

Vol. 38 • No. 3 • 2020

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# COMMON

## INTERESTS



INSIDE:

**Conflicts of Interest**  
**Shopping for Insurance**  
**Landlord-ology**  
**Understanding Ethics**  
**Navigating Board Relationships**  
**And More!**

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# COMMON INTERESTS

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# President's Letter



**ALICIA GRANADOS**  
Chapter President  
CAI-RMC

**H**appy summer CAI-RMC friends! Congratulations on surviving what was likely the strangest spring of most of our lives... we have officially made it to summer! And while this summer may not feel exactly like others, I love watching our members take creative approaches to tackling complex issues (pools and playgrounds and clubhouses ...oh my!) and come together in such amazing new ways. From community food trucks and barber trucks, to packed house Zoom meetings and virtual bingo, we are witnessing new ways to maintain a sense of community.

Like all of you, the CAI-RMC Board and Committee volunteers have been working hard to adapt to uncertainty and provide needed information, resources and value to our membership. The virtual webinar education sessions and membership group Zoom forums have had wonderful participation. Be sure to check the CAI-RMC events page to sign up for an upcoming session. We can't wait to be able to come together in person and we all have our fingers (and toes) crossed that the Annual Golf Tournament, now rescheduled for July 31st, will be our first opportunity in quite some time to do so.

We are also incredibly proud and excited to report that the Community Manager Apprenticeship Program is moving forward on schedule. This program is the first of its kind in the US, developed in a partnership between Arapahoe Community College, CAI Rocky

**“Like all of you, the CAI-RMC Board and Committee volunteers have been working hard to adapt to uncertainty and provide needed information, resources and value to our membership.”**

Mountain Chapter, AD Works and Skillful Colorado. Our industry partners will be launching a pilot cohort of 15 community manager apprentices this August. This two-year apprenticeship program will include a customized college education program and full-time, paid, on-the-job training. Apprentices will earn the CMCA® and AMS® certifications, a stackable ACC certificate in Business Administration, and a Department of Labor apprenticeship credential. Apprentices will graduate with little to no college debt, and will be qualified to become a Community Association Manager in the industry. We are so grateful to the many outstanding management company partners that have stepped up to help us turn this idea into a reality. Go to [www.CAI-RMC.org/apprenticeship](http://www.CAI-RMC.org/apprenticeship) to learn more.

Please continue to let us know how we can best meet your needs during this unprecedented time. Stay safe this summer and we look forward to seeing everyone soon! ⬆



## Editorial Calendar

Issue	Topic	Article Due Date	Ad Due Date
Issue 4	Finance	06/15/2020	07/01/2020
Issue 5	Tech / Modernization	08/15/2020	09/01/2020
Issue 6	Planning Ahead / Goals / Community Vision	10/15/2020	11/01/2020



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**EDITORIAL STAFF**

Bridget Nichols  
 (303) 585-0367  
[bridget@cai-rmc.org](mailto:bridget@cai-rmc.org)

Dan Schwab  
 Eidolon  
 Design & Layout  
[info@eidolondesign.com](mailto:info@eidolondesign.com)

**EDITORIAL COMMITTEE**

Justin Bayer—[jbayer@knottlab.com](mailto:jbayer@knottlab.com)  
 Ashley Nichols—[ashley.nichols@yourcornerstoneteam.com](mailto:ashley.nichols@yourcornerstoneteam.com)  
 Meaghan Brown—[mbrown@empireworks.com](mailto:mbrown@empireworks.com)  
 Bryan Farley—[bfarley@reservestudy.com](mailto:bfarley@reservestudy.com)  
 Jeslyn Gilcrest—[jgilcrest@nexgenroof.com](mailto:jgilcrest@nexgenroof.com)  
 Nicole Hernandez—[nicole.hernandez@centralbancorp.com](mailto:nicole.hernandez@centralbancorp.com)  
 Heather Nagle—[heather@thereceivergroup.com](mailto:heather@thereceivergroup.com)  
 Jeffrey Smith—[jsmith@altitude.law](mailto:jsmith@altitude.law)  
 Lindsay Thompson—[lthompson@kerranestorz.com](mailto:lthompson@kerranestorz.com)

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 Broomfield, CO 80021  
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# Attention Condominium & Townhome Owners

**Are you aware the insurance coverage maintained by your association DOES NOT completely protect you as an owner within your community?**

In 2019 many of Colorado's Condominium and Townhome Owners were required to pay significant expenses as a result of damage occurring in their community that was not covered by their association's master insurance policy.

Wind & Hail Losses (Per Unit Special Assessment)	Insurable Loss in Unit (Assigned to Individual Owner)
80-Unit Community in Douglas County - <b>\$16,942/Unit</b>	Waterline to Ice Maker Failed - <b>\$10,000</b>
196-Unit Community in Denver County - <b>\$9,949/Unit</b>	Water Heater Leaked - <b>\$25,000</b>
213-Unit Community in Jefferson County - <b>\$13,388/Unit</b>	Kitchen Fire - <b>\$10,000</b>
113-Unit Community in Larimer County - <b>\$11,298/Unit</b>	Owners' Tenant Turned Off Heat (Frozen Pipes) - <b>\$5,000</b>
46-Unit Community in El Paso County - <b>\$15,494/Unit</b>	Sewer Backup in Unit - <b>\$15,000</b>

Fortunately, you can protect yourself from significant personal expenses by contacting your personal insurance agent and asking the following question:

1. Do I have enough Loss Assessment Coverage to pay my share of the association's wind/hail deductible in the event of a special assessment?
2. Do I have enough Dwelling Coverage, including Sewer/Drain Backup Coverage, to pay my association's All Peril Property Deductible if insurable damage occurs within my individual unit?
3. How much Dwelling Coverage do I need to adequately protect the property assigned to owners in my community's CC&Rs (aka Covenants or Declarations)?

Prior to calling your personal insurance agent, please visit your community's web-portal for a copy of the following information:

1. CC&Rs (aka Covenants or Declarations) - Insurance Section Describes Property to be Insured by the Association versus individual Owners.
2. Certificate of Insurance - Illustrates the Wind/Hail Deductible, All Peril Property Deductible and Number of Units in your community.
3. Deductible Resolution (Insurance Claim Procedures): If Available (Not all communities have established deductible policies)

**It is not the responsibility of the HOA's Community Manager, the HOA's Insurance Agent, nor the HOA's Board of Directors to advise owners of how much personal insurance to buy.**

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# Conflict of Interest



**David Graf**  
Moeller Graf



**Tim Moeller**  
Moeller Graf

**W**hen Governor Jared Polis effectively ended Colorado state licensing of community managers, he also ended the statutory obligation for community managers to disclose fees and other remuneration that community managers might receive through their management of a particular community. This statute, C.R.S 12-61-1004.5, took effect on January 1, 2015 and was thought by many in the community association world to be a significant step towards increased transparency. In my conversations with certain management company owners, they also felt that the statute would help dispel the “urban legends” of

certain management companies taking kickbacks and preventing legitimate management companies from giving away a competitive advantage due to their honesty in disclosing of ancillary sources of revenue.

