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# COMMON INTERESTS

## Legal Issue

**Keeping Communities Safe  
CAI Publishes Condominium Safety  
Public Policy Report: Reserve Studies  
and Funding, Maintenance, and  
Structural Integrity**

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**Why So Much Confusion Over  
Metro Districts Versus HOAs?**

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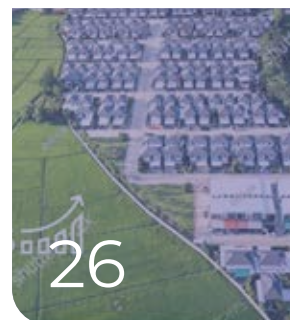
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# President's Letter



**JEFF KUTZER,**  
**CMCA, PCAM**  
Chapter President  
CAI-RMC

It is an honor to be serving as our Chapter President in 2022. While these past two years have been full of challenges and 2022 looks to continue that trend, our community of members has risen to work

through those challenges while enhancing the value of our membership.

2021 unfortunately ended a challenging year with the Marshall Fire. It isn't that I want to start my first report to our membership on a down note. My focus is on what happened immediately after the fire. The resulting response of our community was incredible. With the help and leadership of Bridget Sebern, our Chapter Executive Director and our Board and Committee Members, your Rocky Mountain Chapter's website was quickly updated with available resources for communities and individuals impacted by the fire. In addition, our Chapter members donated a total of **\$8,100** (via gift card contributions) that were delivered to the Sister Carmen Community Center. Coming together when there is a need and taking care of our neighbors is the true meaning of COMMUNITY!

Your Board's focus for 2022 will be to ensure that everyone's membership can provide value to the individual members and our professionals providing services to our community associations as well as the community associations we serve. Engagement in your Chapter through participation and feedback is how your Board and Committee members can continue to be your best resource. Our Chapter provides forums for each membership type to gather (virtually or with some now back to in person) regularly to share information as well as to let your Chapter leadership know how we can serve our members better. A new event started last year is to have a session for management company support staff. Our first session last year was very well attended and provided fantastic educational material.

We hope to see even more attendance at our next session on March 4, 2022. Of course, our Spring Conference and Trade show is again in person on March 11, 2022 and will bring plenty of great education as well as the opportunity to get to know our business partners who do so much for our Chapter and communities. Please check out our full calendar on the website at: [www.cai-rmc.org/Events](http://www.cai-rmc.org/Events).

Our Common Interests magazine is designed to provide our members with current and relevant information for the operations of our community associations as well as to support and provide an ability to share experiences for our managers and business professionals. This edition of Common Interests will be focused on legal matters that impact our community associations. The operations

## Greetings Rocky Mountain Chapter Members!

of community associations in Colorado have been under increasing regulation through the Colorado Common Interest Ownership Act (CCIOA) and other local, State and Federal requirements as they have been amended over the years. As these requirements for operation of our community associations change, it is critical that managers and Board members get educated about these changes. These articles will help Board members and managers to know don't have to be the experts on everything and that it is ok to use proper resources like their legal counsel to be sure current operational procedures and policies do not fall out of step with current requirements. I find I learn something every time I read through the latest edition of Common Interests. Did you know that our Chapter keeps an archive of all the past magazines on our website back to 2015? Our website as well as the CAI National website are additional examples of how your membership in CAI provides you resources and opportunities for engagement.

Let's have 2022 be a year with all of us working together to engage in our community with education, camaraderie and a little bit of fun! 🏠





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## Editorial Calendar

Issue	Topic	Article Due Date	Ad Due Date
April	Maintenance / Preventative / Upgrades	02/15/2022	03/01/2022
June	Insurance / Ethics	04/15/2022	05/01/2022
August	Finance	06/15/2022	07/01/2022
October	Tech / Modernization	07/15/2022	09/01/2022
December	Planning Ahead / Goals / Community Vision	10/15/2022	11/01/2022

# Why So Much

# CONFUSION

## Over Metro Districts Versus HOAs?

**JAMIE COTTER**, Spencer Fane

**JACOB HOLLARS**, Spencer Fane

The short answer is because the distinctions between Metro Districts and HOAs are murky to say the least. Additionally, people who are not integrally involved with Metro Districts often don't use precise language. All of this leads to understandable confusion around the similarities and differences between Metro Districts and HOAs.

### **Metro Districts v. HOAs - How each are created.**

Putting aside all of the legalese that we lawyers are famous for, the decision to create a Metro District or an HOA usually goes something like this:

A developer buys a vacant piece of property where it intends to develop a new residential community. The developer has two choices at this early stage. First, the developer can fund the costs associated with constructing all of the infrastructure<sup>1</sup> and then build those costs into the price





of every new home, resulting in a higher price for the new homes. This option also usually involves the creation of an HOA that is initially controlled by the developer<sup>2</sup>. The HOA usually funds maintenance and improvements on HOA property. That is, while the infrastructure is usually dedicated to either a city or town, the HOA remains responsible for maintaining community resources (open space, parks, etc.). HOAs also routinely adopt covenants that the HOA then enforces through a board of homeowners. Homeowners pay for the maintenance and covenant enforcement through dues and special assessments.

The second option is to create a Metro District. A Metro District is created by the approval of a "Service Plan" by the local municipality (usually a city, town, or county). The Service Plan outlines the guideposts for the development. The Service Plan recites what powers the Metro District has, how much debt the Metro District can incur, and whether the Metro District will continue after such time as the development is built and the debt is paid off. Once the locality approves the Service Plan, a court must create the Metro District as a quasi-governmental entity and an election is held to determine who will serve on the board of directors.

Now comes the "cool" part (and yes, I recognize that the bar for what constitutes "cool" according to we lawyers is VERY low): the Metro District can sell tax-exempt bonds to fund the infrastructure costs. Because the bonds are tax-exempt, the cost to fund the infrastructure is less than if the developer had to obtain private financing to construct the infrastructure. When the Metro District sells tax-exempt bonds, a mil levy

is assessed against the property in the Metro District. The mil levies are paid as taxes by the residents based on the assessed value of their property. And in most circumstances, a homeowner's payment of their annual property taxes is tax deductible<sup>3</sup>. This arrangement results in a lower home price because the developer does not have to recoup the costs of a private loan. Once the bonds have been repaid (i.e. the costs of the infrastructure have been satisfied), the Metro District must decide whether to dissolve or continue in order to maintain the community and undertake covenant control. When a Metro District continues to provide maintenance and covenant control, it fills the role of a typical HOA, resulting in confusion.

With that background, let's dive into a couple of topics where the powers and responsibilities of Metro Districts and HOAs differ. For purposes of this discussion, let's assume that the community is managed and maintained by either a Metro District or an HOA. It is common for a community to have both a Metro District and an HOA, but for simplicity we are going to consider an either/or situation.

## Ownership and Maintenance of "Common Areas"

The main difference between Metro Districts and HOAs with respect to common areas relates to how those services are paid for and the tax advantages available to Metro Districts as owners of property. If a Metro District owns and/or maintains property within its service area, it can charge the homeowners who benefit from that ownership/maintenance for the resulting costs. This can be done either by the

*continued on next page*

1 Which likely requires the developer to obtain a private loan to fund the upfront costs.

2 HOAs are governed by the Colorado Common Interest Ownership Act (CCIOA). This article makes broad assumptions about a hypothetical situation. Practically, all HOAs must comply with the specific requirements of CCIOA.

3 This is not true in all instances, and a tax professional would have to advise individuals with respect to whether this is true in their individual circumstance.



imposition of an operations and management mil levy or fees. If these costs are paid by an O&M mil levy, those costs are typically tax deductible to the homeowners. If the costs are paid through the imposition of fees, those fees would be treated similarly to HOA dues. A Metro District can impose fees for services that are rationally related to the costs of providing those services. The Metro District must set its fees through a resolution adopted at a public meeting. However, there is no formal “vote” of the homeowners at an election. Conversely, HOAs can impose fees and assessments in accordance with their declaration and covenants and the provisions of CCOIA.

### Building Additional Infrastructure or Public Improvements

After the development has been completed and the community is operational, it is possible for the community to need to obtain additional property for new infrastructure or public improvements. For example, this can happen when a community grows to such an extent that it needs a new rec center or park. In that instance, if the community is managed by a Metro District, Metro Districts have the power of eminent domain. That means that a Metro District can take private property without an owner’s consent. The Metro District must pay just compensation for the property, but it does not need the owner’s cooperation to obtain the property. Conversely, HOAs do not have the power of eminent domain. Therefore, the HOA would have to find private property to purchase. Any purchase would have to be done voluntarily. The ability to condemn property for a public purpose is a major benefit inuring to Metro Districts but not to HOAs.

