Vol. 37 • No. 4 • August 2019

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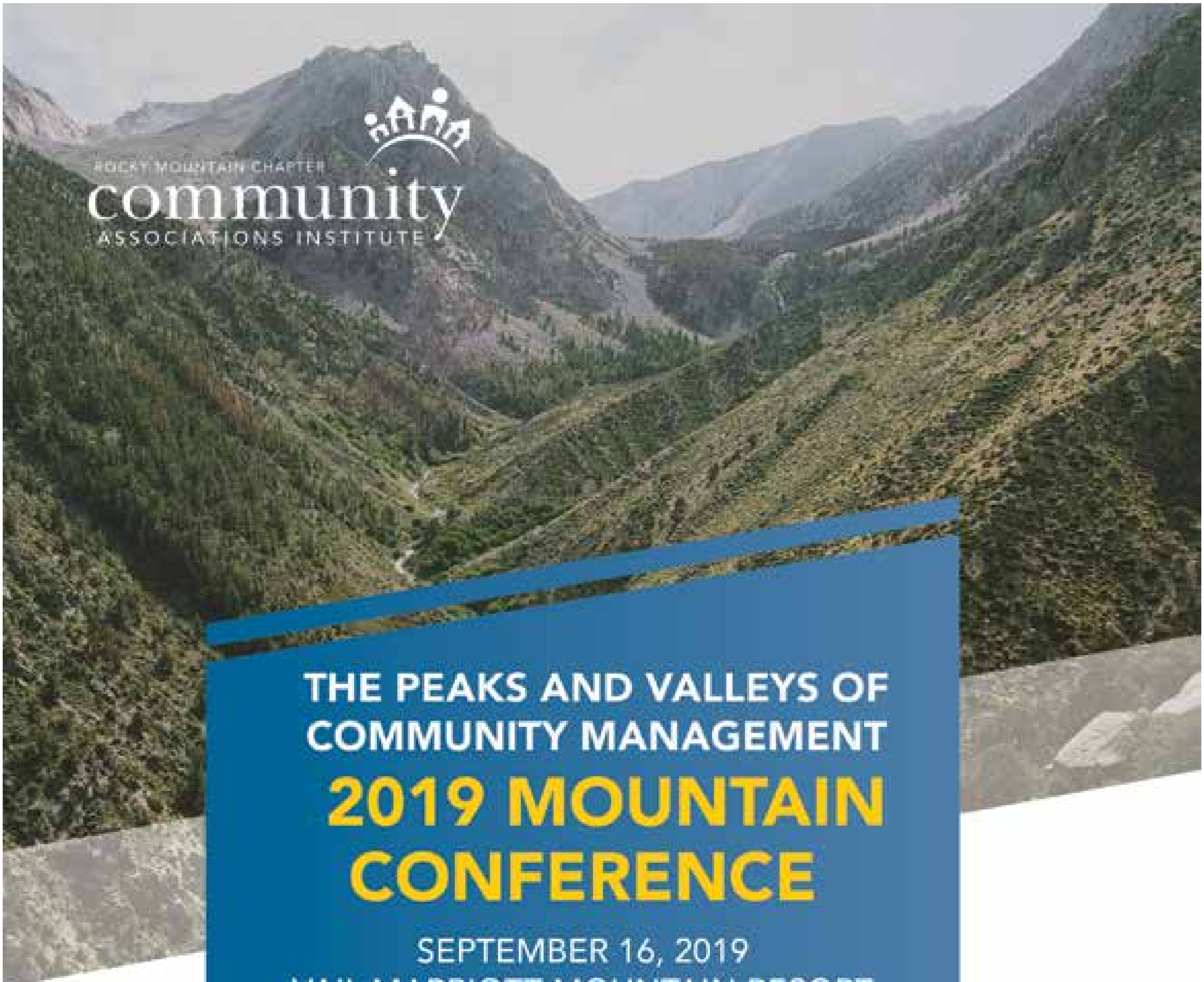

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COMMON INTERESTS

IN THIS ISSUE

FEATURED

COLUMNS

President's Letter

DAVID GRAF
Chapter President
CAI-RMC

Hello, friends. I am fortunate to have an opportunity to speak with many community managers, both here in Colorado and around the country, in my role as a member of CAI's Board of Directors and national faculty. A Common industry concern expressed to me, apart from sheer volume of tasks required to be a community management professional, is that people are not as friendly as they used to be (said euphemistically).

This is not a new phenomenon. However, I believe that our opinion of others has a lot to do with how we behave when we interact with them, particularly when they may not be at their best. In 1750, Benjamin Franklin wrote the very brief and very sarcastic "Rules for Making Oneself a Disagreeable Companion," wherein he stated that "if when you are out of breath, one of the company should seize the opportunity of saying something; watch his words, and, if possible, find somewhat either in a sentiment or expression, immediately to contradict and raise a dispute upon. Rather than fail, criticize even his grammar." At the risk of requesting our members to do "as I say, not as I do," this advice from 1750 remains very relevant today. The best community managers and boards recognize the emotion that comes with owners being told what they can or cannot do within the privacy of their own property or in their community. They know that the owner may have incomplete information or a lack of context about the issue when they bring it to the manager's or the board's attention, and they view that encounter with an owner who might not otherwise be involved with their community as an opportunity to listen with empathy and without judgment so that the underlying message can be heard despite the noise. However, this level of initial conflict can take its toll on caring people. CAI has long served as an education and advocacy organization for industry professionals and volunteer leaders. However, the Rocky Mountain Chapter is redoubling its efforts to focus on "soft" skills presentations such as leadership and human interaction and has added several social events in an effort to increase collegiality and remind ourselves that we are in this industry because we love people. I hope to see you at an event very soon!

COMMON INTERESTS

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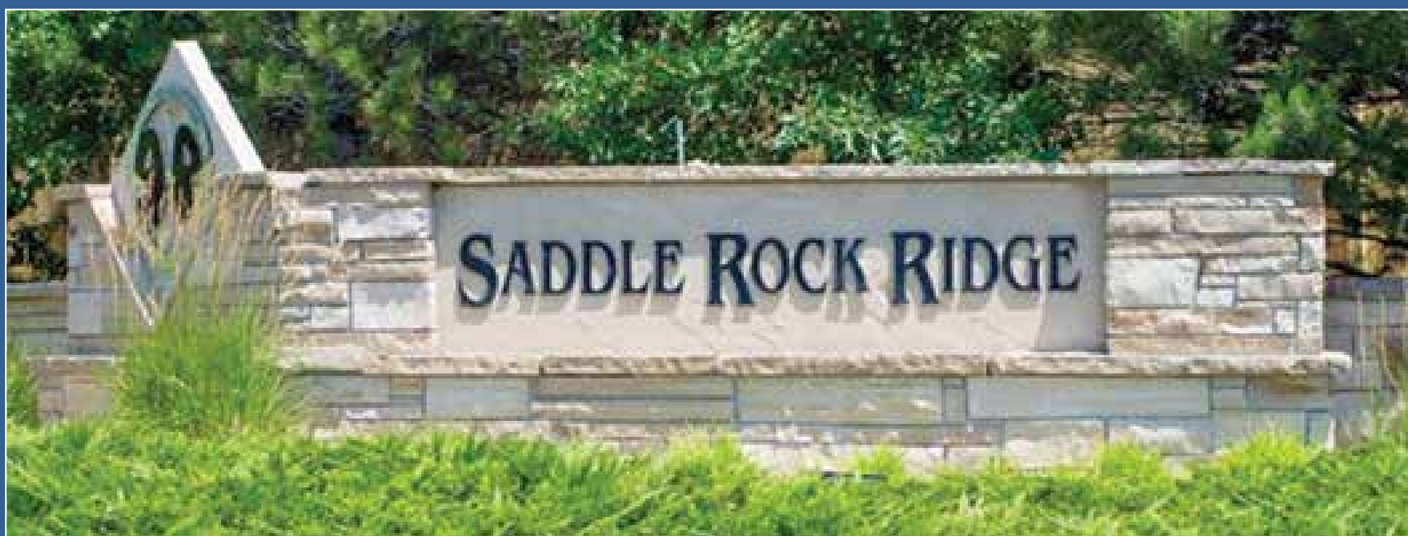
Thomas Tanner



Position(s) Held: Treasurer--14 years
Association: Saddle Rock Ridge
Association Size: 2,074 single family homes

Things our community is especially proud of:

1. The last 5 years our HOA has sponsored Cookies with Santa which includes photos with Santa and horse drawn carriage rides. We have also, for the last 5 years, held an Easter Egg Hunt and placed 10,000 plastic filled eggs on Canyon Creek Elementary play area for children 1 thru 10.

2. Starting in 2012 our Board decided to eliminate all the sod in our 18 medians and xeriscape, as well as install a drip system. In the same time frame we began installation of a computer program system for our irrigation. The computer system was completed in 2015 and the last 3 medians were xeriscaped this year.

3. Working with the Metro District we planned to add 150 trees over five years in addition to the 900 already within our HOA. We are in year three of this project.

