

# Common Interest

The Official Publication of CAI-Connecticut

Vol. XVII: Issue 5 • 2022



*Inside:*

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### Who Is CAI?

The Connecticut Chapter is one of 63 Community Associations Institute chapters worldwide. CAI-CT serves the educational, business, and networking needs of community associations throughout Connecticut. Our members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to associations. The Connecticut Chapter has over 1,200 members including nearly 150 businesses, and over 450 community associations representing 50,000 homeowners.



The materials contained in this publication are designed to provide accurate, timely and authoritative information with regard to the subject matter covered. The opinions reflected herein are the opinion of the author and not necessarily that of CAI. Acceptance of an advertisement in *Common Interest* does not constitute approval or endorsement of the product or service by CAI. CAI-Connecticut reserves the right to reject or edit any advertisements, articles, or items appearing in this publication.



To submit an article for publication in *Common Interest* contact Kim McClain at (860) 633-5692 or e-mail: kim@caict.org.

## President's Message



Frank Pingelski, EBP

*"The strength of CAI-CT comes from its active membership."*

The fall season is quickly approaching and there are several great events lined up! We will be hosting the annual Fall Fun in Glastonbury on September 28th, Condo Inc. on October 1st, and the Legal Symposium on October 27th. For those of you not aware, there are a few topics that also have related laws recently adopted by our state legislature that could have a significant impact on community associations!

The strength of CAI-CT comes from its active membership. When bills regarding Electric Vehicles, Solar Panels, and other items are being considered by our legislators it is critical for CAI-CT to play in active role in helping shape them to avoid our communities from suffering the unintended consequences. The larger our membership is, the bigger our collective voice becomes. If we become victims of our own inaction, then we only have ourselves to blame. The Legislative Action Committee and CAI-CT has been working hard to stay ahead.

As education remains one of the main pillars of CAI-CT, I can't say enough about the benefit of attending Condo Inc. and the Legal Symposium! While they are very different events, the level of knowledge imparted at each of these always amazes me. Many of us are dealing with similar issues and Connecticut has very specific laws regarding common interest communities that must be followed. Educating board members must remain a top priority! ■

## Legislative Update

**I**mportant CLARIFICATION of the recently passed SB 4 bill (Public Act 22-25) that included language regarding the allowance of solar panels in PLANNED UNIT DEVELOPMENTS ONLY. This new law concerns only those communities which define themselves as Planned Unit Developments and NOT condominiums or cooperatives.

The law specifically applies to only those communities which are defined in Article 2 of their declarations as being planned unit developments. The law also states that it does NOT apply to those Planned Unit Developments where the roof is shared with any other units. The association may adopt reasonable rules about the installation of solar panels. It is best to seek the advice of your association's attorney in order to ensure proper procedures are in place prior to the Public Act 22-25's effective date of October 1, 2022. ■



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## From the Chapter Executive Director

**"Discontent is the first necessity of progress."**

~ Thomas Edison



Kim McClain

Courtesy CAI-CT

When temperatures soar, tempers will often flair. Is that the reason why we seem to be getting so many calls about unit owners being discontented about association operations? Is this due to the fact that delay and decay is now catching up on many properties and sizable increases in common fees are becoming more prevalent? And are unit owners realizing that it is important to keep up with board activity and their role in accountability?

Two articles in this issue delve into this timely topic. One item offers a strategy for removal of board members – if things have gotten that bad. Another article discusses board member burnout.

A related trend we are seeing is that many associations are not setting realistic budgets. Often their budgets underfund or don't fund their reserves at all. What happens when there is no reserve study (or a very outdated one) to help inform the decision-making process about what gets done when? We also notice that many unit owners have somewhat unrealistic expectations about what can be accomplished without raises fees. The overwhelming majority of association unit owners calling about their discontent have boards who have not attended any of our education programs nor are they connected to vital information about best practices through membership with CAI-CT. Fortunately, our popular Condo Inc. program will be offered again on October 1st in Wallingford. This is a terrific opportunity for unit owners and board members to become more informed about associations operations from Legal to Insurance to Financials to Reserve Planning. This is a **MUST** attend program and it also complies with Public Act 06-23 which states that board members should be educated.

Our monthly Chat & Chew program on Zoom continues to be a great opportunity to take a deeper dive with our authors who share their expertise and answer your questions for a full hour. And it's **FREE** for members to attend! Check it out on our website: [www.caict.org](http://www.caict.org).