### Collection of Fees

Both Metro Districts and HOAs can engage in covenant control and can impose fees related to those covenants. When a Metro District assesses a fee for services and that fee is not paid, the outstanding fees automatically become a perpetual, statutory lien against the property served. That is, the Metro District obtains a lien against the property by operation of law. That lien is also considered a tax lien and is superior to all prior liens except prior tax liens. When an HOA assesses a fee for services and that fee is not paid, the HOA can also obtain a lien against the property served. While a portion of the HOA lien may have priority over prior-recorded interests, like mortgages, it is junior to any tax lien, any Metro District lien, and any liens recorded before the recording of the declaration. The portion of an HOA lien that is superior to a first mortgage on the property is limited to the extent of six months’ worth of common expense assessments that would have become due before the filing of a foreclosure lawsuit. In short, Metro District liens are “easier” to foreclose given their priority.

### Conclusion

Metro Districts and HOAs are responsible for maintaining numerous residential developments in Colorado. They both serve important purposes and often work together rather than the “either or” situation discussed in this article. While Metro Districts and HOAs are similar, they have key differences of which developers and homeowners should be aware. ⬆



*Jamie Cotter, Esq. and Jacob Hollars, Esq. Jamie and Jacob are both litigators at Spencer Fane. They specialize in helping municipalities, special districts, and other quasi-governmental entities that are facing litigation by advising them on how to pursue or defend against claims so that they can move through the litigation process as efficiently and successfully as possible. They have a keen understanding of the specific laws affecting these entities and represents them in the district court and appellate court level.*

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# SELECTIVE ENFORCEMENT

RULE

IN YOUR COMMUNITY:

RULE

EXCEPTION

What Is It and How to Avoid It?



**DAMIEN BIELLI,**  
Vial Fotheringham LLP



The Colorado Common Interest Ownership Act prohibits an association from selectively enforcing declarations, articles, and bylaws. The statute commands that, “[d]ecisions concerning the approval or denial of a unit owner’s application for architectural or landscaping changes shall be made in accordance with standards and procedures set forth in the declaration or in duly adopted rules and regulations or bylaws of the association, and shall not be made arbitrarily or capriciously.” C.R.S. 38-33.3-302(3)(b).

Selective enforcement by an HOA is a failure to uniformly apply the HOA’s rules and regulations to all owners. This can occur in architectural requests, collection of unpaid assessments and most commonly in enforcing rules and regulations. Simply, the HOA is guilty of selective enforcement when it picks and chooses how enforcement is carried out and against whom the rules are enforced. This can occur intentionally or by oversight and is problematic when the Association faces judicial scrutiny.

Selective enforcement is like selective hearing. As a husband and father, I have been accused of selective hearing. Some may believe this is intentional. More often than not it is merely a failure to pay attention. In the same way, selective enforcement is viewed by many as an intentional act of the association. This leads to animosity between owners and board members and can lead to claims of discrimination. Most significantly, it is an affirmative defense to enforcement actions against owners. Most of the time, however, selective enforcement arises from benign causes and is preventable.

Many selective enforcement concerns can be alleviated by instituting and following comprehensive and specific policies. These policies should be clear and concise and provide a timeline of enforcement from inception to conclusion which can be followed by owners and board members. Strict adherence to policies removes subjective decision making which may be viewed as “selective” and ensures that each violation follows the same path to conclusion.

In evaluating an owner’s claim of selective enforcement, courts in Colorado will evaluate the enforcement process of the association as well as its history of enforcement:

*“It appears from the log of the Plaintiff that it has consistently looked into possible violations as set forth in Plaintiff’s Exhibit 27. As an example, it appears that a total of 125 violations were issued in the 13 months period between April 2007 and May 2008. There were also 57 [Design Review Requests] processed between January 2006 and May 2008. That does not require that every violation be sustained or even pursued upon proper investigation but it does indicate that there is no selective enforcement going on here.”*

Weatherspoon v. Provincetowne Master Owners Association  
2010 WL 3522559.

It is important that the association keep detailed records of its enforcement actions not only to provide supporting documentation for individual violations, but also as evidence of its uniform enforcement throughout the community.

Equally important to a uniform and neutral enforcement policy is uniformity and consistency in reporting violations. Associations that rely on management to observe and report violations can look to the management contract for frequency and depth of inspections. This reduces the likelihood that an owner will be successful on a claim for selective enforcement. Associations that are self-managed should adopt guidelines for inspections and reporting violations. The guidelines

*continued on next page*



*Damien M Bielli, is a Partner with Vial Fotheringham LLP. Damien has an extensive background in Homeowners’ Association Law, Non-Profit Corporate Governance, trial advocacy, insurance defense, professional liability, coverage disputes, employment law, construction, commercial litigation, and contracts.*

should identify the depth and frequency of inspections in order to remove any subjectivity. This reduces inconsistency in the inspection and reporting process and serves to further neutralize allegations of selective enforcement.

Finally, associations who have been more relaxed in enforcing the Declaration may find themselves in a precarious position once the Board decides to pursue violations. One Colorado Court stated:

**“In Colorado, a homeowners’ association is estopped from enforcing a covenant against a particular owner where (1) the association had full knowledge of the facts, (2) unreasonably delayed in asserting an available remedy and (3) there is intervening reliance to the detriment of the lot owner. *Woodmoor Improvement Assoc. v. Brenner*, 919 P.2d 928, 931 (Colo. App. 1996); *Holiday, Acres Property Owners Assoc., Inc. v. Wise*, 998 P.2d 1106 (Colo. App. 2000) (homeowners association estopped from enforcing a covenant upon a lot owner).**

**See *Cole v. Colorado Springs, Co.*, 381 P.2d 13 (Colo. 1963) (corporation waived right to enforce a restriction when in the past it acquiesced and refrained from enforcing it against others).”**

*Schneider v. Eglantine Condominium Association Inc.* 2009 WL 2626287 (Colo. Dist. Ct.) (Trial Order).

While the Court concluded that the association waived its right to enforce the documents in this particular case, the decision was based upon the association choosing when to enforce its governing documents.

While some Board members may be sympathetic to certain homeowners or consider certain violations as more or less significant, the association, through its board, has a duty to uniformly and consistently apply the rules and regulations to every owner. Failure to do so will likely result in frustration of enforcement efforts and financial consequences. ⬆

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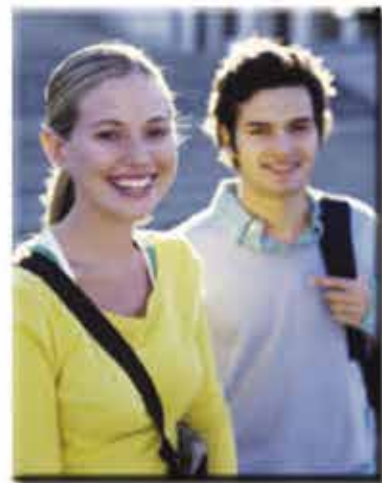
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# The Underfunded Community

**HOW TO CIRCUMVENT AN ASSESSMENT INCREASE CAP IN YOUR COMMUNITY'S DECLARATION (AND WHY IT'S RECOMMENDED)**

**CONNOR B. WILDEN**, Orten Cavanagh Holmes & Hunt, LLC

In theory it sounds great: "Annual assessments may not be increased by more than the increase prescribed by the Consumer Price Index." No unexpected assessment increases! No ability for a board of directors to arbitrarily choose to increase dues for some vanity project! What more could a homeowner ask for?

The reality, though, is that fixed annual assessment increases present far more issues than potential solutions. While a fixed annual assessment increase may cause a wide multitude of problems, those problems generally stem from one singular issue: an underfunded community. When a community becomes underfunded due to restrictions imposed by a fixed annual assessment increase, its obligations do not go away.

To best show potential downfalls and solutions for when a community becomes underfunded due to a fixed annual assessment increase, let's look at an example which may be familiar to many communities throughout the Front Range.

There is a hypothetical community somewhere south of Denver, but north of Colorado Springs. It has a provision in its declaration which caps the annual assessment increase to no more than a 3% increase each year. This hypothetical community (“HOA”) consists of twenty townhomes and was founded in the late 1980s. It has not regularly increased its assessments since its creation.

In the past decade, the area in which this HOA exists was hit by multiple catastrophic hailstorms. Fortunately, the HOA has not been directly impacted by any of the hailstorms. However, this does not mean the HOA has escaped unscathed, as many of its neighbors have been hit and damaged by the hailstorms. As such, insurance premiums across the entire Front Range have substantially increased so that insurance carriers may meet their increased obligations due to the higher-than-average amount of significant hailstorms.