That statute is no longer in effect. However, the Community Associations Institute has long had ethics standards governing community managers who are members of CAI. Specifically, the Professional Manager Code of Ethics (“Code”), in Rule #6, requires that managers disclose in writing any actual, potential, or perceived conflict of interest between the manager and other vendors. This Rule goes on to require





# Conflicts of Interest

that the manager take all necessary steps to avoid any perception of favoritism or impropriety during the vendor selection process and negotiation of any contracts.

The comment to Rule #6 provides a scenario where a manager may have a financial interest in a vendor and as long as disclosure of that interest is in writing and is made “sufficiently in advance of the selection process to allow full consideration of the possible conflicts and any alternatives,” then the manager has fulfilled his or her duty under the Code. The fact that the Code requires disclosure of not only actual or potential conflicts, but also perceived conflicts of interest shows CAI’s commitment to a high-level of ethics and transparency among its manager members. These conflicts would typically be disclosed to the Board of Directors.

With respect to volunteer leaders (also known as board members or directors), conflicts of interest as nonlawyers might view them, are not regulated by state statute, presumably because

being a volunteer leader in a small or even a larger community could result in perceived conflicts of interest among neighbors, friends, golf buddies, or the like. In some communities where there is a sense of “community,” some people will naturally know many others within that community and trying to regulate those interpersonal relationships in any meaningful way and still have people volunteering to serve would be difficult. Instead of trying to regulate interpersonal relationships, state statutes have two areas of concern related to volunteer leader conflicts of interest. The first is the mandate that an association have a conflicts of interest Responsible Governance Policy under CCIOA, found at C.R.S. 38-33.3-209.5, which requires that the policy describe the circumstances under which a conflict of interest may exist and set forth procedures to follow when a conflict of interest does exist. The second is the provision of CCIOA that references the “conflicting interest transaction” provisions of the Colorado Revised Nonprofit Corporation Act, found at C.R.S. 38-33.3-310.5 and C.R.S. 7-128-501.

The provisions of the Nonprofit Act with respect to conflicting interest transactions, paraphrased, define a conflicting interest transaction as a contract or a financial relationship between an association corporation and a member of the Board of Directors-- or between the association and a party related to a member of the Board of Directors or between the association and an entity in which a member of the Board of Directors is a director, officer, or has a financial interest. This statute is designed to address profiteering by a member of the Board of Directors and is not intended to get into nonfinancial “conflicts of interest” that may arise among people who live in a community and may know each other socially or otherwise.

The Nonprofit Act provision addressing conflicts of interest states that no conflicting interest transaction shall be void or voidable solely because of the existence of a conflicting interest transaction or because the conflicted board member participates in a discussion of the conflicting interest transaction or even votes on behalf of it if any one of three criteria have been satisfied:

1. **Disclosure has been made of the conflicting interest transaction and a majority of the disinterested homeowners approve of the contract.** This almost never happens, as rarely does an association send out contracts to a vote by homeowners.
2. **Disclosure has been made of the conflicting interest transaction and a majority of the disinterested directors approve of the contract.** This is the most common method of addressing a conflicting interest transaction.
3. **The contract is fair to the association.** This means that a court could find that the contract was fair to the association, in which case the failure to disclose the existence of the conflicting interest transaction would be irrelevant. Of course, there can be a significant credibility problem if a board member fails to disclose the existence of a conflict of interest, notwithstanding the fact that a court may decide that the contract was fair to the association. Some Boards of Directors will disclose actual or potential conflicts at the start of any or even every meeting in an effort to head off any appearance of impropriety among members of that board.

CAI has homeowner leader resources to promote professionalism and transparency among homeowner leaders. The first is the Civility Pledge, which is downloadable from the CAI National website. The second is CAI's Rights and Responsibilities for Better Communities, which sets forth principles for all those who interact with or live within the community to follow with respect to better governance and general principles of fairness. While these guideline documents are not legally binding, they are helpful for volunteer leaders to be familiar with as they make decisions on behalf of their homeowner constituents. These documents are also helpful for owners to be aware of and to take to heart when dealing with their neighbors, with their volunteer leaders, and with their community management professionals. Lastly, CAI has the [board leadership development program] which is a daylong class intended to train volunteer leaders on issues of basic community governance. ⬆

---

*David Graf has practiced community association law exclusively since 2001. In this time, he has represented a wide range of communities throughout the State of Colorado. David is one of the most sought-after community association industry trainers and speakers in the United States. He is a national faculty member of the Community Associations Institute's Professional Management Development Program ("PMDP") and travels throughout the United States to facilitate multi-day corporate trainings for professional community managers. In 2015, he was named CAI's National Educator of the Year.*

---

*Tim Moeller has practiced community association law since 1999. Tim supports associations in such areas as collection of delinquent assessments and enforcement of covenant matters, which includes litigating covenant violation and collection cases, and bringing foreclosure and receivership actions. Tim has extensive experience in creating and amending governing documents, preparing opinions concerning the many different matters facing associations in Colorado, and drafting and reviewing contracts.*





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# Considerations When Shopping For Community Association Insurance



**Nicole Hernandez**  
CB Insurance

Insurance is a necessary evil.

Community Associations must carry it to comply with their governing documents and state statutes, sometimes spending the majority of their operating budget on it, while hoping they have the right coverages and limits in place when a problem arises.

To best help your Community Association, and look like a Rock Star in the process, check out the tips below:

a requirement, yet policy forms can be misleading regarding blanket coverage. Just as it is important to look for Community Managers with knowledge of the industry, you should also have the same expectation for your insurance agent.

## Everything Matters

The insurance market is certainly not without its fair share of challenges. Hail events, wildfire, and other catastrophic losses have led insurers to increase rates as well as implement more strict underwriting. Carriers are looking more closely at guidelines in the community—rental restrictions, rules related to grills (keep them away from the building), maintenance, and reserve funding are all considerations when a carrier is deciding whether to quote a risk. Associations should take this into consideration when updating Rules & Regulations or amending Covenants. ⬆

## Obtaining Multiple Bids

It seems to be the standard—obtain three bids. However, this does not necessarily mean you need to reach out to three agents to shop for your insurance renewal. If you approach an independent agent/broker, they will likely approach multiple markets on the association’s behalf, so it is not unreasonable to look to one agent to help meet this expectation. If the agent selected only provides one bid, they should be able to explain why that was the case (an open claim, loss history, or some other reasons the insurance markets shied away from quoting).

## Timeframe

We live in an instant society—we are programmed to click a link and receive a product, but this is not how insurance works, especially for a community association. If an agent can provide an immediate quote for your HOA--RUN! Multiple lines are required to cover your community against common exposures and, although many insurance requirements are similar, coverage details can be very different and can direct what market will provide the most robust and competitive coverage. The physical property at the community (including outdoor property—mail kiosks, fences, light poles, etc...) matters. What the covenants say matters. The location matters. This analysis takes time. Reach out to your selected agent as early as possible so they can immediately get to work, but please understand that obtaining a quote can take 3-4 weeks or more.

## Expertise

Community associations are a unique structure and the intricacies of risks and coverage are not found everywhere. CCIOA provide basic requirements for coverage and governing documents will typically expand this coverage but, as they say, the devil is in the details. For example, “blanket” policies are often

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# Ethics, Money the Community Association



**Nicole Bailey**  
RBC Wealth  
Management

**S**ummer has arrived! With summer comes irrigation issues, landscaping projects, pool openings, and painting, roofing, and siding projects. Sometimes with so much activity around the physical assets in the community, we lose sight of what makes it all happen – the money! Community associations are non-profit corporate entities, and the financial components of the association should be managed with the same ethical care as with any corporate entity. The next few paragraphs will cover ethics

definitions pertinent to community associations, who falls under ethical guidelines, ethical actions of each party, and potential consequences if ethical guidelines are not followed.