4. We do an electronic recycling event every other year for all residents and also do a bulk pick up event once a year for all residents. Both are free to all residents.

If you're interested in sharing your community's achievements or spotlighting a homeowner leader, please email bridget@caddo-leadership.com. We'd love to hear from you. You may also nominate a homeowner leader by filling out the questions referenced above.

Homeowner Leader

Q&A

Q: Our HOA board likes to have meetings outside of the board meeting so that we can figure things out and be prepared for the actual meeting. Is that ok? We save so much time by having these meetings and we get so much done (keeping in mind that we don't vote or anything like that).

A: Additional "meetings" outside the scheduled Board meetings are allowed. Many refer to these as "work sessions" rather than meetings since they are not called to order and no votes or actions may be taken by the attending Board members. Work sessions are a valuable tool to Board members who want to get together and brainstorm ideas, perform research, etc. in preparation for the Board meeting. However, any discussion at these work sessions as to agenda items should not be a substitute for holding discussions at the Board meeting before the vote is taken on such agenda item. Boards should promote transparency by being open in the way it conducts meetings, keeps records, discusses agenda items, holds work sessions and so on such that members may stay reasonably informed not only as to what action was taken but why such action was taken.

Q: Our manager worked hard to become a licensed manager with the State. The governor vetoed the bill that was to continue licensing. My question; now what? Is there something that our manager can do to obtain education and/or a credential? We liked the idea of someone or something holding our manager accountable.

?
Q

A: In the governor's veto letter he stated that "before any regulated occupation is to be continued, the state should complete its due diligence to ensure that regulation will, in fact, ensure consumer safety in a cost-efficient manner." He also stated that "occupational licensing … is too often used to protect existing professionals within an occupation against competition from newcomers entering that occupation. Skill certification is best done by guilds, unions, and professional associations." Many homeowners, like you, felt that community manager licensing helped to ensure that those serving your community met, and would continue to meet, minimum standards in the industry. Many in the industry felt as though the state licensing program elevated the professionalism within the industry. So, to your question, what now?

Since 1995, managers of community associations have been able to invest in themselves by obtaining multiple levels of certification. The Certified Manager of Community Associations (CMCA) is a certification program which recognizes individuals who have demonstrated the fundamental knowledge required to manage community associations. Homeowners and board members, as well as management companies, seek qualified professionals to manage their communities. Having the CMCA certification provides the confidence that the manager has those specialized skills. Additionally, managers that hold the CMCA certification are held accountable through the certifying board (Community Association Managers International Certification Board – CAMICB) and there is a formal complaint process through that entity. Finally, once you obtain a CMCA certification, it's not over yet. Community managers must be recertified every two years. Demonstrated competency can be shown through completion of 16 hours of continuing education coursework every two years.

For more information about the CMCA and the Standard of Professional Conduct that are expected from your community manager, check out the CAMICB website at www.camicb.org.

The second level in the career development track for community association managers is the Association Management Specialist (AMS) designation. Obtaining this designation requires a minimum of two years of experience, the CMCA certification, and successful completion of certain education. A manager holding this designation must be redesignated every three years (and can do so by completing continuing education requirements).

Finally, community association managers can earn a PCAM designation (Professional Community Association Manager). This is the highest professional recognition available nationwide to managers who specialize in community association management. Earning this designation requires a long-term commitment to personal and professional self-improvement. A community manager with a PCAM designation has, at a minimum, five years of direct community management experience, their CMCA certification, and has completed numerous hours of education and comprehensive case study work. Managers must also obtain continuing education credits every three years in order to maintain the designation.

For more information about the PCAM and the Standard of Professional Conduct that are expected from your community manager, check out CAI National's website at www.caionline.com.

So, what now? While Colorado no longer has state mandated licensing requirements, that doesn't mean that your community manager doesn't have Standards of Professional Conduct to meet (and hopefully exceed) in our industry. Does your manager hold any of these professional certifications or designations?

Reserve Study Guide

Bryan Farley, RS
Association Reserves

What makes a board successful? Is it keeping the dues low? Is it based on the total number of complaints on the neighborhood Facebook page? How does a board know whether they are on track, or falling behind? After completing over 45,000 Reserve Studies, our firm has seen the successes and failures of many properties in regard to funding their Reserves. There are a few common themes that we see over and over, and this article will present a simple 'How To' Guide on helping your property avoid the common pitfalls that clients make as well as highlight the simple solutions to these issues.

Common Mistake #1: Not Having a Professionally Completed Reserve Study

While I admire the Do-It-Yourself attitude when it comes to building a bookshelf from beetle-kill pine (I sometimes struggle with assembling Ikea furniture), there is too much at stake for a board member to prepare a Reserve Study. Yes, your board member may be a retired engineer who knows his way around a spreadsheet, but that is not the point. A professional Reserve Study provider (including either a Reserve Specialist or Professional Reserve Analyst) is a non-biased, third-party expert that is only concerned with providing accurate information for the association.

When a board member or owner puts together a Reserve Study, there may be an opportunity to skew the numbers to achieve better outcomes since there is a lack of oversight. A professional Reserve Study provider has the training (for example, CAI requires a three-year apprenticeship to become a credentialed Reserve Specialist) to complete the job well, in order to serve their clients with a reliable report.

It may seem tempting to complete a Reserve Study 'in-house' to save a few bucks, but that money saved could turn into a special assessment in a few years.

A wise association will hire a credentialed expert to complete the Reserve Study in order to provide clarity constant and ongoing deterioration of their property.

Common Mistake #2:
Not Updating A Reserve Study

Why should a property update their Reserve Study? Is this document good for 20-30 years? This is a question that we do receive on a regular basis. I tend to respond and ask how often their association updates their budget, to which they reply – every year. For a typical property, reserve contributions make up to 25%-45% of the total budget. That is a big piece of the budget pie, therefore it is important that the Reserve Study, which provides the recommendation for contribution rate, be up to date and accurate. A client wouldn't use a roofing bid from 2012 to budget for their 2020 roof replacement project, yet many clients do this with their Reserve Study.

Updating a Reserve Study will not only provide accurate information to a board making long lasting financial decisions, but it will also save owners money.

We found that associations who update their Reserve Studies every five years enjoy a 35.1% decrease in special assessments when they shift to updating their Reserve Study annually.

Associations who update their Reserve Studies every three years enjoy a 28.5% decrease in special assessments when they shift to updating their Reserve Study annually.

It doesn't matter what Colorado state law says about Reserve Study update requirements: Special assessments are disruptive, divisive, and predictable years in advance everywhere. Put time on your side by updating your Reserve Study annually, significantly lowering your exposure to special assessments.

Common Mistake #3:
Saving Money by Deferring Maintenance

There are some boards out there that intentionally or unintentionally avoid reserving for a project since the board is interested in keeping costs down. This strategy is like not paying taxes on April 15th to save money for your vacation. It does not matter whether the board decides to reserve for a project or not, the project will be due and will most likely be costly.

Here is a quick example of what I mean; Imagine that your building's roof needs to be replaced in 15 years and will cost about $250,000 to replace. Did you know that you can actually replace this roof for $232,000? This is possible thanks to compounding interest. If the board decided to put money away every year, even with nominal 1% interest, the ownership will save $18,000 by proactive stewardship.

What about current owners? What if an owner is planning to move before that 15-year roof is due? Well, adequate reserves equates to better home values. We found that home values were 12.6% higher in associations with a strong (over 70% Funded) Reserve Fund than homes in associations with a weak (under 30% Funded) Reserve Fund. Assuming an average sale price of a condominium is about $400,000, this means that units in associations with a strong Reserve Fund can sell for $50,000 more than units in associations with a weak Reserve Fund. It pays to adequately fund the Reserve Fund.

Common Mistake #4:
A Reserve Study is for the Future

A Reserve Study is not a rainy-day fund, a slush fund, or a 'nice to have' fund. Reserves are for current and ongoing deterioration. A roof does not just fail overnight, but rather month by month the roof becomes older and deterioration starts to show. We try to explain to clients that the roof (or any other common area asset) has a monthly bill that needs to be paid. However, unlike your monthly water bill, no one will shut off your roof if you neglect to pay the monthly roof deterioration bill. That is why a Reserve Study is important; it clearly describes to owners what the monthly deterioration 'bill' is.

If you hear people at your property start to say —"Reserves are for the future", or "A Reserve Study will show us how much money we'll need in twenty years" —quickly correct them. Once a conversation starts drifting towards the future, human nature tends to assume that 'someone else' will take care of it; whereas if we frame the problem of underfunding reserves as a material issue, boards will have to take responsibility for their actions.

I hope that this article has highlighted the benefits of having a credentialed Reserve professional update and complete a Reserve Study for your property so that your board will budget appropriately for the ongoing and inevitable deterioration occurring at your property.

Bryan is the president of Association Reserves – Rocky Mountains. Bryan has completed over 2,000 Reserve Studies and earned the Community Associations Institute (CAI) designation of Reserve Specialist (RS #260). His experience includes all types of condominium and homeowners' associations throughout the United States, ranging from international high-rises to historical monuments.

Budget Season...

AGAIN??