When the HOA received its insurance renewal notice this year, its insurance premiums had increased nearly 50%! In developing the proposed budget for the next year, the Board of Directors quickly concluded that there was no way the HOA would be able to meet all its obligations when, as per the Declaration’s assessment cap, it can only increase the annual dues of its members by 3% each year.

This HOA must come up with a creative solution in order to meet the obligations set forth in its Declaration, while also accommodating the challenge of insurance premium increases.

Often, communities in Colorado which have fixed annual assessments increases will also have provisions in the assessment section that states if more than the fixed increase is desired, such an increase may take effect if approved by a certain portion of the community. Unfortunately, this HOA lacks any language in its documents that permits its owners to approve an annual assessment more than 3%.

Without that authority, the HOA has a few choices of how it may proceed:

The HOA could seek a special assessment to cover the increase of costs from insurance. This may be a practical way to address a budgetary shortfall within one calendar year, but where insurance premiums have increased significantly, it is highly improbable that the premiums will decrease the following year. A special assessment may be a good stopgap but is certainly more of a band-aid than a real solution. The HOA could seek to amend its Declaration to remove any caps on the annual increase in assessments. Depending on the Declaration amendment approval requirements, approval of the proposed amendment will take the affirmative vote or agreement to which more than 50% of the votes in the HOA are allocated or any larger percentage, not to exceed 67%, the Declaration specifies. Depending on the level of community involvement or support for the amendment, this may be difficult. While amending the Declaration to remove the cap is a potentially long and expensive process, it is essentially the only permanent solution to address the underfunding issues brought on by fixed increase assessments.

Having a reasonable and balanced budget is vital to a healthy common interest community. Although it is difficult to forecast factors such as significant insurance increases, one tool a community has to ensure an adequate budget for major expenditures while keeping an eye out for its owners’ pocketbooks is to make sure it has an up-to-date reserve study. Having an up-to-date reserve study allows a community to have a great understanding of what community elements may need replacement soon, or what may need replacing in ten or twenty years. This allows a community to adequately plan and save for large projects.

While fixed increase annual assessments may present challenges for your community, these challenges are not without solutions. Unfortunately, these solutions may not be straightforward or easy to implement. As such, if your community is currently facing any problems due to fixed increase annual assessments, you should contact your community association attorney. 🏠

*Please note, this article, while attempting to be general in nature, is not reflective or indicative of any specific community and may not apply to your community.*



*Connor B. Wilden is an attorney at Orten Cavanagh Holmes & Hunt, LLC. He provides general counsel and transactional services to community associations throughout Colorado.*

# SAFETY

## KEEPING COMMUNITIES

**PENNY MANSHIP,**

Burg Simpson Eldredge Hersh Jardine, P.C.

### CAI Publishes *Condominium Safety Public Policy Report: Reserve Studies and Funding, Maintenance, and Structural Integrity*

**W**ithin days of the tragic partial collapse of the 12-story beachfront condominium at Champlain Tower South in Surfside, Florida, on June 24, 2021, the leadership of Community Associations Institute (CAI) met and began outreach to other organizations with a goal of providing policy recommendations to ensure such a catastrophe never happens again.

In October 2021, CAI published the *Condominium Safety Public Policy Report: Reserve Studies and Funding, Maintenance, and Structural Integrity* (Report). The Report was the result of more than three-months of investigation by three task forces and over 600 volunteers, engaged in meetings, conversations, surveys, research, interviews, and identification of clear recommendations. It provides policy positions adopted and approved by CAI regarding “Reserve Study and Funding” and “Building Maintenance and Structural Integrity.”

#### **Reserve Study and Funding Policy Positions:**

CAI recommends state laws that mandate reserve studies and funding for all community associations. The Report contains recommendations for public policies to be adopted into state laws, including but not limited to:

- mandatory reserve studies at transition/turnover from declarant to homeowner control and at a periodic basis thereafter;
- mandatory reserve funding for all community associations; and
- mandatory disclosures to new buyers.

While the *Report* acknowledges that it is unknown if updated standards in this area would have prevented the collapse at Champlain Towers South, the authors noted that “80% of community managers, board members, and contractors in community associations surveyed across the U.S. felt it was critical that their association have adequate reserves in the event of a major infrastructure failure or construction need.”<sup>1</sup> Clearly, education regarding the purpose of reserve studies and funding is necessary because, while they are important planning tools for budgeting for replacement and repairs based upon normal life cycles, they are not intended to deal with existing building conditions or defective original construction.

<sup>1</sup> *Breaking Point: Examining aging infrastructure in community associations*, (Research 2019).



The Report also contains a Summary of State Reserve Fund Laws as of October 2021. The table below summarizes those states with mandatory existing reserve study and operating funds requirements.

Mandatory Requirement	States Where Adopted
Reserve studies for condominium associations	California, Colorado, Delaware, Hawaii, Nevada, Oregon, Utah, Virginia, Washington State
Reserve studies for developers	California, Delaware, Florida, Nevada, and Oregon
Reserve funding for condominium associations	Connecticut, Delaware, Florida, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, Nevada, Ohio, and Oregon
Reserve funding for developers	Arizona, Delaware, Florida, Nevada, Oregon, and Wisconsin

## Building Maintenance and Structural Integrity Policy Positions:

CAI recommends laws that impose additional requirements upon developers at turnover and prior thereto, including but not limited to:

- providing a complete set of final approved architectural and engineering design drawings;
- inspections during construction to ensure general conformance with plans and specifications;
- providing preventative maintenance manuals; and
- disclosure of future "Building Inspection Requirements."

With respect to this last requirement, the Report sets forth CAI's recommendations for "[m]andatory building inspections of the major structural elements owned or maintained by the community association for all multi-family buildings of concrete, load bearing masonry, steel, or hybrid structural systems such as heavy timber including podium decks." The inspection recommendations, which apply to new construction and existing buildings, set forth the following timelines and scopes:

- **First Inspection:**
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  - o Existing buildings (more than 10 years old): within 2 years of passage of statutory requirement

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o Purpose: Baseline for future inspections and identify issues of immediate concern; recommendation for next inspection in accordance with timing set for period inspections below

▪ **Periodic Inspections:**

o Every 10 years for first 20 years since construction and 5 years thereafter, unless prior inspection recommends sooner

o Purpose: Monitor progressive deterioration and identify issues of immediate concern; recommendation for timing of next inspection

▪ **Immediate Inspection(s):**

o Any time there is a concern about safety or stability of structure

▪ **Scope of Inspections:**

o Protocol set forth in ASCE Standard SEI/ASCE 11-99 (latest edition) *Guideline for Structural Condition Assessment of Existing Buildings or other industry standards*

The *Report* also recommends legislation that empowers a community association's governing board to impose a

special assessment or borrow funds necessary for "emergent life safety repairs" without a vote of the membership, regardless of any provisions in the governing documents to the contrary.

CAI's Federal Legislative Action Committee also addressed in the *Report* "Federal Solutions and Policy Priorities." The priorities discussed include easing financial burdens on local governments, engaging federal housing agencies regarding loan products, and easing financial impacts on homeowners through changes to income tax codes.

CAI's *Best Practice* recommendations are also included in the *Report* with respect to reserve studies and funding and building maintenance.

We should all recognize that this is only the beginning of what is sure to be a long process of changes on the federal, state, local and community levels. Community managers, board members, and homeowners must continue to be involved in educating themselves on how proposed legislation, regulations, and changes to governing documents will impact their communities and keep them safe. ⬆



*Penny Manship is an attorney at Burg Simpson Eldredge Hersh Jardine, P.C. She has over 20 years of experience representing homeowners associations and homeowners in construction defect litigation. She is a member of the CAI-RMC Mountain Conference Committee.*