According to the Cornell School of Law, ethics is defined as

“What is good for the individual and for society and establishes the nature of duties that people owe themselves and one another.” This moral concept is central to behavioral guidelines for community volunteers and business partners. In the context of a community association, the nature of the duties is outlined by the legal concept of fiduciary duty. In Colorado, nonprofit corporate entities like community associations are subject to the Colorado Revised Nonprofit Organization Act (revised October 2019). The Act describes the fiduciary obligation as acting in good faith, with the care of an ordinarily prudent person, and in a manner believed to be in the best interest of the corporation. As it relates to fiduciary duty, in order for parties to act ethically, they need to ensure they are looking out for the organization as a whole and making decisions with care and in the best interest of the organization.

While the Colorado Revised Nonprofit Organization Act pertains specifically to the board of directors, all individuals with a relationship to the organization have a fiduciary duty to the

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organization. The board of directors is elected by the membership to make decisions on behalf of the membership and with the best interest of the organization in mind. The community manager is contracted by the board of directors to carry out the decisions of the board and therefore in the best interest of the association. The insurance agent, accountant, investment advisor, and attorney are required to provide guidance to the board of directors with their fiduciary duty at the forefront of any advice. Each person is tethered to the same duty of care that binds the board of directors with their ethical obligation to the community.

The specific actions of each party should reflect their consideration for the preservation of association assets. For the board of directors, decisions should be made carefully and by consulting with industry experts. For the community manager, the decisions should be carried out fairly and consistent with board direction and governing documents. The team of business partners should advise the client in a manner consistent with specific industry standards and community policies. For example,

if a board of directors makes the decision to replace the roofs in the community, they should make that decision based on the benefit to the community as a whole, not the benefit to any specific homeowner. When the manager seeks proposals for the work, the manager should consider the experience, insurance limits, and qualifications of the bidders. In choosing a contractor, the board should disclose any conflicts of interest. The entire process of the roof replacement should be managed fairly and consistent with the fiduciary obligations of the parties involved. Acting in a fair and transparent manner when carrying out actions of the board is to act in an ethical manner.

On the other hand, we have all likely seen examples of people straying from their duty of care for the association. A board member may have a cousin who provides services to single family homes, does not carry appropriate insurance for a project this size, lacks experience with community associations and yet the board selects this contractor because of the relationship. Hypothetically, a community manager may have consistently worked with the same service provider for the last 10 years, so they may feel there is no need to gather proposals from different contractors. The community manager should consider whether or not this is in the best interest of the association and if they are acting ethically.

When ethics are cast aside from decision making, the community is impacted legally, financially, and even culturally. If a breach of fiduciary duty by board members is detected, members of the community could file a lawsuit or seek removal of the directors and any damages resulting from the actions. To refer back to the example above, contracting with underinsured or underqualified parties may result in additional costs to the association. When breaches of fiduciary duty take place, community members may stop trusting one another. Elections may be challenged and decisions may be halted. Trust among community members is essential to the progress of a community association and trust among members requires ethical behavior.

Acting in an ethical manner would suggest all parties be transparent, fair, and prudent when making decisions. Consequently, careful consideration should be given to the impact each decision has to the association. To conclude, to act ethically requires each decision be made for the good of all individuals, which of course includes the association itself. 🏠