Joel Yust AMS, CAM, CMCA
All Property Services, Inc.

As fall approaches, many directors find the topic of budgets haunting them. Some community association managers can find this a bit of a laborious task as well. As long as proper preparation takes place, it doesn't have to be that difficult. If associations have a good reserve study done that fulfills the requirements of the Reserve Study Policy written up by the association's attorneys, it lays the groundwork for the budget to fall into place. While some of the items on the study may not be annual budgetary items, it does allow the directors to formulate a plan for items outside of the annual needs.

The first step I usually take is meeting with the board of directors, and their association accountant that sees all of the regular bills that come to the association. This offers a great resource for unexpected things that the board of directors may not always be aware of. As managers advise the directors of the process set forth in CCIOA (make sure directors are aware of HB 18-1342) and the association's governing documents, it can be helpful to figure in the increases to utilities, services, insurance and other annual costs that have escalating fees, hence having the association's accountant present for the budget meeting. It is a common question as to why items such as asphalt, landscaping improvements, monuments, roofing, concrete work, and other large expensive repairs are not listed in the budget line items. The simplest answer to this is those expenses don't normally happen each year, therefore, they should not be on an annual budget. I usually let the directors know that it is a good practice to list the large expenditures (capital expenses) under the budget so that the membership is aware of exactly what is happening with their money.

"If you plan ahead and help directors follow the process, things don't need to be so scary."

Eliminating the question of transparency can be a huge deal with some associations. If the board of directors can stop the question of "where does my money go" before it is asked, it could allow the budget ratification and annual meeting to be much more productive. Once the budget items have been reviewed, the directors can adopt the budget and the notice to the membership can be sent within the 90 days of adoption.

I would imagine that all managers in the industry have a few associations that like to create their own budgets without the outside influence of a third party. That's okay to do, but never hesitate to help them review it to see if there are any additions or changes that they may be interested in, or other legislative changes that they may not be aware of.

When possible, I normally try to schedule the budget ratification meeting and annual meeting at the same time. This seems to be more efficient to me, and let's face it, not every member finds all the HOA meetings as enjoyable as I do. Often times directors and members feel that it is necessary for the membership to approve the budget. Unless the governing documents state otherwise, the board approves the budget and the membership has the ability to veto it. With appropriate budgeting practices, there is not normally a need or desire for the membership to veto a budget. If there is a need for a veto, according to the CCIOA budget ratification process, the membership is able to reject the proposed budget if the majority of all owners in good standing veto the proposed budget. To date, I have not had this happen.

If you plan ahead and help directors follow the process, things don't need to be so scary. Keep it simple, follow the guidelines set forth in the documents and statutes, and let Halloween do the haunting!

Joel Yust has been in business ownership/management for the last 24 years, but in the last 6 years, he has really enjoyed managing communities and helping memberships with their needs. Most people find it bizarre, but he can't seem to get enough HOA edification. Although it's normally a thankless job, Joel LOVES what he does.

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Effective Debt Collection Solutions for Associations

An Inside Look at Rec

Ryan Gulick *(pictured)* & Heather Nagle
The Receivership Group LLC

Everyone knows of or has had that "problem property" where the homeowner just won't stay current or pay their HOA assessments. The past-due balance is growing, and the demand letters continue to be ignored. The property is either tenant-occupied or vacant, the yard is not cared for, the neighborhood is unhappy, and the code violations are piling up. These circumstances are challenging and stressful for managers and their boards to work through, but did you know these properties usually fit the bill for receivership?

In recent educational seminars on receiverships, we asked for a show of hands as to how many Community Managers in the room were familiar with homeowner association (HOA) receiverships. The responses have been alarmingly low with approximately 20% or less raising their hands. We understand that receivership will never be a hot topic of conversation in the breakroom, but it certainly should be in your arsenal of remedies for debt collections, when the time comes. Although receivership is an advanced legal process, it is not complicated and can be employed in many situations for associations. Let's take a closer look.

Receiverships have existed for a long time, dating back to the reign of Queen Elizabeth in England and later used in America where there was need to protect the insolvent railroads during the panic of 1873. The concept of receivers to protect and manage assets where debts are concerned is not new.

Colorado is one of twenty-one states in the US that allow liens to be filed against properties for unpaid assessments and costs when the property is governed by a common interest association. There are also legal remedies to collect on those liens. The Colorado Common Interest Ownership Act (CCIOA) , article 38-33.3-316 states, "In any action by an association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the unit owner to collect all sums alleged to be due from the unit owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the association."

What is Receivership?

Receivership arises when a court takes custody of property involved in a dispute (for our purposes, call it a debt owed to the HOA) and places it in the control of a receiver. The court issues an order outlining the duties of the receiver and oversees all actions, ensuring the receiver remains independent, unbiased, and neutral.

ceiverships

The receiver then administers or manages the property on behalf of the court until the matter is resolved or the debt is paid.

An HOA specific receiver is appointed by the court to collect a debt by taking control of a property and collecting the rental income. The asset must be producing income or able to produce income, such as vacant properties, for it to be a success; it cannot be owner-occupied. As funds become available, the receiver can distribute money to the association until the amount owed is paid in full. It is possible for a homeowner to retain counsel and challenge the lawsuit; however, unless otherwise ordered by the court, or a settlement is reached, the homeowner does not get their property back until the debt is paid. So, one can see there is a lot of incentive for a homeowner to fix their situation on their own. A good receiver will give homeowners the opportunity to do this, if they are willing or able to. Once the debt is satisfied, the receiver is discharged from the court and the property is released back to the homeowner.

Often, receivers do not have to enforce the full authority of the court order to be effective in satisfying the debt. Just the mere threat of the receiver's authority and losing the property's rental income can bring a homeowner out of hiding to negotiate or pay in full. Thanks to today's strong real estate market, we have seen this scenario play out in up to 75% of recent receivership matters.

Some key points about appointing a receiver:

Not every delinquent homeowner can be put into receivership. It is best to consult with the association's attorney to make sure the action is warranted. The courts will not always appoint a receiver just because the CCIOA statute allows for it. In recent years, the courts have made it abundantly clear that the power of their discretion overrides any entitlement an association may have under the law. The courts would like to see associations make reasonable, if not extensive efforts, to collect a debt before asking for the appointment of a receiver.

It is imperative to follow the association's collection policy. The outstanding debt should be high enough to elicit the court's assistance, the homeowner should have a long-standing or habitual delinquency, and remember, the homeowner cannot occupy the property. If the conditions are right, the association's attorney can then file a lawsuit to appoint a receiver.

It is also important to make sure you're requesting a reputable receiver with substantial experience and a good standing relationship with the courts. The Courts appoint receivers who have proven business practices, unquestionable ethics, and specific experience in both real estate and the legal process. Although most courts are familiar with the more active receivers, they heavily rely on the attorney to propose the best candidate. Attorneys themselves should also have extensive experience with the process so the association is well advised throughout the matter. Not to worry though, after the financial crises of 2008, it is rare to find an association attorney who has not appointed a receiver one time or another.

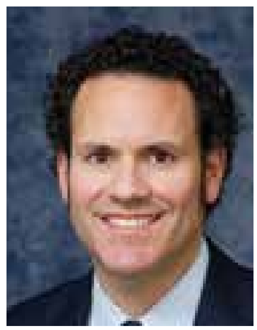
There are also other inherent values to receivership, other than just debt collection. Receivers care for properties when homeowners do not. Receivership provides a piece of mind to the community and HOA-board that a problem property is being handled. While the debt is reduced, code violations can be cured, problem tenants removed, and neighbors more at ease

Finally, don't be fooled by the perceptions out there that receiverships are too extreme, too complicated, or too expensive. Having a good receiver who understands the process and can navigate the situations efficiently will have the matter resolved quickly and with minimal harm to the homeowner and association. Let's face it, if someone is being placed in receivership, they are not being a responsible homeowner and sometimes receivership is the only option. There are times when even more aggressive action is needed, such as foreclosure, but don't overlook the option of receivership as an alternative or even in conjunction with a foreclosure action.

Receivership is an effective method for collecting debts when the more traditional methods have failed. There is no need to remain burdened by uncollected debt if a property is the right fit for receivership, it might just be the best solution for the association.

The Receiver Group is a professional receivership company offering equitable solutions for HOA debt collections in Colorado. Their team has provided services for associations and their community managers for over thirteen years and are proud business partners to CAI. You can learn more about them at www.thereceivergroup.com.

6 Steps to Improve Your Condo and HOA's Collection Practices Before the Next Recession



Russell Munz, CMCA
Community Financials

We are all aware that the economy has a rhythm or cycle and is also referred to as a business cycle. When the cycle is on an upward trajectory, people's financial situations are improving, and as the cycle turns downward their financial situations can deteriorate. Over the last ten years the U.S. has been experiencing the longest economic expansion in post-war history. The odds of the cycle turning downward are increasing every month. How do you improve your condo and HOA's collection practices before the next recession?

The chart below is from June 2018, and by the time this article is published in August of 2019, we will be at 122 months and the longest economic expansion in U.S. history. If you listen for it, you will start to hear professional investors and economists starting to say the "R" word again (Recession), and their predictions range between later this year or during 2020.