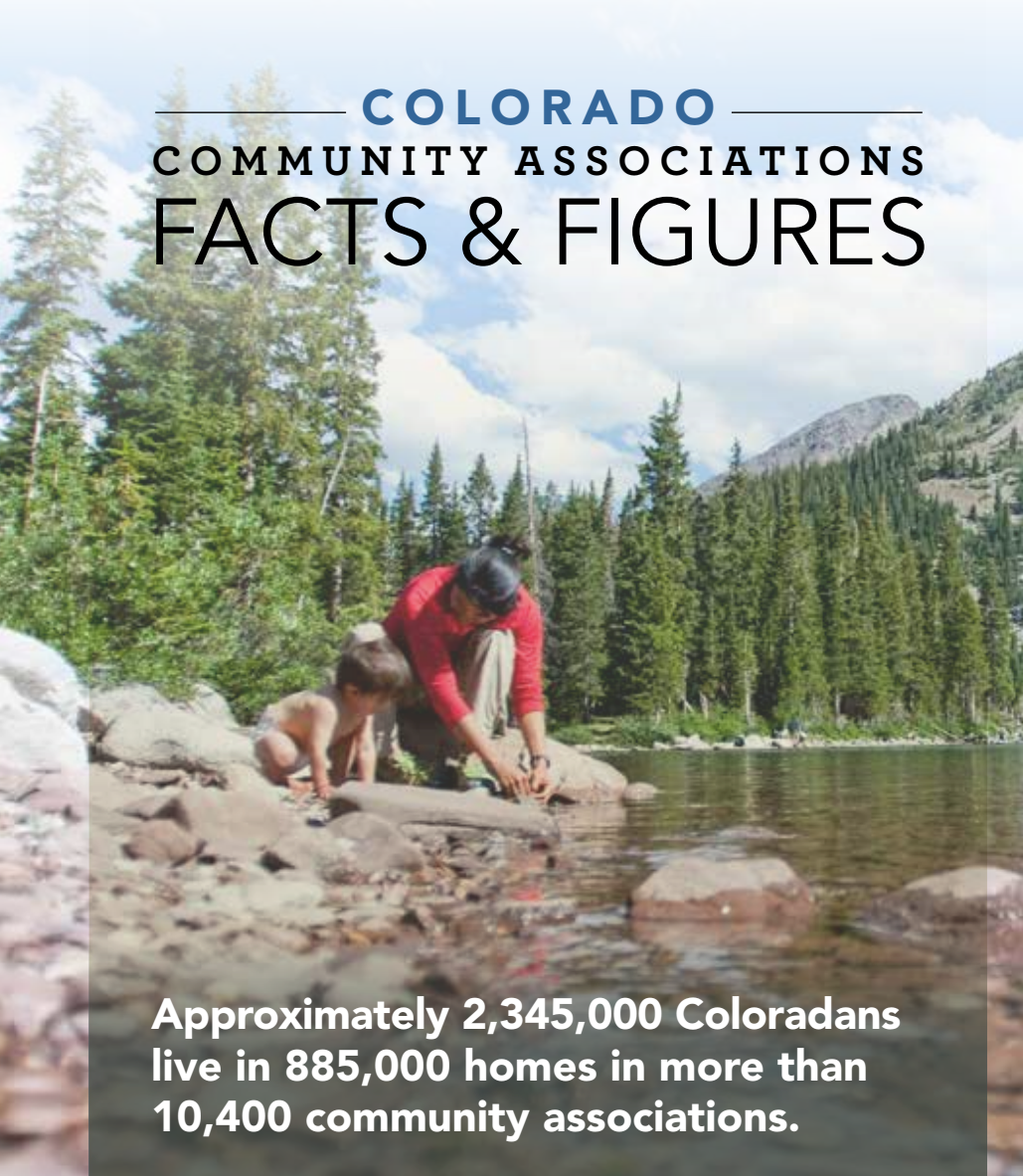
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# COLORADO COMMUNITY ASSOCIATIONS FACTS & FIGURES



**Approximately 2,345,000 Coloradans live in 885,000 homes in more than 10,400 community associations.**

**| 87% |** say their association's rules protect and enhance property values (55%) or have a neutral effect (32%).

**| 71% |** of residents oppose additional regulation of community associations.

**| 83% |** of residents rate their community association experience as positive (49%) or neutral (34%).

**| 62% |** say they always vote in state and local elections. 66% vote in national elections.

**By 2040 the community association housing model is expected to become the most common form of housing.**

These residents pay \$4.3 billion a year to maintain their communities. These costs would otherwise fall to the local government.

78,400 Coloradans serve as volunteer leaders in their community associations each year, providing \$96.7 million in service.

The median home value in Colorado is \$313,600. Homes in community associations are generally valued at least 4% more than other homes.

Community associations, also known as homeowners associations, condominiums, housing cooperatives, common interest developments, and planned communities, are neighborhoods where homeowners share responsibility, ownership, rights, and use of common amenities, facilities, and space. Community associations are created, governed, and managed by state statutes. State statute provides for neighbors to elect neighbors to manage the administration and operations of the community.

The financial engine of the community is based on mandatory assessments paid by every homeowner to cover the costs of conducting association business—such as common area maintenance, repair and replacement, essential services, routine operations, insurance, legal compliance, landscaping, facilities maintenance as well as savings for future needs.

CAI supports public policy that recognizes the rights and responsibilities of homeowners and promotes the self-governance of community associations—affording associations the ability to operate efficiently and protect the investment owners make in their homes and communities.



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# Landlord/ Tenant Laws *in Colorado*

## *How They Relate to Community Associations*

**DEBORAH WILSON**, Springman, Braden, Wilson & Pontius, PC

In addition to the myriad of COVID-19-related moratoria and executive orders since March of 2020, the Colorado legislature also implemented a number of new laws affecting the Landlord/Tenant relationship in 2021. Most of those changes are related to residential leases so it is important that those living and renting units in covenant-controlled communities know and understand these new changes, and for Community Association Boards to understand what restrictions they may impose on homeowners who rent out their units. A Board must also manage its expectations of how quickly a Landlord/Homeowner is able to resolve lease or rule violations by a Tenant within the community in today's legal climate.

### **HB 21-1121:**

House Bill 21-1121 became effective 6/25/21. Among other things, (1) the bill restricts a residential Landlord's right to raise the rent more than once in a 12-month period after the first year, regardless of the term of the lease, (2) the bill prohibits a sheriff from executing on a residential writ of restitution for at least 10 days after the judgment for possession enters, and (3) if no written agreement exists between the residential landlord and the tenant, the landlord must give at least 60 days written notice of rent increase and may not serve a Non-Renewal Notice of oral lease where the primary purpose is to increase the tenant's rent more than once a year. As a practical matter, Community Association Boards should require all Landlords to have and provide a copy of a written lease agreement and understand that a Homeowner as Landlord may face delays in the eviction process under this new law.

### **SB 21-173:**

This 15-page bill became effective 10/1/21 and makes sweeping changes to the laws governing residential leases in Colorado, particularly in the area of late fees, the wording of residential leases, and the eviction process. With regard to the residential eviction process, a residential tenant now has up until entry of judgment for possession to pay all amounts stated on the demand (including any HOA fines listed) plus any subsequently accrued rent to the Landlord or to the Court. The Court shall set the trial for a date 7-10 days after the answer is filed; however, except in cases arising from substantial violation of lease/law, the court may delay the trial date where good cause exists, or a delay is justified. As a practical matter, Landlords often face long delays in the eviction process right now. The law governing the warranty of habitability have been expanded to increase defenses for tenants, which in turn create legal problems for Community Associations who should increase response time for repairs and treatment for infestation of pests and rodents in the community common areas. The bill imposes new substantial damages upon a Landlord who removes/excludes a tenant from a residential home without resorting to court process, except where abandonment is clear.

## HB 20-1332:

House Bill 20-1332 became effective 1/1/21. It adds discrimination based on source of income as a type of unfair housing practice. A residential Landlord may not refuse to rent or show a rental unit, or accept an offer to rent, or make a unit unavailable because of someone's "source of income." The Landlord may not advertise in a discriminatory way and must now accept public housing INCLUDING SECTION 8 VOUCHERS if the applicant otherwise qualifies, so long as the initial payment to Landlord is made timely. There are two exceptions in the bill: (1) Landlord who owns or manages 3 or fewer residential units is exempt for the entire bill and (2) a Landlord who owns 5 or fewer rental units is required to comply with this bill, except that the small Landlord is not required to accept Section 8 vouchers for any single-family rental units they may own. Community Association Boards should not prohibit Homeowners from renting to Section 8 tenants or otherwise discriminate based on the tenant's source of income.

## SB 20-108:

Senate Bill 20-108 became effective 1/1/21 and creates a private right of action for violation of civil rights against a Residential Landlord who discriminates based on an Applicant's or Tenant's actual or perceived immigration status. Housing providers may not inquire about, request, or disclose information regarding immigration status, may not harass or intimidate a tenant because of immigration status, and may not refuse to rent to them if they otherwise qualify. Community Associations may not prohibit a Homeowner from renting to tenants who are not lawfully present in the U.S. or require a homeowner to demand social security numbers for their tenants.