---

*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.*

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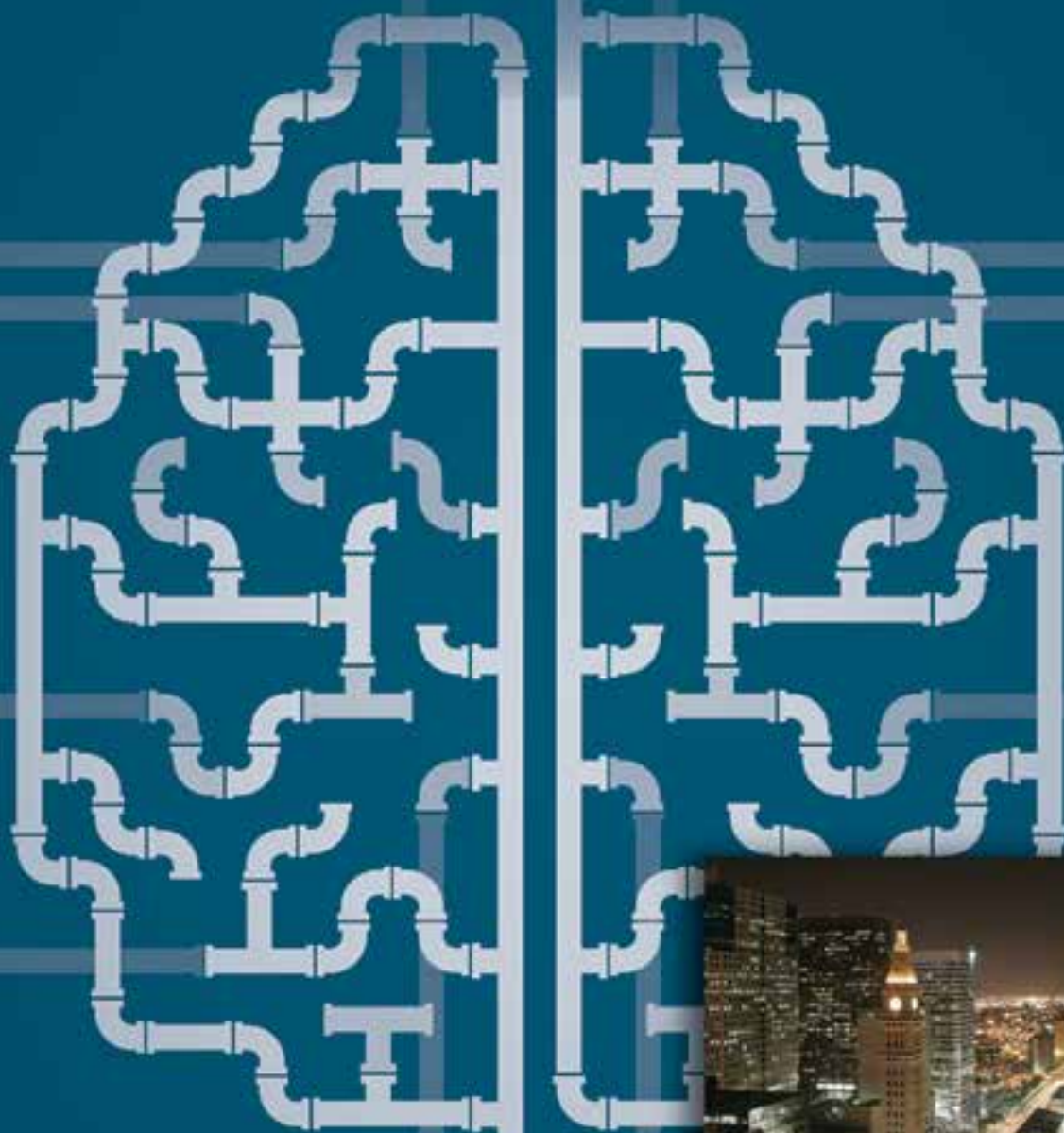
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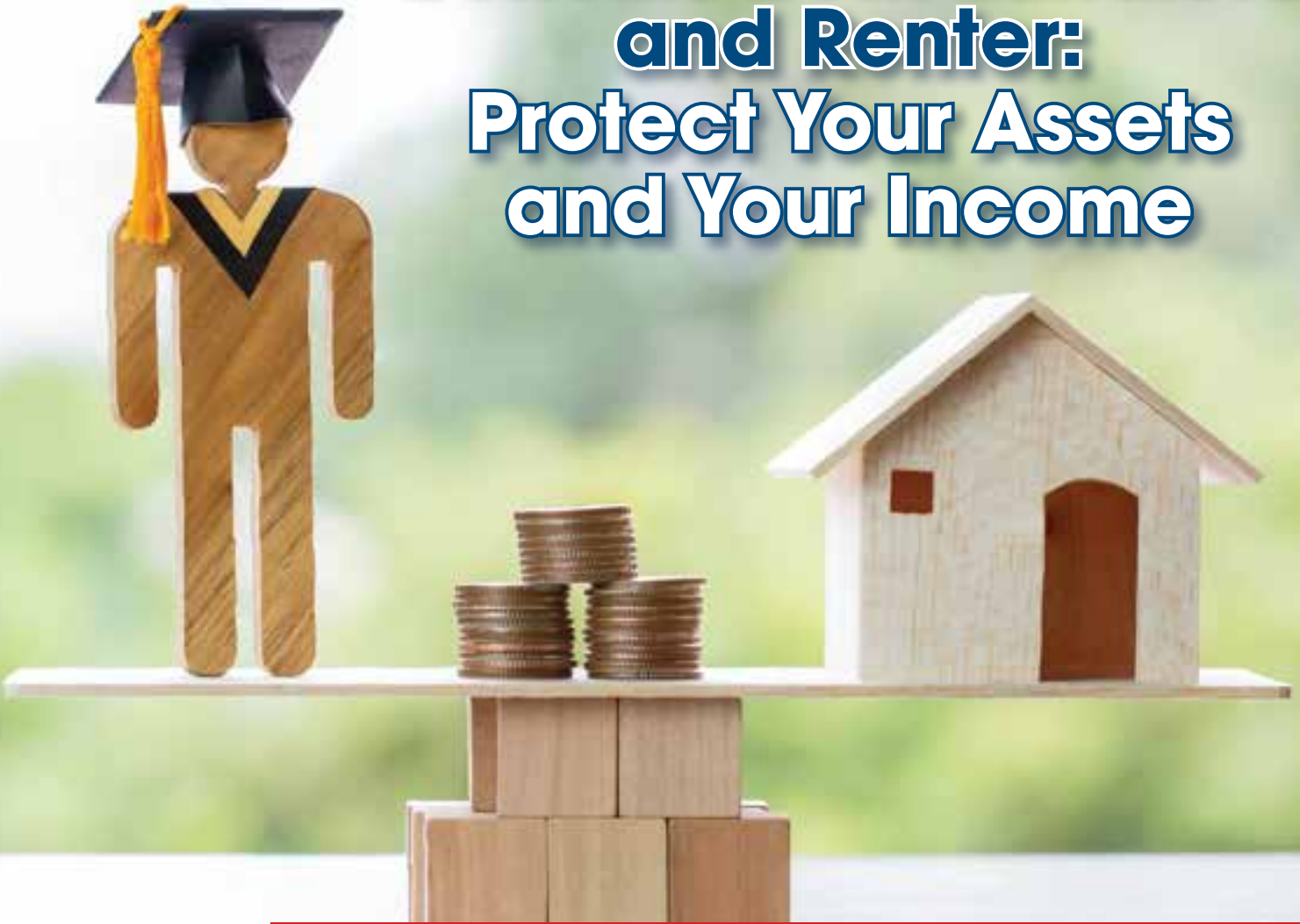
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### The Basics

For most tenants, purchasing renters insurance is not at the top of their to-do list.

Coming on the heels of moving expenses, purchasing a policy of coverage that may come into play is seen as an unnecessary expense by many renters. Landlords should enforce this requirement in the lease.

Tenants believe that landlords, as the owner of the property, have unlimited funds, and should cover all tenant's expenses, which is why requiring insurance brings peace of mind to both parties. It clearly makes both parties aware of what their legal responsibilities are. Because many renters live paycheck-to-paycheck, the tenant might not be able to afford both the rent and replacement of their belongings without tenant insurance.

Let's say a tenant has their bike stolen off the front porch. Requiring renters insurance makes it crystal clear that a tenant is responsible for their contents, not the landlord (except in the case

of legal liability). Without insurance, tenants will claim that the landlord is responsible even if a locked facility is included. "You never told me." "This happened on your property and you should pay for my bike."

A tenant falls asleep with a candle burning and causes fire damage to the condominium home, and to the neighboring home. Without liability protection the tenant, fearing they do not have assets to protect themselves properly, moves out. Without renters insurance, the landlord may be forced to pay for hotel expenses, which the tenant policy would cover. For small claims, the landlord may be forced to pay the damages of a liability matter, or for the bicycle, to keep the tenant from moving out.

In many cases, damage caused by the tenant to common property will be assessed to the landlord owner. A tenant carrying tenants insurance will better protect the landlord, the tenant, and the association.

## The Ethics

Landlords must be accessible and responsive. If a tenant needs a repair, take care of it as soon as possible. Always pay for the repair, otherwise little repairs do not get reported, and the repair becomes a big deal. Be fair with money; charge reasonable rent. Late fees should be spelled out in the lease and be reasonable. It is always easier to keep a tenant then to get a new tenant.

Make sure the lease is clear and specific, as such no subleasing, number of tenants, section 8, non-smoking, late fees, etc. Surprises will always happen but keep them to a minimum. Walk-thru the property at least twice a year, with listing in the lease. On renewal, have the tenant make a list of items that need maintenance or repair.

Do all the right things for all the right reasons. Require insurance coverage by the tenant before moving in--if the policy is canceled, let the tenant know of the lease violation and make sure it is corrected.

Tenants need to be honest as to number of tenants, smoking, etc.

A good tenant is a good landlord.

## Recommendations

### Renters

We recommend replacement protection for contents for the tenant, a reasonable deductible and liability protection in an amount not less than \$300,000.

### Landlord

We recommend a policy with special form coverage, at least \$1,000,000 in liability and of course loss assessment for a condo or townhome. Beware of a basic or broad form loss coverage, use actual cash value, and ensure enough loss of rent money for a year. ⬆

*Devon Schad is the owner and President of the Schad Agency, which specializes in insuring associations, apartments, landlords, businesses, and individuals.*

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# Applying and Understanding Ethics

*Contributions by Chris Herron, Westwind Management; Sandra Oldenburg, Poudre Property Management; Trina Rodriguez, MSI LLC; Linda Warren, Warren Management  
Curated by Keely Garcia, CAI-RMC Spring Conference Co-Chair*

**E**thics. Principals. Integrity. Virtue. We all know these words, but do we really know what they mean and how they apply to Homeowner Leaders, Community Association Managers, and Business Partners that support our community? An ethics statement defines the minimum standard to which people must adhere while creating a “level playing field” for all members supporting the industry, a standard for volunteers who support community associations, and a common bar for all community association managers to respect and uphold. Ethical situations are a normality in any profession, especially those that involve so many different relationships and personalities. Because the world does not exist in black and white, knowing how to identify and address potential ethical dilemmas is crucial to every member of CAI. Understanding and openly discussing ethics will prepare each of us when faced with these uncomfortable situations.