During the last few years of this economic recovery most communities have experienced "good times" with few problems with delinquent payers. However, when we start to experience a recession, your board may experience the "bad times."

It may not be like the "Great Recession," but the next economic downturn can still be impactful. A larger percentage of late paying or delinquent owners can have a serious impact on a community's budget. Cash strapped communities may accrue fines or late fees for paying bills late, vendors may not show up to provide service since they are not being paid in a timely manner, services may be interrupted, and amenities could be shut down due to the lack of operating funds.

The Board your community has today is likely not the Board that went through the "Great Recession." So when your community experiences a sudden increase in delinquencies what is the Board going to do?

6 Steps to Improve Your Condo and HOA's Collection Practices Before the Next Recession:

Make it Easy for Owners to Pay: The best way to make paying your dues/common charges easy to pay is to give owners more ways to pay. Let people pay by check, let people pay by bank draft (ACH), let owners pay by credit card (they pay the transaction fee), let people mail in payments, pay online, and you can even take payments by phone. The one caveat to this is cash, we recommend you do not accept cash as it can go missing far too easily.

Communication Protocol: Can you quickly mail communications to owners on what they owe? If you don't already, maybe you want to change to mailed statements showing updated balances and late fees. Make sure you have the ability to mail out Late Letters as friendly reminders and that you can send out Pre-Lien Letters by certified return receipt mail. Communication systems will work lockstep with the collection policy you adopted.

Add a Meaningful Penalty: If late fees are not producing the desired outcome you have another option. Lower the delinquent payer's credit score every month and they will start to pay attention to your bill. This method works, which is why large corporations report to the credit agencies for credit cards, car loans, mortgages, etc. The association can add this with the help of a credit agency approved Financial Management Company.

Adopt or Update Your Collection Policy: A collection policy will outline what steps your community takes when an owner pays late. If you don't have one, you may consider creating one, as it is required by Colorado law to ensure you are able to take legal action on late payers. Get professional advice: You can use a credentialed manager to review and help you with collection policy best practices. After you've incorporated these changes, you'll want your attorney to review it. When using an attorney, make sure your community uses one that specializes in community association law and is not a generalist, as this will take you longer and cost you more. When completed, send this out to all owners so they are aware of what the policy is and what will happen if they pay late. Remember, the money spent to properly write up a collection policy is an investment.

Increase Late Fees: If you are not charging late fees you need to. The late fee should be a meaningful penalty. If it's not meaningful, it's a joke and you are last on the list of bills to pay. You may be able to simply increase the late fees in your rules and regulations, however, check your governing documents as some may have a stated late fee that you may have to revise. I've seen documents from the 1970's and early 1980's, and the late fee is $10 or $15. If you adjust that for inflation you are going to have a better deterrent. Lastly, remember your community needs to be able to uniformly apply the late fee to every owner and record it in your accounting system.

Find a Condo/HOA Collection Company or Collection Attorney: If you don't currently work with a collection agency or collection attorney you will want to line one up. Additionally, if you are not satisfied with the agency or attorney you currently use, now is the time to investigate alternatives. We recommend you search for candidates through your local Community Association Institute (CAI) chapter. Vendors that are part of CAI are specialists that will know not only about collection law, but also condo and HOA specific laws.

**Chart sourced from SeekingAlpha.com*

Summary

If you utilize these 6 steps to improve your condo and HOA's collection practices before the next recession, you will fare better than the community down the street. I know most community boards are usually kept busy reacting to issues that come up. We recommend getting ahead of this issue as it will save your Board time and problems down the road. If your Board doesn't have time, form a committee to assist you.

Russell Munz, CMCA, is the Founder of Community Financials which provides stress-free financial management to self-managed communities and managers nationwide. Previously, Russell grew a successful 41-person full-service management company over 16 years; he now provides big company systems and processes to a new audience. Have a question? Ask him by emailing: russell@communityfinancials.com

Center Stage with CMCAs

The CMCA® credential, Certified Manager of Community Associations—The Essential Credential™, is the only worldwide certification program for community association managers and demonstrates that these managers have made a commitment to doing their very best job for you.

Mission, Vision, Value Proposition

To enhance the community association management profession and provide a level of protection to homeowners living in community associations by recognizing people who have demonstrated a thorough understanding of the profession's defined body of knowledge.

To be the most widely recognized and trusted credential for the community association management profession.

The CMCA® offers a level of protection to homeowners and their communities by offering a trusted credential awarded only to professional managers who have demonstrated competency of the defined body of knowledge of a community association manager.

Meet

Richard Crockett, CMCA, AMS
Director of Business Development and Community Development

HG Management, Inc.

Obtained CMCA Designation: **2009**

Philosophy of Community Management: Always look to innovate while maintaining integrity. Be excellent, humble, and learn something each day. Whether that's with duties related to my job or learning new skills to improve myself and who I work with. Surround yourself with like-minded excellent team members and use servant leadership mentality. There is nothing better than a strong team.

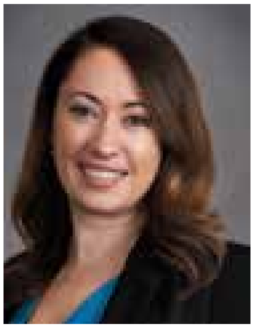
Why Get Your CMCA: One of my personal core values is excellence and a part of that is constantly looking to be educated. The CMCA was a solid first step to showing my commitment to this and to the industry.

Value of CMCA: As a CMCA, I have access to CAI members and vendors and all the other resources CAI provides. At the time, it came with an increase in pay and it showed commitment to the industry and respect among peers.

One of the Best Things About Being a CMCA: Access to CAI resources and additional education.

RETURN on Investment:

Is Your Community Considering Investing?



Nicole Bailey
RBC Wealth Management

The board of directors of a community association is elected by its membership to make decisions based on the best interests of the association as a whole. In accordance with this responsibility, each director is designated as a fiduciary of the association and is thereby obligated to uphold his or her fiduciary duty. According to the Community Associations Institute, fiduciary duty means that board members are bound under state law to act within their authority, to exercise due care, and to act in good faith and with ordinary care that they believe to be in the best interests of the association.

To help them fulfill this fiduciary duty, boards consult with professional experts in their decision-making process. Doing so ensures the board has made a reasonable effort to act with the benefit of the entire community in mind. Any association can benefit from investing its funds, however the term and type of investment can vary based on the association's investment objectives and projected expenses.

If the association has accumulated enough in its bank account to cover 30-60 days of expenses, it can benefit from potential interest earnings on additional funds until they are planned to be distributed. CD's can have maturities ranging from 30 days to 30 years. Lastly, each dollar earned in investment income is one less dollar that needs to be assessed to the ownership.

Once the decision has been made to invest association funds, it can be difficult to know where to start. Partnering with a professional investment advisor can provide peace of mind that the investment selections are safe and meet the needs of the association's long-term financial plan. In addition, with so many investment vehicles and strategies to choose from, an investment professional can provide focus and make suitable recommendations specific to the association's circumstances.

While Colorado doesn't have a statute outlining investment criteria for community associations, the Colorado Common Interest Ownership Act requires each association to adopt a policy concerning the investment of reserve funds. Investment guidelines provide for the types of investment vehicles appropriate for the association, liquidity requirements of these vehicles, asset allocations, responsibilities of the investment advisor, and an overall investment strategy. Consulting with the association's attorney in reviewing or amending the policy is important to ensure the policy is in compliance with the association's governing documents. A qualified financial advisor can also provide valuable input in drafting these policies.

Most association investment policies outline three parameters to be considered with investing funds. First, safety of principal is of utmost importance and no credit risk should be taken on with association funds. In declaring this, the policies often require investment selections be FDIC insured or guaranteed by the federal government. Second, the availability of funds should match anticipated expense schedules. Finally, once the first two criteria are satisfied, the association should seek the best rate of return possible on the funds. In addition to the components listed above, each association should be aware of inflation risk and potential loss of purchasing power. If inflation rates exceed portfolio returns, the association could face loss of purchasing power and should discuss this with their chosen financial advisor.

Once an investment policy is drafted and finalized, the board may consider appointing a finance committee to lead the search for an advisor. The board and/or committee can begin to meet with and interview qualified investment advisors. Similar to physicians, investment advisors tend to specialize in specific areas. In order to identify potential candidates with community association investment experience, the board should consult their local Community Associations Institute chapter for a member list.

Each investment firm can offer a variety of services and allocation models. To determine if the advisor and their firm are a good fit for the association, the board should conduct interviews with each of the candidates. Questions to consider asking when selecting an advisor are:

- What experience does the advisor have with community association funds?
- Who comprises the advisor's client base?
- How does the advisor determine suitability of an investment vehicle for a community association?
- What are the advisor's personal and professional qualifications to work with community association funds?
- What is the expected rate of return for a community association's portfolio with consideration of the investment policy and the board's expectations for liquidity?
- What type of communication can the board expect from the advisor?

In addition, requesting a list of references and consulting your management team in selecting an investment advisor is always beneficial to the association.