In addition to compliance with the above new laws, Landlords and Community Associations should be aware of existing Colorado laws on Application fees, rent receipts, gas appliances, carbon monoxide detectors, habitability, Fair Housing, screening restrictions as well as governmental restrictions based on protected classes, assistance animals, restrictions on occupancy standards and unrelated tenants. Landlords leasing to tenants governed by Community Associations should always incorporate by reference the Community governing documents into their leases, require tenants to read and abide by Community Rules and Regulations, and be subject to any damages or fines assessed by the Association for failure to comply. 🏠



Deborah Wilson is an attorney and managing shareholder at Springman, Braden, Wilson & Pontius, PC. Springman, Braden, Wilson & Pontius has been assisting Community Association Boards, Landlords and Property Managers for over 30 years in their collections, evictions, Fair Housing, and general counsel needs. [www.SBWP-law.com](http://www.SBWP-law.com)

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# REGULATION

## of Community Association Managers

### 2022 Colorado CAM Licensure & Sunrise Review Update

In the 2019 legislative session, a bill was introduced to recreate mandatory licensure of community association managers (CAMs). The bill was ultimately vetoed by Governor Polis, stating in his veto letter that “[vetoing the bill] will allow more people to work, to access various services and to make sure that licenses protect consumers from harm - not industry insiders from competition.” Additionally, he stated that certification of occupational skills “is best done by guilds, unions and professional associations” rather than the state and that state licensing is only appropriate in “cases that are compelling for consumer safety and economic reasons.”

#### **PROPOSED MANDATORY LICENSURE OF CAMS IS LIKELY TO RESURFACE IN 2022 DUE TO THE RECENT DORA SUNRISE REVIEW.**

Regulation of businesses and individual professionals can take various forms, including *licensure*, *certification*, *registration*, and *title protection* programs. The most restrictive form of regulation is licensure, which typically includes mandatory educational requirements and passage of a competency exam. Less restrictive forms of regulation include *certification*, *registration*, and *title protection* programs.

At the national level, Community Associations Institute (CAI) does not currently support mandatory licensing of CAMs by individual states. However, CAI may

support other (less-restrictive) forms of regulation. For example, CAI endorses and encourages professional certification and registration programs focused on credentialing individual managers, and/or regulatory programs that emphasize ongoing education and testing of core (fundamental) knowledge through the development of professional and ethical standards.

The Colorado Legislative Action Committee (CLAC) is partnering with CAI National and local stakeholders from both the Rocky Mountain and Southern Colorado Chapters to ensure that any proposed regulation balances the needs of the various interest groups involved, including individual CAMs, management companies, homeowners, and community associations. CLAC is also actively monitoring and participating in relevant discussions and stakeholder meetings with DORA, the Division of Real Estate, and the Colorado legislature.

The 2022 legislative session commenced on Wednesday, January 12, 2022. Keep your eyes peeled for more information from CLAC regarding information about the session, progression of any bill that may be introduced, and calls to action when testimony and/or communication to legislators may be necessary. We will also be sending out communications about any and all other bills that may affect community associations during the 2022 legislative session. [↑](#)





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# Talking to Myself

## **LEN KAISER**, Hammersmith Management Inc.

While some folks dream about many different things this time of the year— baseball season, working in the garden, being able to speak with a representative of the cable company—I dreamed about one of the first HOAs I managed. It has been a few years; let's say we still wrote checks - out of real checkbooks! My current self spoke with that very naive new Community Manager. My work history before was the retail world. Dealing with people, following company policy, working a night or two, knowing a P&L. How different can it be?

**Listen in.**



*A Chicago native, **Len Kaiser** moved to Colorado in 1982. Len has worked in the HOA world for more than 20 years, managing all types of Communities. Since joining Hammersmith in 2011, Len became the Associate Regional Director in the Loveland office. Len has three children and three grandchildren who keep him grounded.*

**199X CAM:** You should have been at my meeting last night! The Treasurer was standing on the conference table screaming at the top of his lungs...he was not changing the water line item in the budget! I looked at my trainer, and she just shrugged. I think the Board president was enjoying it! I could not wait to get back behind a register on Black Friday!

**2022 CAM:** In a couple of years, you will think it was funny! But there was a lesson in all of that. The Board decided to raise the assessments from \$95 to \$155 per month. As you remember, the average condo with a pool was less than \$100 per month! You will come to respect that type of decision more and more. I hoped more Boards knew how to make those hard decisions. That one decision created a thought process that carried on for many years. You will feel good when a board member from this HOA looks for your guidance later.

**199X CAM:** This year's annual meeting was an exciting hour! The meeting portion went well, a good discussion at the end until Don started talking. He was complaining about a tree growing out of a stump, not the best-looking tree, but a tree nonetheless! I think his rant went on longer than the meeting! The Board just sat there like monkeys doing a math problem. I could not believe it.

**2022 CAM:** I remember that night! It took all I had to keep my cool. The Board knew which tree he was talking about, which made me burn a bit hotter! Boy, I gave it to them when all the members left the room. That night did teach me, Boards do trust what I say and do for them. They did not say anything because they trusted what I was saying and how I spoke for them (even though I know no one wanted to discuss it with Don!). After that, when needed, I could speak for the Board with confidence.

**199X CAM:** The very loud discussions I have with the vice president. I want to say, "I thought I was stubborn!" On Tuesdays, we have arguments over what we could do with the garages and those tricky trash enclosures. That discussion on making more motorcycle spaces... went on forever! I was taken aback when an owner asked when the Board was firing the manager. I heard him and Ron have a huge argument; it did not sound pleasant!

**2022 CAM:** Some were not as pleasant as others, but he respected your thoughts and vision for the community you managed. He made you fight for why you had your opinions, and he had his views. These discussions will go on the entire time you manage this property, and you will grow to respect them as you know Ron wants the best for his community, and you do too. Those discussions change you from just a manager to a valuable teammate to the Board. They will grow to respect and welcome your council.

**199X CAM:** I had an issue I did not know what to do with, and I asked someone I respected for some help. It was not necessarily an HOA issue. I am not sure if they had any responsibility or even a need to get involved. The next thing I know, I am getting a thank you for something I had really nothing to do with but to ask. It was amazing that a person would put themselves out like that!

**2022 CAM:** That is the bar you will hold yourself to for the rest of your career. This HOA world is a group of people dedicated to serving others, no matter who those others are. You will find many of these people helping you grow so you, too, can serve as they do. You will have those nights when your rumpus is handed to you, but many where the handshake or the smile says you did a great job! Relish those moments; they invite more of the same. Remember, there will be ups and downs, but there are people to help you through as you will help many others with their journey as you pass along your experiences.

Then I woke up at my desk. Tough on-call last night....read some emails....have to call back....



# Preparing for Tax Impacts

## Caused by Recent Changes to Residential Land Classifications



**KERRY H. WALLACE**, Goodman and Wallace, P.C.

Often in planned communities and rural areas owners purchase adjacent lots which remain undeveloped. The purpose typically is to protect privacy and views for the developed adjacent lot. Merging the lots into one or adding landscaping and improvements can require the community to address development standards and plat amendment legal requirements. Recent legislative changes relative to taxation of adjacent undeveloped lots likely will lead to many communities needing to insure that correct legal processes are adhered too and that the communities' governing documents are up to speed.



## Tax Implications

The Gallagher Amendment, adopted in 1982, requires the legislature to annually adjust the tax rate for residential real property but set a fixed assessment rate for “all other taxable property” at twenty-nine percent. Because of this requirement, the General Assembly has continually lowered the assessment rate for residential real property, the result being a significantly lower assessment rate for “residential real property.” For example, during the years 2013 to 2015, the assessment rate for residential real property was 7.96 percent. In contrast, the tax rate for vacant land remained at twenty-nine percent. With such a large discrepancy, landowners often seek classification of adjacent undeveloped land as residential land under *Section 39-1-102(14.4)(a), C.R.S. (2019)* which expressly contemplated the classification of multiple parcels as residential land. In those situations in order to qualify, per the law applicable until now, any undeveloped parcels were required to be: **(1) contiguous** with residential land; **(2) used as a unit** with residential land; and **(3) under common ownership** with residential land.