Identifying an ethical violation may be difficult. Regularly reviewing your company’s standards, service contracts, CAI Code of Conduct, and CAMICB Professional Standards for credentialed members is always good practice. CAMICB, CAI National, CAI-RMC and CAI-SOCO information can be found on their respective websites. If you are unsure about an infraction, trust your gut. If something feels off there is no harm in discussing it.

“Everybody does it.” “It isn’t a big deal.” “This is just the way things are done.” “You don’t know all of the information.” These are not acceptable responses to an ethical quandary.

Do not be persuaded to let an ethical violation pass. What harms one of us harms all of us.

Addressing the situation can be more daunting. First, understand your company policy. Guidance may differ between addressing the situation directly with the potential offender and



and which you should discuss with your company or association:

- Providing services at no cost to 'show' the community association manager/management company demonstrative services.
- Buying favors and expecting a tangible return, such as inviting a client to high cost events (sporting event, concert, ski weekend).
- Excessive gifting of marketing items.
- Offering financial benefits to community association manager and/or board members in exchange for acceptance of a proposal.
- Asking for and/or receiving competitors pricing, proposals, or protected information for gain.
- Clients crossing their own ethical lines (how to address and remedy).
- Abusing relationships and/or speaking poorly about other members of CAI.
- When CCIOA/Colorado Statutes collide with one's ethical duties.

Remember, we are only human, and so are the people with whom we interact. Learning to be an ethical person is a continuous journey. We are always learning and growing as people and professionals. Discussing difficult issues elevates all of us, our industry, and our clients. ⬆

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*This article is a summarization of the Manager Ethics Panel which was scheduled for presentation at the CAI-RMC Spring Conference (re-scheduled for November 2020). Spring Conference Co-Chair Keely Garcia curated the main points of the panel and summarized them here on behalf of the CAI-Editorial Committee.*

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escalating it to a member of leadership. Any type of confrontation may come with the fear of, or even result in, retaliation or damaged relationships. While addressing the issue properly can help the situation, accusations likely automatically put the other person on the defense. Instead, try to understand the reasons behind someone's actions and communicate openly with them. Be clear about the issue, ask questions, and keep to the known facts. You may find out that the person simply does not have enough information or experience to understand or properly analyze the ethical situation. They may have tried to solve the problem differently than you would. Ask yourself if their actions are violating professional or company standards. If the violations are clear, and you believe an ethical problem still exists after such open communication, escalation is likely necessary.

The following are a few ethical issues which arise in our industry

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# Insurance Carriers are Changing Hail Coverage on Your Home Policy...



## Are You Still Covered?





**Ella Washington**  
Ella Washington  
Insurance Agency

**W**ith so much uncertainty in our world today, the one thing we can count on is hail in Colorado. In fact, since 2017, Colorado's insurance carriers have paid about several billions of dollars in hailstorms alone. As hail and windstorms continue to be problem for insurance carriers in Colorado, we are finding that the coverage on your personal Condominium or Townhome insurance policy could be affected.

Separate wind or hail deductible percentages are nothing new in Colorado: this mandated deductible change has been around for over

ten (10) years. Because of this, Homeowners Associations are experiencing Special Assessments for claims resulting from their HOA's wind or hail deductible now more than ever. Homeowners that live in a planned unit development have always had the option to purchase Loss Assessment coverage under their personal home policy. These policies are known as HO6 policies. Loss Assessment is a rider on your HO6 home policy that you can purchase to help pay for a special assessment from a covered insurance loss. In the past, we have always suggested working with your personal home insurance agent to get Loss Assessment coverage to help pay for these special assessments. But it's not that easy anymore.

Because of the severity of wind and hail claims in Colorado, many of the insurance carriers are now changing their Loss Assessment coverage. Some home insurance carriers are now excluding an HOA's wind or hail deductible under their Loss Assessment coverage. Some are only offering a maximum of \$1,000 in Loss Assessment coverage for any claim resulting from an HOA's wind/or hail special assessment (regardless of the policy limits that were purchased). Other carriers will not allow a policyholder to add this coverage or increase this coverage throughout the year but rather only at the policy renewal date.

If your insurance carrier does offer Loss Assessment coverage for your HOA's wind or hail special assessment, we recommend for policyholders to reach out to their insurance agents, each year, to confirm policy limits or exclusions on this endorsement. Insurance carriers do have to inform their policyholders, in writing, of any coverage changes or changes to the contractual language of a policy. I find it's best to have these conversations with your insurance agent as well as reading your policy renewal coverage.

There are still plenty of quality HO6 insurance policies that offer the coverage that homeowner's need for their Special Assessments. We encourage consumers to do their due diligence and find those insurance carriers so they can have their Special Assessment claim covered before the next storm occurs. 🏠

*Ella Washington is a 20-year veteran in the HOA Insurance industry. She is named one of the top writers in the nation for homeowners' association insurance. Being an advocate to her Association Board Members and Managers is always her top priority and is the foundation of her success.*

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# Communication is Crucial!

**Easy Steps to a  
Successful Claim Process**



**Priscilla Jimenez  
Spooner**

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One of the biggest challenges in Colorado is the recent hailstorms damaging our local communities. Colorado's hail season starts in May and continues as far into the year as September!

As soon as possible you should:

1. Send a letter reminding homeowners of the Master policy deductible and possible assessments from common property damage. This will prepare the community members, especially for the hail season, by securing coverage under their individual HO-6 Condo policy. Your agent might be able to sponsor this mailing.
2. Include reminders of this information in newsletters, board meetings, and community billboards throughout the year. This information should also be part of the Welcome Package for new members.  
Upon noticing property damage from covered perils under your policy:
  1. As soon as possible, put your agent on 'notice of property damage': this does not mean a claim will be filed, it prepares your agent and allows them to be part of the process from the beginning.
  2. Ask your agent for a referral of a local trusted contractor for a free estimate: this will confirm the damage is over your deductible.
  3. If needed, complete temporary repairs to keep the property from further damage! This is very important: if the association would like to recover the cost of repairs associated with the loss, the insurance company needs documentation to approve the repairs! Make sure the contractor documents well before and after temporary repairs are completed.
  4. Review the estimate of repairs and cause of damage with your board members and agent. As a team you can decide the best course of action.

5. Review your contract of service and find the associated cost of managing a claim through your community manager. This will be an out of pocket expense.
6. Filing a claim: the agent will take care of this step upon your request. An adjuster will need a point of contact aside from the agent. For large losses, a solid and experienced contractor will coordinate paperwork directly with the insurance adjuster.
7. Notify the community members of a Special Assessment if applicable.
8. Communication during the process is the key to success: the contractor must review the pending repairs periodically, as well as the cost with the adjuster. The adjuster needs to ensure repairs are appropriate and cost effective and refer information about the condition of the property to the insurance company. The contractor must use the same estimating software as the insurance company, this is the equivalent of speaking the same language!
9. Reach out to the agent with any questions: we want you to utilize the coverage and service you have paid for! We also love to attend special board meetings during the claim process.