Once an advisor is selected and notified, the advisor will work with the board and management to open the account. Investment firms operate under many stringent compliance guidelines, which require detailed documentation be kept on each account. As part of the account setup, the association can expect to sign paperwork, as well as outline account operating procedures.

These procedures often include the following information:

- Who can authorize investments and distributions in the account?
- Where will statements and trade confirmations be sent?
- Who will have access to viewing the account online?
- How often will the advisor be in touch with the board?

As part of their fiduciary duty, boards are encouraged to work with community association partners. Partnering with a professional investment advisor can be extremely beneficial to an association. Establishing investment parameters can help to focus the investment playing field for the association and guide the relationship with the chosen advisor. The advisor should demonstrate proficiency in corporate cash management for community associations and understand and implement investment strategies that align with the association's investment objectives. With a well-developed investment policy and a trusted advisor relationship, investment of association funds will benefit community associations.

Nicole brings a broad background in community management in the Atlanta and Denver areas to her role on the West Wealth Management team. She actively volunteers with the Rocky Mountain Chapter of Community Associations Institute on the Marketing and Membership Committee.

Reserve Policy & Prudently Building Community Reserve Funds

CAI-RMC Member Opinion Piece

While an HOA's board of directors (BOD) has many duties, proper management of finances is the one responsibility that cuts across all aspects of a community. Management of funds falls into two categories; short term and long term. Short term funds deal with the daily operations of the community – keeping the lights on, mowing the grass, trimming shrubs & trees, heating the pool, etc. It also means paying for the services of these day in/day out functions.

Long term duties concern the repair, replacement, and upgrades of community assets. Marquee signs, concrete, siding, fencing, elevators, light fixtures, and roofing, etc. These are more difficult to properly manage for several reasons. First, many board members know they will not remain in their current roles on the BOD, and so they may not feel that they need to have a ten, twenty, or thirty-year perspective on their community, especially if they do not plan on living in the community for a long time. Second, deterioration is slow and not as easily noticed as say, hail damage to a roof from last night's storm. It does not provide the same sense of urgency. Third, most long term items require a level of expertise that many board members simply do not have. It is one thing to pick what kind of flowers to plant at the community entrance every spring, but how many BODs have intricate knowledge of light ballasts or roof underlayment? Fourth, too many directors and homeowners believe that keeping monthly assessments as low as possible today (and forever) is their most important financial duty and the best indicator of smart decision making since everyone needs to keep costs low. This task can be daunting for many.

In addition, when we consider the finances required for some of these projects, the funds required are quite large. When we combine more complex projects with large dollar figures, and then add a layer of peer pressure to not raise monthly assessments (or even personal resistance), a recipe for disaster will be created in the future that is unavoidable. Special assessments and loans can undermine a strong sense of friendship with neighbors, and ultimately will cost much more than addressing reserve needs more proactively. Periodically raising monthly assessments over time allows homeowners to plan and budget. Special assessments are worse than a gut punch. Who plans for those?

Colorado has the Prudent Investor Rule that covers financial responsibilities when one or many people manage funds on behalf of others. There are several parameters that are obvious to most with this statute, like using reasonable care, skill, and caution. Also, liquidity, preservation of capital, appreciation of capital, and taxes are important to consider. These are obvious to most people and do not require boring lectures to bring people up to speed. One important consideration that is often overlooked is the effect of inflation. Inflation is not tangible, happens slowly, and is difficult to notice (much like deterioration of siding or a roof under the surface). This is one facet that should be placed high on the list to overcome. Sadly, it is not. According to the Bureau of Labor Statistics, in the 40 years leading up to 2010, average annual inflation was 4.4%. Even if the last nine years since then of low inflation could have pulled the average down to 4%, we have a tough task of dealing with decreased purchasing power of reserve funds over time. 4% inflation means we need returns of 4% each year just to keep pace. In fact, even when interest rates are higher, bank and credit union products will not keep pace with inflation over the long haul. How can we fight this and still be prudent?

There is an important distinction between adding to reserves diligently, including increasing monthly assessments routinely, versus loans or special assessments. The former involves foresight, planning, and strong communication. The latter is reactive and puts a community in firefighting mode, which creates confusion and helps spread doubt in other areas of HOA decisions and processes, not to mention leadership. The other advantage that the first approach adds is that there is an opportunity to have the reserve funds work hard for the community, instead of the other way around.

Looking at the difference between short (operating) and long-term funds (reserves) we should realize we need two policies in place. For the short term, we should mandate zero risk. Banks and credit unions provide us with funds that are FDIC or NCUA insured. We can't lose, even if a banking firm fails outright. We need to make sure the electric, landscape, or insurance bills get paid. Having the bank or credit union of our choosing backed by Uncle Sam is a prudent route.

For the long term, we need to understand the role inflation plays as discussed above. By their very nature, banks and credit unions do not help us keep pace with inflation. We must look elsewhere, which takes us away from FDIC or NCUA insurance. This means we need to take extra effort and care (or hire an expert) to make sure our decisions are in the best interests of the community. This is where the Colorado Prudent Investor Rule applies.

So, what tools should be examined? We need to look at treasuries, bonds, stocks, mutual funds, and other tools that have the potential to overcome inflation over the long haul. These instruments have varying degrees of fluctuation or volatility. While some will say that any loss of principal is unacceptable, the effect of inflation eroding purchasing power is the same net result. When we are investing reserves for 10, 15, or 20 years or more, fluctuation in the short run becomes an opportunity to add monthly reserve contributions when the investments are "on sale." The fluctuation becomes healthy, and in fact, desirable.

This does not mean we should move to the other end of the spectrum on fluctuation, however. For example, while stocks outperform other asset classes over the long haul, their inherent high volatility would not sit well with the majority of HOA boards. We must find a "sweet spot" to get over the inflation threshold without sticking our necks out too far. This is where treasuries, corporate bonds, and municipal bonds, or even bond funds may fit the bill. Please consult with your property management company and financial professional to inform yourself and your fellow board members to make the best decisions for your community.

2019 CAI-RMC Golf Tournament Highlights

Presenting Sponsors

AGS Construction, Inc.

North-West Roofing Est. 1983

VF Law

Stellar Custom Painting

Caretaker Landscape and Tree Management

Hole Sponsors
- Association Reserves
- Burg Simpson
- CB Insurance
- G2 Roofing
- Heritage Roofing & Contracting
- Orten, Cavanagh & Holmes, LLC
- Premier Roofing Company
- Radiant Lighting
- Reconstruction Experts, Inc.
- SBSA, Inc

Bar Sponsor
- NorthWest Roofing

Luncheon
- Alliance Association Bank
- Servpro of Denver East

Hole In One
- Heritage Roofing & Contracting
- AssuredPartners - Colorado

Longest Drive
- Benson, Kerrane, Storz & Nelson
- Big Creek Roofing & Restoration

Closest to Pin
- Interstate Restoration

Beverage Cart
- ASR Companies
- McKenzie Rhody

Putting Green
- Palace Reconstruction

Driving Range
- Abbotts Fire & Flood

Golf Cart
- Heritage Roofing & Contracting
- RealManage

Breakfast
- Park Range Construction
- Smith Jadin Johnson
- White Bear Ankele Tanaka & Waldron

OVERALL WINNERS: Men's Foursome —
Ian Armstrong (Owner Planet Roofing), Adrian Pastrana (HVAC/Project Manager), Jesse Driggers (Owner Planet Roofing), Brandon Guthrie (Sales Planet Roofing)

ADDITIONAL WINNERS:

Longest Drive - Women:
Erin Baker

Longest Drive - Men:
Jess Driggers

Closest to Pin:
Mark Wordley

Congratulations Recent Designation Recipients

Congratulations to our newest credentialed professionals! CAI credentials help ensure that your manager has the knowledge, experience and integrity to provide the best possible service to your association. Earning a CAI credential demonstrates an elevated commitment to their professional education—and your community's welfare.

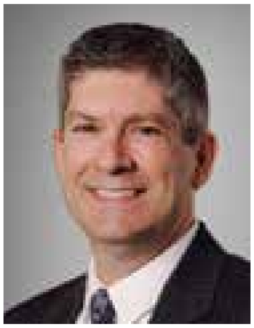
CAI-RMC is proud of the following individuals who have demonstrated a personal commitment to self-improvement and have elevated their practical knowledge and expertise:

Name	City	Organization	Designation	Award Date
Douglas Allen	Aurora	Allen Associates Inc.	CMCA	06/13/2019
Denise Arsenault	Englewood	The Beauvallon Condominiums	CMCA	06/13/2019
Christine Capizzo	Fort Collins	Onsite Property Management Services, Inc.	AMS	05/08/2019
Lisa Drake	Parker	The Colorado Property Management Specialists	CMCA	05/13/2019
Kacie Dreller	Erie	Hammersmith Management, Inc.	PCAM	05/30/2019
Rene Dunnagan	Aurora	Cherry Creek HOA Professionals	CMCA	06/10/2019
Diana Jansen	Avon	Vail Resorts - S51	CMCA	05/16/2019
John Krajewski	Denver	CAP Management	AMS	05/08/2019
Kent Krause	Highlands Ranch	Meadows Neighborhood Company	CMCA	06/27/2019
Rebecca Lawson	Colorado Springs	Colorado Association Services-Colo. Springs	CMCA	06/24/2019
Sabrina Lopez	Denver	Colorado Association Services	AMS	05/08/2019
Brian Mergl	Denver	Park Mayfair Condominiums	AMS	06/21/2019
Aaron Monaco	Denver	CAP Management	AMS	06/19/2019
Elizabeth Ward	Broomfield	CCMC	AMS	05/01/2019

If you are a manager, insurance and risk management consultant, reserve provider, or business partner wishing to enhance your career, the information at www.caionline.org can help you. CAI awards qualified professionals and companies with credentials to improve the quality and effectiveness of community management.