In 2020 the Colorado Supreme Court decided *Mook v. Summit County Board of County Commissioners*, 457 P.3d 568 (Colo. 2020), which addressed the standards used to determine if an undeveloped parcel can be considered residential for tax purposes. The holding led to an amendment of the portion of the statute that defines Residential Land, with the following being a new key aspect of that defined term:

***“ A parcel of land without a residential improvement located thereon, if the parcel is contiguous to a parcel of residential land that has identical ownership based on the record title and contains a related improvement that is essential to the use of the residential improvement located on the identically owned contiguous residential land. “Related improvement” means a driveway, parking space, or improvement other than a building, or that portion of a building designed for use predominantly as a place of residency by a person, a family, or families.”***

## Community Considerations and Approaches

Depending on how the enforcing governmental agencies apply the new statutory definitions relative to Residential Land, communities may see an increase in requests to merge lots and/or add “Related Improvements” to a contiguous undeveloped lot in order to acquire or maintain the residential classification for tax purposes. Communities can allow for smooth governance on such matters by adopting policies and procedures relative to merging lots, amending building envelopes and constructing improvements on adjacent lots. In the event of a required amendment to a final plat or plat map, it is important to insure that the requirements of the Colorado Common Interest Act at C.R.S. 38-33.3-217 (1) are met, which requires the approval of 67% of the owners to amend a plat (this is lowered to 50% if the Declaration for the community provides for that lower percentage). This means that any plat amendment should receive association approval through the Board, 67% approval by the owners as well as meeting all governmental requirements. A plat amendment that does not meet these requirements is arguably void. ⬆



**Kerry H. Wallace** grew up in Denver, Colorado and after leaving Colorado to attend the University of Notre Dame du Lac (BA 1987), returned to Colorado for her law degree from the University of Colorado School of Law (JD 1991). Kerry is a Partner in the law firm Goodman and Wallace, P.C. located in Edwards – 15 miles west of Vail. A perfect location for her to enjoy her favorite past times of skiing, hiking and biking. Kerry's practice focuses upon resort based common interest communities including governance guidance and compliance with the ever changing common interest community legal landscape. Her work has included the first reported case interpreting community record keeping requirements and disclosure obligations under the Colorado Common Interest Ownership Act. Kerry served on the Eagle County Planning and Zoning Committee from 2003-2007, is a current Business Partner of CAI-RMC and has been a speaker and panel member at numerous CAI Colorado - Rocky Mountain conferences.

# F A Q FREQUENTLY ASKED QUESTIONS

The **Certified Manager of Community Associations (CMCA<sup>®</sup>)** is the only internationally recognized credentialing program for community association managers. The CMCA is awarded by the Community Association Managers International Certification Board (CAMICB) to individuals who pass the CMCA examination, demonstrating they have the fundamental knowledge and skills required to manage community associations.

### Are CAMICB & CAI one and the same?

No, these organizations are different. The **Community Association Managers International Certification Board (CAMICB)** is a nonprofit organization that administers the CMCA—an international, voluntary certification program for community association managers. **Community Associations Institute (CAI)** is a membership organization that provides education and serves stakeholders in community associations.

### What is the value of the CMCA credential?

The CMCA stands alone as the true indicator of knowledge, commitment, and professionalism in the field of community association management. Employers greatly value candidates who hold the CMCA, and it shows: CMCA-holders earn an average of 20% more than their non-credentialed peers.

### How do I earn the CMCA credential?

The CMCA is earned in three simple steps:

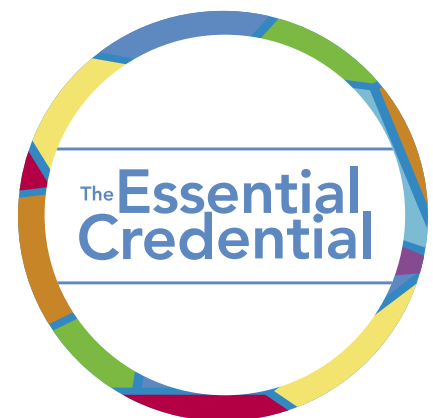
1. Fulfill **one** prerequisite requirement:
  - Education.** Complete an approved prerequisite course, like CAI's M-100
  - Experience.** Have at least five years of experience as a community association manager
  - Active license or credential.** See application for more details
2. Submit the CMCA Exam Application
3. Plan, prepare, and pass the CMCA exam

### What are the associated fees?

- \$315 Computer-Based CMCA Exam Fee
- \$150 CMCA Exam Retake Fee

### How much time should I spend studying?

A structured exam preparation period of at least four to six weeks is recommended, but more time may be appropriate depending on your experience level.





## F A Q FREQUENTLY ASKED QUESTIONS CONT'D.

### Is the M-100 course manual all I need to study for the CMCA?

No. The M-100 manual is an excellent study tool for the CMCA exam, but it should be viewed as one part of a more comprehensive exam preparation plan.

### What study materials are available for the CMCA exam?

If you took the M-100, exam preparation should include a thorough review of the course manual. Additional study materials available at [www.camicb.org](http://www.camicb.org) include:

- The **CMCA Study Guide** identifies the core knowledge areas tested on the exam.
- The **CMCA Handbook** provides information on the application process and policies.
- **Best Practice Reports** offer documented criteria for best practices in the field.
- The **CMCA Quizlet** offers a variety of interactive study methods online.
- **Guides for Association Practitioners** focus on specific knowledge areas that can be used to target your study. Available for purchase from CAI.
- The **CMCA Practice Exam** provides an opportunity to familiarize yourself with the exam format. Available for purchase from the CAMICB website.
- The **CMCA Exam Preparation E-Learning Course** is a free online resource that gives tips to create a study plan and review some of the more challenging exam content.

### What happens when I pass the exam?

You will join the ranks of over 20,000 managers worldwide who have earned **The Essential Credential™**. You'll receive a certificate, lapel pin, and digital badge to promote your achievement, and you'll be listed in CAMICB's Online Directory of Credentialed Professionals. Then sign up for the CMCA SmartBrief newsletter and follow CAMICB on Facebook, LinkedIn, and the CMCACorner Blog to stay informed.

### What happens if I don't pass the exam?

You will have the opportunity to reapply for the CMCA exam at a reduced rate.

### What do I have to do to maintain the CMCA?

Keeping your CMCA requires a commitment of 16 hours of continuing education every two years and payment of a service fee of \$115 each year. Choose from over 1,000 pre-approved CE courses from [www.camicb.org](http://www.camicb.org).

For more information, please visit [www.camicb.org](http://www.camicb.org). If you have questions, email [info@camicb.org](mailto:info@camicb.org) or call 866-779-2622.

## ***CAI-RMC Educated Business Partners***

CAI Business Partners are indispensable to the community associations they support with their guidance, products and services. CAI education helps these businesses and professionals differentiate themselves in the competitive community association marketplace.

The following individuals have taken Business Partner Essentials, which is an online course designed to help CAI-member product and service providers better understand CAI, community associations and the industry at large. Individuals who pass the course and maintain CAI membership earn the CAI Educated Business Partner distinction, gaining special recognition among thousands of companies and professionals who support common-interest communities.

<b><i>Full Name</i></b>	<b><i>Organization</i></b>	<b><i>Award Date</i></b>
Mr. Richard Hirschman, RS	Advanced Reserve Solutions, Inc.	10/14/2016
Mr. Marcus McDermott	American Heritage Restoration, LLC,	11/23/2018
Ms. Kim Boortz	ASR Companies	09/09/2015
Mr. Bryan Farley, RS	Association Reserves - Rocky Mountains	10/26/2018
Miss Kristine Gahnstrom	Axe Roofing	04/30/2019
Mr. Ewell Timothy Hinman	Bold Brothers Roofing, Co.	09/30/2021
Ms. Loura K. Sanchez, Esq.	Burg Simpson Eldredge Hersh & Jardine, P.C.	09/08/2019
Mr. Brian Jay Parks, CIRMS	Cherry Creek Insurance Group	07/16/2013
Ms. Robin L. Storey, CMCA	CINC Capital, LLC	07/22/2020
Ms. April Ahrendsen	CIT	10/05/2015
Mr. A.J. Brown	Commercial Fence & Iron Works	06/23/2018
Ms. Ashley Nichols, Esq.	Cornerstone Law Firm, P.C.	06/28/2018
Mr. Craig Hammer	DoodyCalls	09/09/2015
Mr. Derek A. Brase	EmpireWorks Reconstruction and Painting	10/12/2016
Mr. Jeramie Green	Excel Capital Projects	03/31/2020
Ms. Susan York	Excel Capital Projects	04/02/2020
Mr. Chris Baker	FRONTSTEPS	11/05/2019
Mr. AJ Cataline	FRONTSTEPS	11/05/2019
Mr. Kevin Ciofani	FRONTSTEPS	11/05/2019
Mr. Steve Denis	FRONTSTEPS	11/05/2019
Mr. Ian Duffy	FRONTSTEPS	11/05/2019