### FAQ: Do boards need to hire a Public Adjuster?

Public Adjusters are partnering with local contractors now more than ever. In my professional opinion, the community's insurance premium includes the service of the adjuster to settle claims, and the out of pocket expense from hiring the public adjuster is not easy to justify. In some instances, several construction professionals may conclude that the settlement is not adequate, but remember each claim and insurance company is unique. Talk to your agent before hiring a public adjuster and exhaust all communication avenues first.

A proactive approach to claims can help the community lower costs and avoid delays during the repair process. I hope by following these steps, your next claim is a success! 📈

*Priscilla Jimenez Spooner is a producer with Stansfield Insurance, a Tyler and Leavey Award Agency, in junction with Farmers Insurance and Financial Services. She can be reached on her direct line at 970-214-8571, or via email at priscilla.dstansfield@farmersagency.com.*



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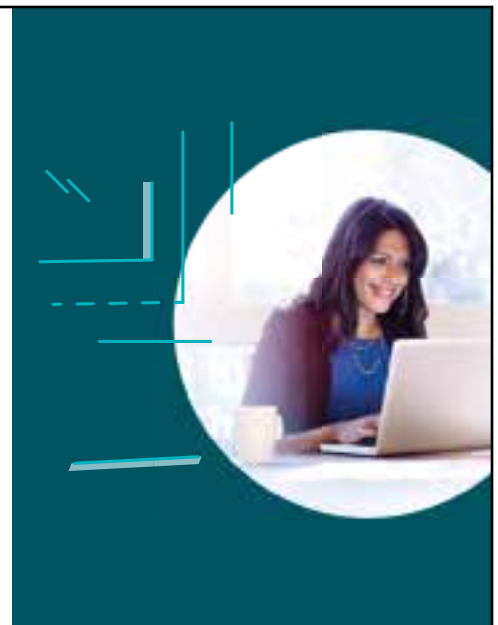
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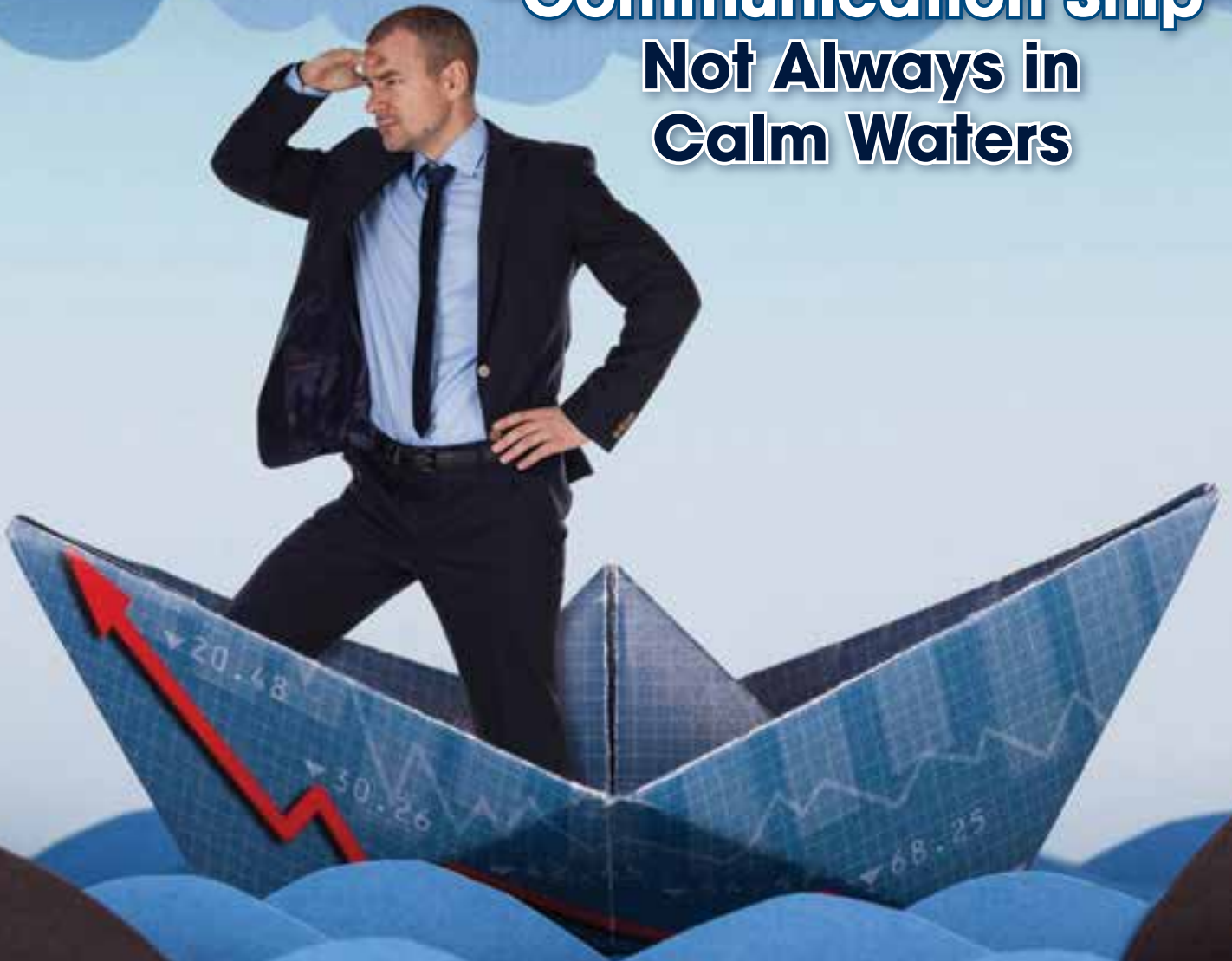
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# NAVIGATING Board Relationships

**Steering the  
“Communication Ship”  
Not Always in  
Calm Waters**





**Michelle Peck,**  
**CMCA, AMS, PCAM**  
TMMC Property  
Management

**D**o you ever find that Board members are trying to steer their own “ship,” without regard to their co-captains (other Board members), their passengers (homeowners), or their compass (HOA Management)? When you work with a Board, given the differing backgrounds, experiences, and personalities, you will experience times when Boards disagree, push personal agendas, make uniformed decisions, or feel as though they can’t even speak up at all. Our job as Community Management professionals is to help navigate and guide Boards to help ensure they are working in the best

interests of their Community. Below are some of the misdirected courses that Board members may try to take with you, with homeowners, or with each other; and some suggestions on keeping the HOA boat from turning south or even sinking.

### **Board Members Do Not See Eye-To-Eye**

Take this as a positive, not a negative. Remind yourself as a manager, and remind the Board, that this is part of being on a successful Board of Directors. The Board is elected to be a representative sample of the community. This is a collaboration of varying backgrounds and opinions. Remind the Board that opposing opinions are completely expected, and what creates healthy discussion; and it is that healthy discussion that helps Boards come to a well thought out, deliberated decision for the association (not always unanimous—and that is perfectly ok). In fact—congratulate the Board when these healthy discussions occur, and when they do not vote unanimously. Remind them that this is what it is all about and thank them all for the valuable input!