The End of Declarant Control:

Clearing up the Confusion



Jeff Kerrane, Esq.
Benson, Kerrane, Storz & Nelson

Transition of a community association's board of directors from declarant control to homeowner control is a process that is done inconsistently and with spotty documentation. This can sometimes lead to problems down the road if the association ever has legal issues with its declarant. The following FAQ is intended to address some of the most misunderstood aspects of the end of the declarant control process.

What is the period of declarant control?

The period of declarant control is the time when the declarant, or persons designated by the declarant, may appoint and remove the officers and members of the executive board. C.R.S. § 38-33.3-303. When the declarant no longer has the authority to appoint or remove board members, the period of declarant control is over.

When does the period of declarant control end?

Unless a shorter time is provided in the declaration (which is uncommon), the period of declarant control ends when the first of one of these things occurs:

1. 60 days after conveyance of 75% of the units
2. Two years after the last conveyance of a unit by the declarant in the ordinary course of business, or
3. Two years after any right to add new units was last exercised.

For most associations, the period of declarant control will end 60 days after 75% of the units are sold.

When can the homeowners start electing board members?

Before the end of declarant control, the homeowners are entitled to elect some members of the board. No later than 60 days after conveyance of 25% of the units that may be created, at least one member and not less than 25% of the members of the executive board must be elected by unit owners other than the declarant. No later than 60 days after conveyance of 50% percent of the units, not less than 33 1/3% of the members of the executive board must be elected by unit owners other than the declarant.

For a three-member board, this means that after 25% of the units are sold, the homeowners should elect one board member. For a five-member board, the homeowners should elect two members. Unless the board has more than five members, after 50% of the units are sold, there is no change. A three-member board would still have one elected member. A five-member board would still have two elected members.

Can the declarant appoint homeowners to the board during the period of declarant control?

Yes. The declarant can use its power to appoint or remove any person from the board the declarant chooses. However, unit owners should be wary about being a declarant appointed member of the board. C.R.S. § 38-33.3-303(2) provides that declarant appointed board members may have personal liability for their actions as board members. Board members who are elected by the homeowners are protected from personal liability except for "wanton and willful acts or omissions." This means that a homeowner who is appointed to the board by the declarant could be exposed to more personal liability than a homeowner who is elected by the other homeowners.

Can the declarant vote in these elections?

No. The declarant cannot vote to elect board members, ever. Unfortunately, however, the Colorado Common Interest Ownership Act (CCIOA) is not as clear as it should be. C.R.S. § 38-33.3-303(6) specifically says that the declarant cannot vote at the 25% and 50% mark. However, C.R.S. § 38-33.3-303(7) is silent as to whether the declarant can vote at the 75% mark when the declarant control period ends. However, C.R.S. § 38-33.3-303(9) somewhat awkwardly clarifies that unit owners "other than the declarant" may participate in the election at the end of declarant control.

At the end of declarant control, do the homeowners get to elect a majority of the board, or the entire board?

The homeowners should elect the entire board at the end of the period of declarant control. This is another area whether CCIOA is not as clear as it should be. C.R.S. § 38-33.3-303(7) says that at the 75% mark, the owners shall "elect an executive board of at least three members." This subsection means that the board must have at least three members. However, regardless of the size of the board, the entire boards must be elected at this time. There should be no declarant appointed board members on the board after the period of declarant control.

Can the declarant have candidates run for positions on the board at the end of declarant control?

Yes, but there are limitations. At the end of declarant control, the owners must elect the entire board, and the board must have at least three members. The declarant cannot vote. The declarant can have its representatives run for these positions. However, a majority of the newly elected board must be unit owners "other than the declarant." So, if the declarant runs multiple candidates who, if elected, would make up a majority of the board, then at least some of the declarant's candidates must be disqualified to make room for unit owners other than the declarant to make up a majority of the board. Because of the conflicts of interest that can occur by having declarant candidates run for board positions, a community association manager should discourage a declarant from running for board positions after the end of declarant control.

What documents should the board sign at the end of declarant control?

The simple answer is none. Documentation of the end of declarant control is important and it is helpful when the minutes of the homeowner meeting can clearly indicate that that it is the transition meeting where the homeowners are electing their first homeowner-controlled board.

However, there are no documents that the new board is required to sign at the end of declarant control showing that the homeowners are "accepting" the common areas. Many developers will attempt to get a newly elected board to sign a complete release of liability as part of the transition process, sometimes in exchange for a small payment to compensate the association for minor landscaping issues. It is almost always a bad idea for an association to sign any such document. DO NOT SIGN ANYTHING without first checking with an independent attorney hired by the new homeowner-controlled board.

Jeff Kerrane is a shareholder at Benson, Kerrane, Storz & Nelson, PC, which represents homeowners and community associations in construction defect actions. Complimentary transition evaluation available. Jeff can be reached at jkerrane@bensonpc.com or (720) 898-9680.

Developer Transition Checklist

Items the Developer Must Transfer to the Association

1. **A certified copy of all governing documents, minute books, and records.**
2. **An accounting of money and financial statements, audited at the declarant's expense, by an independent CPA.**
3. **Control of the association's funds.**
4. **All common element property the declarant used and an inventory of this property (for example: clubhouse furniture and pool equipment).**
5. **A copy of the plans and specifications of the buildings and other improvements.**
6. **All insurance policies in which the owners, officers and directors or association are named insureds.**
7. **Copies of certificates of occupancy.**
8. **Copies of any open permits pulled for Association property (for example: elevator and pool permits).**
9. **Any written warranties for the property (for example: roof shingles, landscape warranties).**
10. **A roster of owners and mortgagees with addresses and telephone numbers.**
11. **Management contracts and/or maintenance employee contracts.**
12. **Any vendor contracts.**
13. **Copies of all leases and recorded deeds for the common elements.**

C.R.S. § 38-33.3-303(9)(a-m)

April L. Ahrendsen, VP
Mutual of Omaha Bank

If you are experiencing leaky pipes, aging roofs, or degrading asphalt, you may be one of the many communities facing major repairs. Finding money from homeowners is often a very difficult and painful process. Homeowners may come to meetings angry or combative, but it's important to understand this anger is often based on fear and misunderstanding.

Who are these homeowners? They may be retirees on fixed incomes concerned about depleting their savings, first time buyers who may have financed their down payment, or people living paycheck to paycheck with no backup plan. The reality is these homeowners are not in a position to afford a one-time special assessment, and will most likely vote no to any project, regardless of its merits, because they do not have the funds. The higher percentage this group makes up of your community, the greater probability that your vote will fail or that a recall election may be held.

But what happens when your community must make these major repairs? How do you offer solutions for your neighbors in order to help keep them in their homes and reduce the fear?

Provide them options:

1. Pay cash—some homeowners may have money for the entire special assessment. They may be able to tap into investments (discuss with financial advisor), credit cards (special promotional rates), or savings accounts.
2. Borrow funds that are secured on real property—such as a second mortgage or equity line of credit on your home.
3. Pay the special assessment over time—because the board of directors provides a commercial loan for the community, interest rates are reasonable and can be fixed over the term of the loan. No personal information is required, no liens are placed on the homeowners' property, and there is no impact to their credit score.

ecial ssment

Got Your Community Down?

What are the advantages of borrowing?

a. Downward slide of property values slowed or eliminated. Structural problems, which must be disclosed to potential buyers, will make it difficult to sell homes and lead to falling home prices. Getting construction done quickly and improving the appearance and/or eliminating structural integrity problems can slow or eliminate falling home values.

b. Needed repairs/improvements completed quickly. By borrowing the money, total needed funds become available for use much faster than through the traditional special assessment process. Passing a special assessment will give the board of directors the power to collect the money. There is still the difficulty of collecting from those homeowners who do not have the ability to pay.

c. Reduced financial impact on homeowners - By participating in the loan, homeowners avoid having to make a lump sum special assessment payment. Homeowners can pay their share over time to reduce the impact on their personal finances.

What are the disadvantages of borrowing?

a. May increase monthly assessments - A special or increased assessment may be implemented to support the loan. Sometimes there are budget items or reserve contributions that can offset some or all of the increase.

Don't let a major repair get your community down! Homeowners that are informed and given options make better decisions for the community.