<i>Full Name</i>	<i>Organization</i>	<i>Award Date</i>
Mr. Jeff Dunn	FRONTSTEPS	11/05/2019
Mr. Kyle Paxton	FRONTSTEPS	08/26/2020
Mr. Tony Rehm	FRONTSTEPS	11/05/2019
Mr. John Roberts	FRONTSTEPS	11/05/2019
Abisheik Shrikantia	FRONTSTEPS	08/26/2020
Mr. Jason Slutzky	FRONTSTEPS	11/05/2019
Mr. Anthony Tari	FRONTSTEPS	11/05/2019
Mr. Christian Valesares	FRONTSTEPS	08/26/2020
Ms. Lauren Wilson	FRONTSTEPS	11/05/2019
Miss Jessica Irons	Ground Engineering Consultants, Inc.	04/01/2019
Mrs. Danielle M. Holley	Hearn & Fleener, LLC	09/09/2016
Mr. Jim Ferguson	J&K Roofing LLC	10/15/2020
Mr. Ryan Mckeel	Metro City Roofing	10/10/2016
Mr. Brad Henderson	Network Insurance Services, LLC	11/05/2019
Mrs. Ashley Payne	Network Insurance Services, LLC	11/14/2019
Ms. Kelly McQueeney, Esq.	Orten Cavanagh Holmes & Hunt, LLC	08/13/2018
Ms. Alicia Granados, CMCA, AMS, PCAM	Pacific Premier Bank	07/30/2014
Mr. Ashish Patel	Pilera Software	09/13/2018
Ms. Molly Hime	Popular Association Banking	09/19/2019
Mr. Jim Walters	Roof Representatives, Inc.	10/08/2016
Mr. Michel Brooklyn	Roof Worx, LLC	02/05/2019
Rianna Ziegler	Roof Worx, LLC	09/30/2021
Mr. Brent Roper	Ropa Roofing	02/02/2021
Mr. Devon M Schad	Schad Agency, Inc.	10/11/2016
Ms. Alisha Thomas	Servpro of Greater Boulder	07/13/2017
Mr. Blake Lund	Solar Pathways Energy, LLC	08/25/2021
Ms. Karen Rodriguez	U.S. Bank	06/16/2017
Ms. Teri Rodrigues	Vial Fotheringham, LLP	08/31/2017
Mr. Peter Santangelo, CMCA	Wintrust Community Advantage	05/15/2012



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## CAI Recommends Mandatory Reserve Studies and Funding for Community Associations

**PHOEBE E. NESETH, ESQ.** - Director of Government and Public Affairs and the College of Community Association Lawyers

Structural integrity in high-rise communities has been a focus after the tragic partial collapse of Champlain Tower South condominium in Surfside, Fla., in June. CAI's recently released **Condominium Safety Public Policy Report** details public policy recommendations that can provide solutions for legislators addressing high-rise building safety in their districts.

One of the two recommendations covers reserve studies and funding. Reserve studies are a planning tool to assist with budgeting for replacement or substantial repairs based on life cycle and not intended to evaluate existing building conditions or to specify corrective repairs. Many states have existing legislation requiring reserve studies or reserve funding for condominiums.

CAI believes the recommendations below should be considered for adoption into state law to support the existing statutory framework for the development, governance, and management of community associations. According to the Foundation for Community Association Research's **Breaking Point: Examining Aging Infrastructure in Community Associations** report, 80% of community association managers, board members, and service providers surveyed felt it was critical that their association have adequate reserves in the event of a major infrastructure failure or construction need.

A reserve study includes a physical review, a review of the community's finances, and a recommendation plan made by a reserve analyst. CAI recommends statutorily mandating reserve studies and funding for all community associations. CAI's public policy report helps communities prepare for and a timeframe to practically transition to these new requirements to avoid financial strain on homeowners and the association.

The Foundation's **Best Practices Report: Reserve Studies and Reserve Management** provides excellent procedures pertaining to reserve planning and funding for homeowner leaders and community managers to put into practice immediately.

CAI supports legislation that mandates preliminary reserve studies (before or during the construction of a community) and again at the time of developer turnover to the community association that include major shared components for individual units or dwellings or significant infrastructure/site improvements (i.e., roads, street lighting, accessory


buildings, etc.). CAI also supports legislation mandating periodic reserve studies for communities with significant infrastructure and/or shared components whose aggregate replacement costs exceed \$10,000.

We support legislation that mandates disclosure of all reserve study findings in purchase and sale agreements when the community transitions from developer control (if applicable) and that also requires inclusion of reserve study findings and funding plans to any new buyers. Disclosure also should be mandated during the annual budgeting process and include a summary of reserve financial condition and the funding plan.

CAI supports a practical legislative process for community associations to comply with funding requirements. Communities need to maintain a certain amount of money in reserve funds, but it may not be feasible for some communities to immediately procure those funds. Therefore, CAI supports and recommends mandates for community associations to comply with any funding requirements resulting from reserve study legislation while still allowing communities to slowly catch up to that amount.

We oppose legislation that allows owners to waive and/or opt out of reserve funding requirements. CAI also opposes legislation that would prohibit including structural and/or engineering inspections by appropriate professionals and the financial impact of said inspections in the reserve study and funding plan. Finally, CAI opposes legislation that restricts the borrowing from reserves for other purposes.

Safety is the most important factor in any community. In the wake of any issue that would threaten the well-being of the community members or the association, CAI supports the ability of association boards to collect a special assessment and/or borrow funds without a membership vote to correct these issues.

These policy positions provide support to community association boards and urge them to follow the advice of professionals and strong best practices, especially in circumstances that are related to life, health, and safety. CAI continues to develop additional guidance and best practices for boards, their managers, building inspectors, developers, accountants, reserve analysts, and other stakeholders to address structural integrity. 





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# COMMUNITY ASSOCIATION EQUALITY PLEDGE

Our community supports and will foster the following leadership behaviors that support equality:

- ① **COURAGE.** We will take actions and make decisions that support equality.
- ② **INTEGRITY.** We will stand for equality as a core value and never compromise in situational challenges and policymaking.
- ③ **INTOLERANCE.** We will be an ally, and we will be intolerant of others who are not mindful of equality and call them out (gently and with tact) when they behave inappropriately.
- ④ **SELF-AWARENESS.** We will be aware of our own biases and the effect that they have on equality. We will take responsibility for increasing understanding of our own privileges and prejudices.
- ⑤ **SELF-REGULATION.** We will maintain control over our own decisions and actions in the matter of equality.
- ⑥ **MOTIVATION.** We will pursue equality with energy and persistence and relentlessly challenge its achievement in the community. We will intentionally and deliberately engage in nonbiasing activities. We will educate ourselves, and we will engage in conversations about race.
- ⑦ **EMPATHY.** We will understand how inequality affects community members emotionally; treat the victimized compassionately; and appreciate that people have unique mindsets that affect their perception of inequality.
- ⑧ **SOCIABILITY.** We will manage relationships to establish a common ground of equality in the community.

*These commitments are guiding principles. They are not governing documents or legally enforceable and do not give rise to penalties if they are not followed.*

If you agree with these commitments to equality, please sign and return the document.

\_\_\_\_\_  
COMMUNITY ASSOCIATION NAME

\_\_\_\_\_  
ADOPTION DATE



#WeAreCAI



The equality pledge was adapted in part from *Becoming a Leader: Nine Elements of Leadership Mastery* by Al Bolea and Leanne Atwater.

# HOW TO ADOPT THE EQUALITY PLEDGE IN YOUR COMMUNITY

- ① **DISTRIBUTE** the document throughout your community, announcing and publicizing where and when the adoption will be considered.
- ② **EXPLAIN** why this is important to your community and the benefits it can create.
- ③ **REVIEW AND DISCUSS** the merits of the principles at an open meeting of your board of directors.
- ④ **SOLICIT INPUT** from homeowners.
- ⑤ **HOLD A BOARD VOTE** to adopt a resolution endorsing the Community Association Equality Pledge.
- ⑥ **SHARE THE NEWS** of adopting the Community Association Equality Pledge throughout your community regularly. Post on your website, social media, and on every community association meeting agenda.
- ⑦ **TELL CAI** that you've adopted the Community Association Equality Pledge.

---

DATE OF ADOPTION

---

COMMUNITY ASSOCIATION NAME & WEBSITE

---

PRIMARY CONTACT NAME

---

PRIMARY CONTACT INFORMATION (ADDRESS, PHONE, & EMAIL ADDRESS)

*Complete and email to [government@caionline.org](mailto:government@caionline.org). Questions? Call (888) 224-4321, or submit an online form at [www.caionline.org/EqualityPledge](http://www.caionline.org/EqualityPledge).*



#WeAreCAI







*Thank You!*

In response to the devastating Marshall Fire, CAI-RMC called upon its members to donate to a cause that would benefit folks who were affected by this tragedy. Through the Sister Carmen Community Center and the generous donations made by our membership, CAI-RMC was able to contribute a sizeable donation to those in need.