### **Board Members Cannot Agree On A Decision**

This is very similar to the not seeing eye-to-eye above. There is great value in not having the same opinion on every decision that the Board must make. However, there are some instances where the topic may need additional resources in order for the Board to make a decision in the best interest of their association. This may be additional information provided by the community manager, guidance from a contractor, or it may require a legal opinion or direction from the association’s attorney. As a Community Management professional, it is our job to be the advisor, and when you see that the disagreement could potentially be dissipated by additional resources, make the suggestion. It is ok to table agenda items to get more information for your Boards to have the data they need to come to a point where they are ready to make a motion on the topic.

### **One Board Member Monopolizes The Conversation And Does Not Allow The Rest Of The Board To Share Their View**

Sometimes it can be difficult to interact with people who have strong, boisterous, loud personalities; people who tend to always control the conversation. If you find that there are one or two Board members that monopolize Board meetings or communications for the association, take some steps to try to break that cycle. For example, when in a Board meeting as the Community Manager, wait for a pause and then try to interject/redirect the conversation to the Board members that are being left out – “Tom, what do you think about installing a new playground?” or “I’m curious to hear what Tom thinks about this.” These sorts of phrases can bring other Board members into the discussion in a way that feels constructive and helps dialogue get started. Over time, the additional contribution to the conversation (because of your interjecting phrase) will become more natural and may not need interference.

### **Board Tries To Act Outside Of The Authority Granted To Them In The Governing Documents; Or Does Not Understand Their Role**

Help Board members learn to be the best Board member for their Community by providing Board member education. Providing Board member education allows Boards to understand what is expected of them in their role and how to best accomplish those expectations. It is beneficial for Community Management professionals to hold Board member education on an annual basis or more frequently if there are changes to the members of the Board. Having Board member education will help set the framework for a successful relationship between the Community Manager and the Board. It will also allow the Community Manager a time to address any items that are not working and review best practices.

During the Board member education orientation/review there are several things that the Community Manager should review to ensure that the Board understands their responsibility. The Community Manager should review the roles and responsibilities of the Board as well as the authority granted to the Board in the Governing Documents and remind Boards that they do not have the authority to take action outside of that which is granted in the governing documents. This is also an opportune time to review the role of the Community Manager and the process in which the Board communicates and directs the Community Manager and the expectations of the Community Manager. During the review it is important to help Board’s understand that the Community Manager is to act as a resource to the Board and provide valuable insight and experience to help the Board make decisions that are in the best interests of their community.

If a Board member/members choose to take action outside of the authority granted to them, even after you have advised them against this, ensure that you have written documentation stating as such. (i.e. recap the email discussion to the Board with a conclusion that management has advised that this action seems outside of their authority and that you have advised them to consult with the association’s legal counsel.) This will help protect you as the Community Management professional in case of future repercussions.

## Board Members “Over-Communicate” During The Regular Cycle Of Business (Between Meetings)

Most Board members do not have firsthand knowledge of the daily workload of their Community Manager. Board members are volunteers and do not get paid to work in the community; therefore, they often delegate action items and wish lists to their paid Community Manager. Boards can sometimes have unrealistic expectations of their Community Manager and feel that their Community Manager should “do it all” for them. It is your responsibility as their Community Manager to help them understand your role as their Community Manager and help to set realistic expectations. This can be done on an “ad-hoc/as-needed basis” or can be a part of the Board member education/orientation.

When providing information to the Board, be sure to provide the “why.” Board members want to know why things are the way they are so they can make the best decision for their community. The Community Manager is to provide their expertise to the Board to help Board’s make the best decisions for their community. Oftentimes when a Community Manager fails to provide context it can create a lack of understanding and cause a loss of trust (and MORE phone calls and emails between meetings). For example, be able to provide the detailed information and background on why you are recommending the Board consider a certain action. Boards will value and trust you when you communicate with

them and provide context to the decisions they are making. Be PROACTIVE in anticipating questions that the Board members may have and include the answers within the original communication/documentation; this will drastically increase the trust and decrease the need for follow up emails.

With all of these scenarios and any others that you navigate though, the communication compass is critical. Effective communication is vital when guiding your Boards through any water; especially when the waters get rough or muddy. Communication is key to building trust and fostering a good working relationship amongst Board members and between the Community Manager and your Board.

If you find that you are having difficulties with the Board or a single Board member, it is best to sit down and discuss what is causing the difficulty. Just as we explain to homeowners who contact the management company to complain about their neighbor’s barking dog, perhaps they do not know there is a problem. Also, find out from the Board what they are experiencing and ask for their input on working through the issue.

Ultimately, a well-run community is not one that is free from rough waters, but rather one whose Board and Community Manager communicate and strive to work together in the best interests of the community. ⬆

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*Michelle Peck is one of the owners of TMMC Property Management based in Castle Rock. Michelle and her husband Dave have owned and operated TMMC Property Management for over 21 years.*



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# HAIL TO THE INSURED

## What To Know About Insurance Claims



**Lisa S. Greenberg, Esq.**  
Pearson  
Wollenweber  
Freedman, LLC

This is PART 2 to an article previously published in *Common Interests* called “Peak Performance—Preventative Roof Maintenance.” That article explored how to keep your roof in tip-top condition. This article takes the next step by discussing insurance policies, the insurance claim process, and when to contact an attorney, all of which occur after your roof has experienced damage.

### The Facts:

- Colorado is one of the most hail-prone states in the U.S.
- Generally, 5% of storms carry hail at least 3 inches in diameter. Last year, 14% of storms carried hail that big.
- Last year, Colorado saw the most reports of 3-inch hail in 20 years.
- Colorado has had more than \$3 billion in insured damages in the past 10 years

Preventative maintenance, including consistent roof inspections and the accompanying documentation, ensures that homeowners timely and appropriately discover and report damages to their insurance companies.

### Know Your Insurance Policy: What does it include and what are the limits?:

- Ordinance and Law: Pays to repair or reconstruct damaged portions of the building and bring them up to current code
- Debris Removal: The amount the carrier will pay to remove the damaged property from the site.
- Sewer/Drain backup: Covers damage to covered property from a water or sewer backup event, including sump pump failure.
- Equipment/mechanical breakdown: Covers loss caused by mechanical or electrical equipment breakdown, including damage to the equipment, damage to the other property of the insured, and damage to the property of others as specified in the policy

### Making an Insurance Claim:

- Promptly report the damage to the insurance company. Insurance companies do not define what counts as prompt reporting, but a good policy would require you to report the damage to the policy as soon as you know about the damage.
- Cooperate with the investigation of the claim and reasonable requests from the insurer;
- Allow the insurer to inspect damaged and undamaged property;
- Allow the insurer to inspect the association’s books and records, if the insurer requests it;
- Submit a Proof of Loss. This is a sworn statement regarding the cost of the damage, and is usually required to be submitted 60 days from the date the insurer requests it.

