, Esq.

Trevett, Cristo, Salzer & Andolina
2 State St. Ste. 1000
Rochester, NY 14614
585.454.2181 ext 118
blaforte@trevettrcristo.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.
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913.725.1330 Fax: 913.725.2058
kross@condocerts.com

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Tammy Williams

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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

LANDSCAPE COMPANIES
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1960 S Yale St
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(818)737-2620
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MANAGEMENT COMPANIES
Andruschat Real Estate Services, Inc.
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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

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

RPG
1800 Hudson Avenue
Suite 100
Rochester, NY 14617
585.225.7440
585.225.7630
Bob Marvin

Vacation Properties
PO Box 51
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(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
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716.381.9330
DVentresca@certapro.com
Dominic Ventresca

POWERWASH SERV.
All Clean Powerwash
4330 Route 96
Shortsville, NY 14548
(585)703-8491
Luke Abbot

PUBLICATIONS & PRINTING

RESERVE STUDIES
Association Reserves
55 Madison Ave Ste 400
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(201)777-4604
Brian Weaver, CMCA, AMS, PCAM

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

ROOFING
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12506 Misty Lake Ct
Midlothian, VA 23114
(804)248-9763
Tony Vallance

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Josh Anderson

VOTING SERVICES

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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

Emergency Preparedness for HOA Boards: Severe Weather, Power Outages, and Community Disruptions

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Once the immediate situation has stabilized, the board should review what worked, what did not, and what should be updated. Emergency preparedness is not a one-time project. It should be reviewed at least annually and after any significant incident.

HOA BOARD PREPAREDNESS CHECKLIST

- Adopt or update an emergency plan.
- Assign board, manager, and vendor responsibilities before an event.
- Maintain updated resident and vendor contact lists.
- Use multiple communication channels and prepare message templates.
- Inspect and secure common areas before severe weather.
- Identify systems affected by power outages and test backup equipment.
- Review insurance coverage, emergency spending authority, and documentation procedures.
- Encourage residents to create household emergency plans.
- Conduct an annual preparedness review and update the plan after each incident.

Preparedness does not eliminate emergencies, but it helps HOA Boards respond with confidence. By planning ahead, communicating clearly, and coordinating recovery efforts, boards can protect association assets, support residents, and help the community return to normal more quickly.



\$195 = 1 Board member
\$230 = 2 Board members
\$320 = 3 – 15 Board members

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