We know that many of our CAI-RMC members conducted their own donation drives through other avenues, and we commend you as well for rising to the occasion and assisting members of our own communities here in Colorado.

CAI-RMC would like to thank the individuals, communities, and business partners that donated through us to the Sister Carmen Community Center:

Individual Donations	Management Companies & Business Partners	
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# REBUILDING AFTER TRAGEDY

## *What to do with Assessments in the Meantime?*

The Marshall fire that ravaged Boulder County destroyed nearly 1,000 homes. In the face of the most destructive fire in Colorado history, many of those affected are now dealing with what to do in the aftermath. Rebuilding their homes (and their lives after loss) takes a community. It also isn't something that will, or can, happen overnight. One of the questions that we are already facing is that of what happens to assessments for those owners in affected community associations that lost their homes, or where common area amenities were destroyed. And it's a tough one - but it is important to remember that owners' assessments go to pay for common expenses of an association, which continue even during the rebuilding process.

Associations are non-profit corporations with Boards that have a fiduciary duty to protect, preserve, and enhance the property values in the community. Part of the duty is to ensure that the governing documents for the Association are followed, and in the case where disaster affects a community, such as with the Marshall fire, while it may be hard to see right now through the tragedy, continuing to ensure that assessments are paid will help communities rebuild.

While not the same type of tragedy, in 2020 (and ongoing) the COVID pandemic posed a similar question of how to deal with assessments for impacted owners due to something out of their control. Incomes of many homeowners in communities were likely significantly reduced and/or eliminated. And the best advice during that time remains the same here, for owners who lost homes and/or parts of their communities due to the fire - to be compassionate. Each community board will have to make difficult decisions based on the different circumstances of each of their owners, which means considering the hardships that their residents may be experiencing and be willing to work with residents to ensure that homeowners and their associations are both able to meet their needs to support their families and communities.

The Rocky Mountain Chapter of Community Association Institute is here to support our communities during this difficult time as well. Donations from business partners, management companies, and homeowner leaders totaling just over \$8,000 have been received and distributed to partners in order to help those affected by the fire. We will continue to use the resources that we can to help these communities rebuild, better and stronger.

## KEY TO COMMUNITY SUCCESS

### CAI'S GUIDE TO COMMUNITY ASSOCIATION LIVING

*Community Association Living: An Essential Guide for Homeowner Leaders*, a free resource from CAI, will help board members and residents of community associations around the world learn how communities are organized, governed, and managed.

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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	ORGANIZATION	DESIGNATION	AWARD DATE
Mr. Christian Chase Lovins, CMCA, AMS	One Steamboat Place	AMS	11/15/2021
Ms. Sue McClure, CMCA, AMS	Hammersmith Management	AMS	11/15/2021
Mr. Thomas Michael Hobelman, CMCA, AMS	Hammersmith Management, Inc.	AMS	11/18/2021
Ms. Kelly M McKee, CMCA, AMS	CCMC	AMS	11/23/2021
Mr. John A Ortiz, CMCA	Associa Regional Office-Lakewood	CMCA	12/02/2021
Ms. Karla Elizabeth Strader, CMCA, AMS, PCAM	Colorado Association Services-Lakewood	PCAM	12/10/2021
Ms. Danaly Howe, CMCA, AMS, PCAM	Centennial Consulting Group, LLC	PCAM	12/10/2021
Miss Natalie Widaman, CMCA	Reed Property Management, Inc.	CMCA	12/17/2021
Ms. Chiarra Marie Hennigan, CMCA, AMS	Hammersmith Management, Inc.	AMS	12/20/2021
Ms. Julie Ann Pierce, CMCA	The Alderwood Group	CMCA	12/28/2021
Mrs. Kari McDowell, CMCA, AMS	One Steamboat Place	AMS	01/13/2022
Ms. Cynthia Dugan, CMCA	Hammersmith Management, Inc.	CMCA	01/14/2022

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](http://www.caionline.org) can help you. CAI awards qualified professionals and companies with credentials to improve the quality and effectiveness of community management.



### CAI-RMC MISSION STATEMENT

*To provide a membership organization that offers learning and networking opportunities and advocates on behalf of its members.*





# Welcome New Members

- Joanne Bell**
- Anna Grindell**
- Cassie Marie Livingston**
- William Kenneth Smith**
- Daniel Swannigan**
- Chris Marion**-3.0 Management
- Daniel S Hanneman**-A.C.C.U, Inc.
- James Phifer, CMCA**-A.C.C.U, Inc.
- Shane Recke**-Associa Colorado Association
- Jason Holley**-Buddy Holley Co.
- Horace Pugh**-Caretaker Landscape and Tree Management
- Katie Call**-CCMC
- Danaly Howe, CMCA, AMS, PCAM**-Centennial Consulting Group, LLC
- Greg Mock**-Colorado Association Services-Ft. Collins
- Kim Loiselle**-Colorado Association Services-Lakewood
- Jennifer Lopez**-Colorado Association Services-Lakewood
- Barbara Pagonis**-Colorado Association Services-Lakewood
- Moriah Bell**-Dayton Green Condominiums, Inc.
- Christine Jakupovic**-DMB Community Life, Inc.
- Joseph Helminski**-East West Hospitality
- James Gardner**-Exteriors Solutions Plus, Inc.
- Tanner Allan Penry**-Frontier Property Management
- Wayne Ackerman**-Genesee Foundation
- Christine Cameron**-Genesee Foundation
- Ellen Prehn**-Genesee Foundation
- Rick Sarg**-Genesee Foundation
- Robert Buffington**-Gordian Staffing
- Chaillot Lockley**-Hammersmith Management, Inc.
- Courtney L Markley**-Hammersmith Management, Inc.
- Maggie Michalski**-Haven Community Management
- Robert Cunningham**-Higgins & Associates, Inc
- Tim Swenson**-Hoffman Weber Construction
- Suellen K Honeychuck**-Larimer Place Condominium Association
- Peggy Espinosa**-Mountain Shadows Condominiums Association
- Laurie Elizabeth Riedeman**-MR Accounting and Property Management, LLC

- Toni Palan**-Museum Residences
- Frank Vargas**-Premier Asphalt & Concrete Solutions Inc.
- Robert Alcavage**-RowCal
- Steve Krutzch**-Servpro
- Alisha Thomas**-Servpro of Greater Boulder
- Eric Boehner**-Signature Stone
- Robert Bulkley**-Stoney Brook Homeowners Associaton
- John Cowan**-Stoney Brook Homeowners Associaton
- Angela Miller**-Stoney Brook Homeowners Associaton
- Max Strain**-The Conservatory Homeowners Association
- Susan Caudill**-Town & Country Village Homeowners Association
- Frederick McCarthy**-Town & Country Village Homeowners Association
- Tyrone Pippin**-Town & Country Village Homeowners Association
- Amy Sweeting**-V.A.M.P. Stucco
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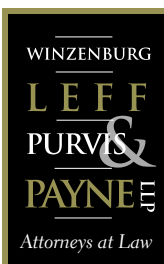
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MICHAEL FARRELL



WHERE MEMBERS CONNECT



[www.caionline.org](http://www.caionline.org)

“The **first thing** I do in the morning is read my overnight emails. The second thing is **read this forum**. I frequently print whole discussions and then give them to my board members to read. This forum is a way for me to learn and hopefully share what I have learned with others in our community. Thank you to all that take the time to pose the the questions and to those that share their knowledge for solutions.”

ELIZABETH PITINO



WHERE MEMBERS CONNECT



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## CAI Social Media Roundup

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# CAI-RMC EVENT CALENDAR

## March

<b>1</b>	<b>Tue</b>	Peak 1 - Legal (Fort Collins)
<b>4</b>	<b>Fri</b>	Support Staff Session
<b>11</b>	<b>Fri</b>	Spring Conference and Trade Show

## April

<b>8</b>	<b>Fri</b>	Member Outreach
<b>8</b>	<b>Fri</b>	CEO Forum
<b>22</b>	<b>Fri</b>	Mountain Education Session (Frisco)
<b>26</b>	<b>Tue</b>	Community Association Workshop
<b>28</b>	<b>Thur</b>	Top Golf Event

## May

<b>4-7</b>		National Conference
<b>20</b>	<b>Fri</b>	Annual Education Summit
<b>26</b>	<b>Fri</b>	Mountain Education Session (Steamboat Springs)

To register for  
CAI LIVE Webinars  
go to  
[www.caionline.org/learningcenter/webinars](http://www.caionline.org/learningcenter/webinars)