### Legal Issues To Watch Out For:

**Timely Reporting:** Most insurance policies require HOA policyholders to report damage to the insurance company “promptly”. Unfortunately, these policies do not define what “prompt” means, leaving the interpretation of this vague term up to a court. Many of these cases end up in federal court. Our federal courts have identified two separate issues related to the question of prompt notice. Some courts have focused on the deadline for when the prompt notice timeline begins to run, finding that whether notice is “prompt” relates solely to the date the damage occurs, rather than from when the HOA knows about the damage. Other courts have focused more on the length of time between the occurrence and/or knowledge of the damage and when the notice is given to the insurance company. In those cases, courts have sometimes indicated that HOAs failed to provide prompt notice when they failed to report damage within a few months after the damage occurred. In all cases, however, the courts have found that if damage is not reported “promptly,” the insurance company may be able to deny the claim in its entirety.

#### The Takeaway:

Inspect and document regularly, and quickly report any covered damage to your insurance company. We realize it can be hard for communities to implement a plan to find storm damage. However, based on the court trends mentioned above, it has become critical to have a system in place to actively go out and look for damage from a storm or other event that provides insurance coverage.

### Insurance Claim Delayed, Denied, or Underpaid:

Insurance companies must promptly investigate a claim. Keep in mind that if you are part of a multifamily community, this investigation could take a number of weeks or months. However, if as a part of or as a result of that investigation the insurance company unreasonably delays payment, outright denies payment, or underpays on the claim, you should promptly contact an attorney who specializes in this type of law.

#### The Takeaway:

If your claim payment has been unreasonably delayed, denied, or underpaid, contact an attorney for help.

### Statute of Limitations:

Almost every insurance policy contains a provision in it regarding the period of time in which the insured must file a lawsuit against the insurance company, if it so desires. This is called the “statute of limitations.” In most policies in Colorado, this date is either two or three years from the date that the storm damaged the property — it does not matter when you discovered the damage or when you reported it. If you do not file a lawsuit within the prescribed time period, you are forever precluded from doing so.

#### The Takeaway:

Know when you must take legal action by, and make sure to contact an attorney well in advance of that date if you wish to file a lawsuit. ⬆

*Lisa S. Greenberg is a Senior Associate at Pearson Wollenweber Freedman, LLC.*



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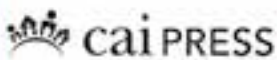
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**Judy Bynum**—Heritage Eagle Bend Master Association

**Natalya Cannon**—Dayton Green Condominiums, Inc.

**William Cannon**—Dayton Green Condominiums, Inc.

**Maureen Wade Coghlan**—Colorado Management Specialists

**Steve Combs**—Roxborough Park Foundation

**Alvin Cooper, III**—The Prado Condominium Association

**Shannon Cormier**—Condominium Management Company

**Courtney Courtright**—Hammersmith Management, Inc.

**Carolyn Cox**—The Prado Condominium Association

**Terry Davis**—South Park Homeowners Association Number 2

**Stella Ann Day, CMCA**

**Michael Dwyer**—COVA Tree

**John P Gallagher, Jr., CMCA**—

The Colorado Property Management Specialists

**Cyndi Gould**—Colorado Association Services-Ft. Collins

**Karen Hawes**—South Park Homeowners Association Number 2

**Barbara Hines**

**Mark Homan**—Dayton Green Condominiums, Inc.

**Steve Krebsbach**—Heritage Eagle Bend Master Association

**Chris Marion**—CAP Management

**Rick Matteson**—Heritage Eagle Bend Master Association

**Steven Garris Mills**—Colorado Association Services-Ft. Collins

**Kyle Phillips**—CAP Management

**Miss Heather Popp**—Colorado Association Services-Lakewood

**Warren Reese**—The Prado Condominium Association

**William Reners**—Dayton Green Condominiums, Inc.

**Ansley Smith**—Dayton Green Condominiums, Inc.

**Nathaniel Smith**—Axiom Management

**Stan Sunderwirth**—Roxborough Park Foundation

**Darrell Walker**

**Gail Weller**—Dayton Green Condominiums, Inc.

**Natalie Widaman**—Reed Property Management, Inc.

## Communicating with Residents During COVID-19

The primary job of association boards and staff is to disclose crucial information—what is happening and why—to residents.



### Most Effective Methods to Communicate With Residents

- Email
- Central Bulletin Board
- Social Media Platforms
- Association Website

Boards and staff are encouraged to date and timestamp all messages.

Disclaimer: This information is subject to change. It is published with the understanding that CAI is not engaged in rendering legal, accounting, medical, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.





# 2020 Committees

## 2020 CAI-RMC Committee Chairs

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agoodlock@ochhoalaw.com  
(720) 221-9787

**Tressa Bishop**  
tressa.bishop@centralbancorp.com  
(720) 370-6300

### CLAC

**Jeff Kutzer**  
jeff.kutzer@mdch.com  
(720) 977-3859

### EDITORIAL

**Justin Bayer**  
jbayer@knottlab.com  
(480) 316-1834

**Ashley Nichols**  
ashley.nichols@yourcornerstoneteam.com  
(720) 279-4351

### HOMEOWNER LEADERSHIP COMMITTEE

**Carmen Stetu**  
cstetu@4shoa.com  
(303)952-4004

**Bujar Ahmeti**  
bahmeti@moellergraf.com  
(720) 279-2568

### MARKETING & MEMBERSHIP

**Karli Sharrow**  
ksharrow@kerranestorz.com  
(315) 335-3014

**Devon Schad**  
dschad@farmersagent.com  
(303) 661-0083

### MEMBER FORUM COMMITTEE

**Denise Haas**  
denise@5150cm.com  
(720) 961-5150

### MOUNTAIN CONFERENCE & ANNUAL MEETING

**April Ahrendsen**  
april.ahrendsen@cit.com  
(303) 257-7273

**Holly Sutton**  
hsutton@steamboatassociations.com  
(970) 875-2808

### MOUNTAIN EDUCATION

**Murray Bain**  
murray@summithoaservices.com  
(970) 485-0829

**Leanne Shaw**  
shaw@wilderness.com  
(970) 513-5600 x:726

### NOMINATING COMMITTEE

**Denise Haas**  
denise@5150cm.com  
(720) 961-5150

### NORTHERN COLORADO COMMITTEE

**Melissa Garcia**  
mgarcia@altitude.law  
(303) 991-2018

**Chase Carmel**  
chase@optimaloutsource.com  
(714) 883-4189

### PROGRAMS & EDUCATION

**Mike Lowder**  
mlowder@kerranestorz.com  
(720) 749-3517

**Heather Hartung**  
hhartung@wbapc.com  
(303) 858-1800

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# CAI-RMC EVENT CALENDAR

## JULY

<b>28</b> Tue	Management Company / CEO Member Virtual Forum
<b>29</b> Wed	Summer Social
<b>31</b> Fri	<b>DATE CHANGE:</b> Annual Golf Tournament

## AUGUST

<b>4</b> Tue	Peak 2 - Financials
<b>20-22</b> Thu-Sat	M100 - Breckenridge
<b>***Please make note that the Spring Conference has been rescheduled to November 12, 2020***</b>	

**\*Due to COVID-19 Pandemic, many events have either been canceled, postponed, or moved to an online platform. Please make sure to check out the chapter site for updated listing of events ([www.cai-rmc.org](http://www.cai-rmc.org)). The 2020 Spring Conference has been rescheduled to November 12, 2020.**