Contact the CAI-RMC to get a list of banks that provide loans to Community Associations. In particular, look for banks that will send someone to your meetings and work with your homeowners face to face.

The views and opinions expressed in this article are those of the author(s) and do not necessarily reflect the views of Mutual of Omaha Bank.

PCAM Matters

Obtaining my PCAM® designation was a natural progression in my professional career as I continued to advance within the industry. I started as a Community Manager and moved to a Director role, then Vice President, and now President. One of the most important reasons I obtained my PCAM® is that it helped me stay ahead of the competition. Success in any life stage and profession requires the drive to always keep learning. Professional designations provide an elevated knowledge base that will benefit your career far into the future.

Matthew Williams, CMCA®, AMS®, PCAM®
President, Colorado Association Services

Obtaining the PCAM® designation was a matter of personal pride. I wanted to demonstrate that I was capable of earning the highest designation in a large and demanding industry. I think that should matter for any person in any professional field of endeavor.

More broadly, it also matters in terms of increased earning power and really separates top tier practitioners from the rest of the pack.

Grant Parker, President, AMS®, PCAM®
Design Review Administrators, LLC

I sought the PCAM® credential because first and foremost, continuing education and professional development are important values to me and to my company. Attaining the PCAM was truly a labor of love for an industry to which I have been fully dedicated for the past 20 years!

Christine Herron, CMCA®, AMS®, PCAM®
Chief Operating Officer
Westwind Management Group, LLC

Introducing a NEW CAI benefit

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Q: Why do we have so many pet rules in my community?
A: The rules exist for neighborhood safety, and here's why

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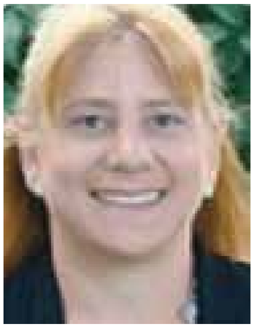


Kim Hitchcock
McNurlin, Hitchcock & Associates, P.C.

Did you know there are two different tax provisions benefiting Homeowner Associations aka Common Interest Realty Associations or CIRAs? With the correct knowledge of these provisions, income can be treated as tax exempt. Don't miss out on this opportunity to save money!

Most of the time, we think tax-exempt only applies to non-profit organizations like the Red Cross or the Better Business Bureau. The Homeowner Association is not a charitable organization, so how does this work?

The Internal Revenue Code (IRC) has two provisions, or tax codes, written especially for Associations. One provision is for the Association to file their annual tax return as a Homeowner Association under Internal Revenue Code §528. If the Association elects to file Form 1120-H, it is not taxed on "exempt function income." Exempt function income includes membership dues, fees, and assessments received from owners who are members of the Association. Under this provision, Homeowner Associations avoid paying tax on most of their income.

To qualify for exempt treatment and file form 1120H, the Association must meet the following requirements:

- At least 60% of the Association's gross income must consist of membership dues, fees, or assessments from the owners of the timeshare units;
- At least 90% of the Association's annual expenditures must be to acquire, construct, manage, maintain, and care for Association property;
- No part of the net earnings of the Association can directly benefit any one member or individual; however, a rebate to all members of excess assessments would generally be allowed; and
- At least 85% of the units within the Association (using a square footage test) must be for residential, non-commercial use.

These requirements can be difficult to meet for Associations that are mixed-use so there is a second provision. If the Association does not qualify for exempt treatment under IRC §528, they can file their annual tax return as a C-Corporation using Form 1120. This provision follows Internal Revenue Code §277 which allows for Deductions Incurred by Certain Membership Organizations in Transactions with Members. Although it uses the same tax form as other corporate businesses, it has a special tax rule which permits net membership income to be excluded from the tax calculation.

If the Association collects too little (or spends too much), it has Excess Membership Expenses which is not a problem because the excess will carry forward and offset future assessments.

The trouble comes when the Association has collected more than it spent. This is called Excess Membership Income. This excess can also be carried forward to offset the next year's budget, but this doesn't happen automatically. The Association is required to make an election under Revenue Ruling 70-604 to agree to carryforward any excess or repay it to the members. This election must be agreed to by the full membership, so we recommend having the election addressed at the annual meeting. All Associations should make this election annually just in case they have to file Form 1120 and report excess membership income for that year.

"With the correct knowledge of these provisions, income can be treated as tax exempt."

Now that you understand what income is tax exempt under IRC §528 or IRC §277, we can move on to non-exempt income. If an Association collects rents, interest, vending machine revenue, easement contracts, or certain other income, that income is not tax free. When an Association has this type of income, it gets specially classified and reported as taxable on either Form 1120 or Form 1120H. Fortunately, the Association also writes off related costs before calculating the tax. The deductions can be any expenditure associated with the specific type of income, such as tax preparation fees, cash management costs, maybe even utilities or repairs.

Once the Association has calculated the net taxable income, it then calculates the tax. If the Association is filing Form 1120H, it takes a $100 standard deduction and then pays Federal Income tax of 30% of the net taxable income.

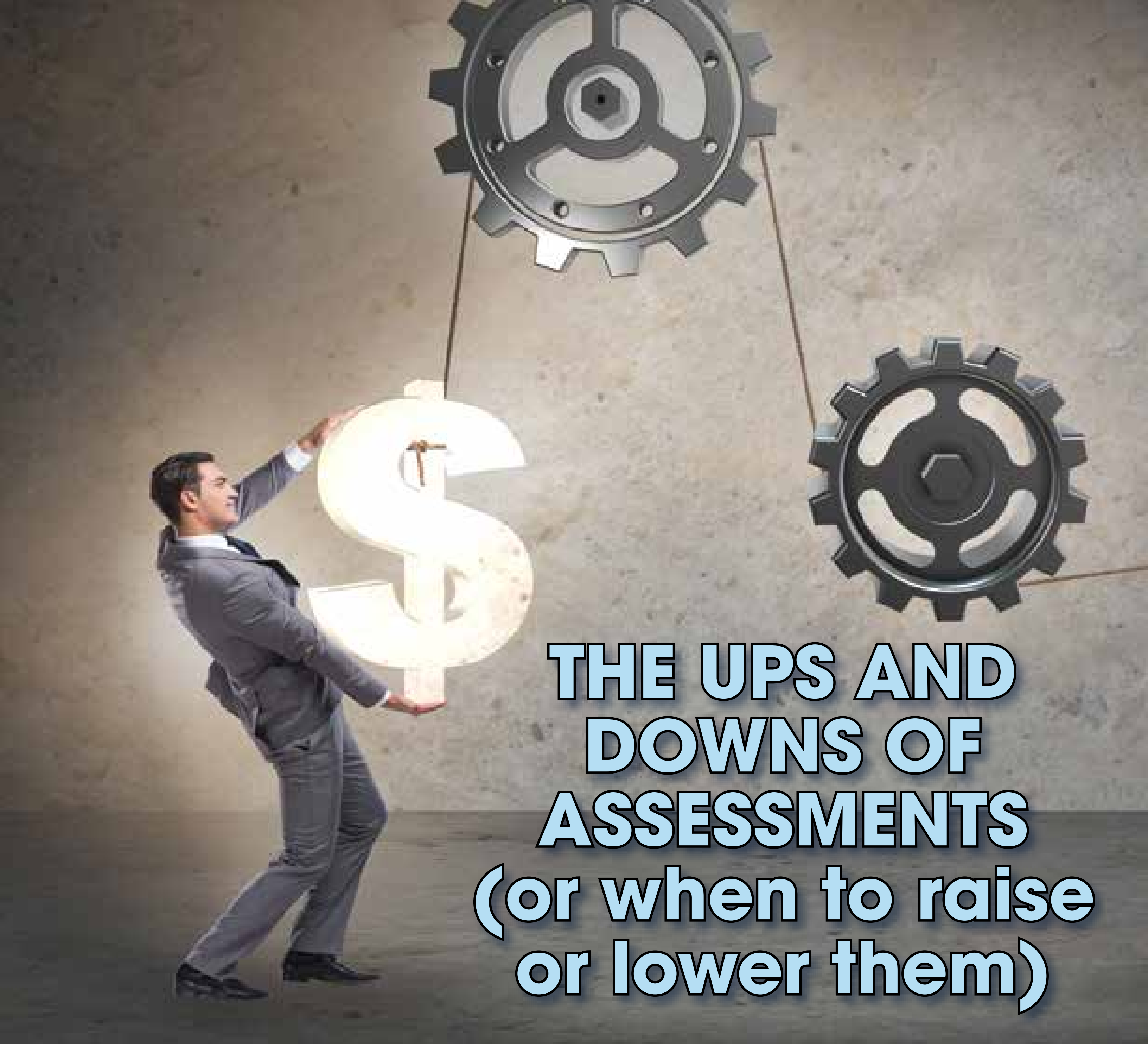
If the Association is filing Form 1120, it pays Federal Income tax of 21% of the net taxable income.

In every case, the Association will also file a State income tax return and pay tax to the proper taxing authority. In Colorado, we pay a State income tax of 4.63% of the net taxable income.

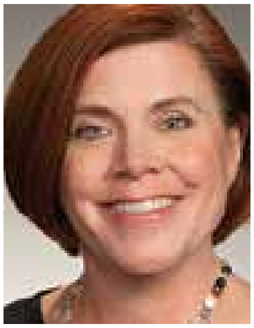
This area of the law is technical. The bottom line is that the opportunity to benefit from tax-exempt treatment is an option all Associations will want to consider.

If you would like to pursue this matter further, particularly with regard to the determination of tax return form, or to discuss specific tax ramifications of either option, please do not hesitate to email me at kim@mcnurlincpa.com or call our office to speak to one of our professionals at (303) 988-5648.

Kim Hitchcock and her team at McNurlin, Hitchcock & Associates PC have been working with Homeowner Associations for more than 24 years. Call them to benefit from their extensive experience with accounting, payroll, audited and reviewed financial statements, and income tax preparation!



THE UPS AND DOWNS OF ASSESSMENTS (or when to raise or lower them)



Trisha K. Harris
White Bear Ankele Tanaka & Waldron

It's August, and that means one thing: Budget season is upon us. With budget season comes the age-old question for many boards and managers; Should we raise assessments? Is there any chance we could actually lower assessments this year? There are many factors that go into such budgetary decisions. The following are considerations that go into either choice.

Raise the Roof

Does your association have deferred maintenance that can no longer go unchecked? If so, an assessment increase may be inevitable in order to avoid a large special assessment at some point in the future.

Has your association been lagging in saving reserve funds in line with your reserve study? If so, you may need to consider raising assessments to get your reserve fund caught up to the level recommended by your reserve study.

Does your association desire to make certain larger-scale improvements, such as adding new playground equipment or upgrading landscaping? If so, it may be prudent to raise assessments to fund such projects over time, rather than imposing a special assessment.

Is your association consistently busting your budget each year? If so, it may be necessary to take a hard look at your budget line items to determine where budget shortfalls are occurring, and increasing

assessments to give the association more breathing room in your contingency line item.

What is your current delinquency rate? If owners are struggling to pay assessments at the current rate, will an increase in assessments create more collection problems for the association?

Is owner approval required for an assessment increase? If your community is a post-CCIOA community (meaning it was created on or after July 1, 1992), you must follow the budget ratification process set forth in CCIOA in relation to ratification of your budget and any assessment increases contained in your budget. The same budget ratification process applies to pre-CCIOA communities (those created before July 1, 1992) unless your declaration sets a maximum assessment amount or limits any increase in an annual budget to a specific amount and your proposed assessment is within those limits.

Lower the Bar

Have your assessments been set higher in recent years to get the association caught up on reserve funding? Are you now caught up? If so, it might be possible to lower assessments, or at least keep them at a steady level.

Does your association consistently end up with a healthy surplus of operating funds at the end of each year? If so, you may be setting your assessments too high for the actual needs of the association.

Has your association recently gone out to bid for recurring or continuing services, such as landscape maintenance, management, accounting, or legal? Are there savings that may be gained by negotiating new contracts for such services that could lead to the ability to decrease assessments?

"Decisions about the rate of assessments, especially when an assessment increase is contemplated, are not always easy decisions for a board to make. While it might be tempting for board members, who are also owners who pay assessments, to forgo an assessment increase, or even lower assessments, in the end, the decision must be made based on the good of the entire association."

If assessments are lowered, consider how that might impact, from a political perspective, any future increases that may be necessary in the future.

Decisions about the rate of assessments, especially when an assessment increase is contemplated, are not always easy decisions for a board to make. While it might be tempting for board members, who are also owners who pay assessments, to forgo an assessment increase, or even lower assessments, in the end, the decision must be made based on the good of the entire association. As with any decision, the board needs to make sure it is making the decision in an informed and reasonable manner.

Trisha K. Harris is a senior associate with the law firm of White Bear Ankele Tanaka & Waldron. White Bear Ankele Tanaka & Waldron serves the needs of residential, commercial, and mixed-use projects throughout the State of Colorado, and provides advice and counsel to project developers, property owners, and residents on a wide range of issues. WBA also represents homeowner and commercial associations, as well as metropolitan districts that are responsible for covenant enforcement and design review, operations, and maintenance of common and other public areas, together with required collection activities.

CAI Advocacy Corner

Community Associations Institute's Response to the FCC's 5G Proposal

By Dawn Bauman, CAE Community Association Guidance, Federal Advocacy

In response to a Notice of Proposed Rulemaking released by the Federal Communications Commission (FCC), CAI submitted comments to the Commission on 5G infrastructure deployment and its impact on community associations. The reason for the rulemaking is due to a request by the Wireless Internet Service Providers Association to the FCC asking the Commission to update the OTARD (Over the Air Reception Device) rule to apply to "all wireless transmitters and receivers, regardless of whether the equipment is used for reception, transmission or both, so long as the equipment meets existing size restrictions for customer-end equipment."

In 1999, CAI advocated diligently to ensure the community association housing model was considered as the OTARD rule was developed and passed. Previously, the OTARD rule was primarily considered for satellite-type dishes and antennas.

Today, CAI members are supportive of 5G infrastructure deployment—community associations and residents desire access to the next generation of broadband internet service. Community associations will continue to work with communication services providers to site infrastructure necessary to ensure access to 5G services. However, this must occur within well-established boundaries that protect the property rights of community associations and association residents.

CAI urges the FCC to:

Retain all aspects of the existing OTARD regulatory framework as it applies to forced entry, size and location, exclusive use areas, historic preservation, health, safety, and other considerations regarding covered antennas in community associations.

Continue to examine the marketplace for quantitative, verifiable evidence supporting the need for additional FCC authorities to advance deployment of 5G infrastructure and work to secure such authorities, if required, from Congress.

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Are you new to the Community Association Industry?

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CAI-RMC's Peak Series are free educational events aimed at newer professionals in Colorado community associations.

The Peak Series always seeks CAM-ICB approvals, and where appropriate, other accreditation. On February 21, Lindsay Smith and Heather Hartung helped everyone learn the basics for legal operations in Colorado communities, including an emphasis on homeowners associations and a comparison to special districts in the state. Twenty five managers attended this free class. It is CAI-RMC's goal to make these classes accessible and understandable for those who might not know the difference between a plat and a map, while at the same time providing interesting content and perspectives for those who have been in the industry for years.

The Peak Series will continue on August 15, 2019 at 10:00 AM at the Colorado Club, 4155 E Jewell Ave, with Peak Financials, an in-depth analysis of community association financials. Attendees will learn about accounting, reserves, budgeting, and financial record keeping – just in time for budget season.

The 2019 Peak Series concludes on November 21 with Peak Insurance. Our presenters will help you understand the difference between different types of coverages, and how different insurance products can impact Boards and communities. Real world examples will give you a better understanding of how insurance works, and how it interacts with other duties and obligations of homeowners and associations. With the recent hail storms, communities will turn to their managers for help as they navigate the claims process. CAI-RMC will help you help your clients!

The 2020 Peak Series will open with Peak Legal in February. Stay tuned for more information regarding location, date, and time and make sure to register your newer employees to bring them to the peak of community association management!

REGISTER TODAY! WWW.CAI-RMC.ORG

Welcome New Members

Trish Bayer—Colorado Association Services—Lakewood
Cody Bennett—Colorado Association Services—Lakewood
Kim Gardner—Northmoor Acres Home Owners Association
Ginny Hersch—Northmoor Acres Home Owners Association
Mark Hoekstra—
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Brittany Jones—The Lodge at Vail
Jim Kienholz—Northmoor Acres Home Owners Association
Phil Lamb—Alloy Home
Kirk Mccoy—Rebuild Corp
Karen Overlin—Northmoor Acres Home Owners Association
Shawn Rieke—Northmoor Acres Home Owners Association
James Robertson—The Playwell Group
KC Ross—CondoCerts
Susy R. Ruof—Northmoor Acres Home Owners Association
Mattia Sammuri, CMCA—
East West Urban Management, LLC
Robert Sprague—
Northmoor Acres Home Owners Association
Felicia Summerlin—WelcomeLink
Valerie Tams—Northmoor Acres Home Owners Association
Sharon Thompson—
Colorado Association Services—Lakewood
Tanya Valis—Hammersmith Management, Inc.
Julie Williams Gallegos—Saint Mary's University of Minnesota

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Common Interests Editorial Calendar

Issue	Topic	Article Due Date	Ad Due Date
October	Tech / Modernization	08/15/2019	09/01/2019
December	Planning Ahead / Goals / Community Vision	10/15/2019	11/01/2019

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SEPTEMBER

9 Mon	**CLAC Golf Tournament**
12 Thu	**Clay Shoot** Brighton
16 Mon	**Mountain Conference & Annual Meeting** Vail
26 Thu	**Manager Foum**

OCTOBER

23 Wed	**M100** Breckenridge

NOVEMBER

21 Thu	**Peak 3—Insurance**

DECEMBER

12 Thu	**CAI-RMC Annual Celebration**

For the latest information on all our programs, visit www.cai-rmc.org!

Don't forget to register for events as prices are significantly higher the day of the event.