Hopefully, you are reading this issue by the water and/or with a cool drink in your hand. Enjoy the rest of the summer! We look forward to seeing you soon! ■

### SAVE THE DATE!

Good for 4  
continuing ed  
credits.



**Saturday, March 18, 2023**

**Aqua Turf, Plantsville**

*Reservations for Booth Space and Sponsorships now being accepted.*

## UPCOMING CAI-CT EVENTS

### CHAT & CHEW with *Common Interest Author*

On ZOOM

Wednesday, August 31 • Education from 12:00 - 1:00 pm

Ask Your Questions to your favorite authors!

This month's featured speaker will be Adam Cohen, Esq. – Pullman & Comley, LLC

Free for CAI Members, \$25 - Non-Members

(No Continuing Education Credits for this event)

### CHAT & CHEW with *Common Interest Author*

On ZOOM

Wednesday, September 28 • Education from 12:00 - 1:00 pm

Ask Your Questions to your favorite authors!

This month's featured speaker will be Ronald Barba, Esq. – Bender, Anderson & Barba, PC.

Free for CAI Members, \$25 - Non-Members

(No Continuing Education Credits for this event)

### FALL FUN – Education and Networking Party

Wednesday, September 28 • 3:00 - 7:00 pm

Hops on the Hill, South Glastonbury



Our Fall Fun Event includes an Expert Legal & Insurance Panel with Dave Pilon, CIRMS – *Bouvier Insurance*, Scott J. Sandler, Esq., CCAL – *Sandler & Hansen, LLC* and Andrea Dunn, Esq. – *Bender, Anderson & Barba, PC*. Our team of experts will discuss in times of record inflation the importance of proper budget funding, board power and discretion to approve anticipated and unexpected expenditures, and insurance coverage. The presentation will be followed by a Q&A. Immediately following enjoy our vendor fair, local beer, axe throwing, trash can pizza and networking party. You don't want to miss it!

Board Members & Managers: \$30 CAI Members/ \$55 Non-Members  
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### Condo Inc. - (IN Person Event)

Space is limited. Register Today!

Saturday, October 1 • 8:30 am - 2:00 pm

Wallingford

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***contact [ellen@caict.org](mailto:ellen@caict.org) for discounted pricing.***

We have gathered together a group of industry professionals: legal, insurance, maintenance, financial and capital planning to share their expertise. In addition, this course provides the opportunity to interact with fellow board members and share your challenges and your triumphs!

\$50 - CAI Members / \$75 - Non-Members

### CEO CAM Council – Hosted on Zoom

Tuesday, October 18 • 1:00 - 2:00 pm

*Qualifications to attend:* you must be an individual member or the designated chief executive officer or equivalent of a management company holding a CAI membership. No more than two individuals employed by the same company may participate on the Community Association Managers Council at the same time. Pre-registration is required.

### 10th Annual Legal Symposium – Hosted on Zoom

Thursday, October 27 • 1:00 - 6:00 pm



Legal experts will present on a variety of current hot topics important to Connecticut Community Associations. Topics & Speakers to be announced September 1st.

*(All proceeds to benefit legislative advocacy for Connecticut Community Associations.)*

Scheduling conflict? – Register anyway, and we'll email you the recordings afterward! These webinars will be available on-demand following the live broadcast to those who register prior to October 28th!

*Sponsorships Available. Please visit [www.caict.org](http://www.caict.org) for more information.*

**Visit [www.caict.org](http://www.caict.org) to register and for updated information.**



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## THANK YOU NEW & RENEWING MEMBERS

### Welcome New Members

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Ferndale Unit Owners Association  
The Anchorage  
The Village at Buckingham in Avon Association, Inc.  
Tudor Ridge, Inc.  
Woodland Hills Homeowners Association, Inc.

#### Individual Managers

Ann Germinaro

#### Management Companies

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### Thank You Renewing Members

#### Associations

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Henley Woods Association, Inc.  
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Hillside Place at New Britain Condominium Assn., Inc.  
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## Statutory Snippet...

### BOARD RECALLS

The Common Interest Ownership Act (CIOA) allows for the calling of a special meeting of the unit owners for the purpose of removing any or all board members or to discuss issues of concern. (Please see article by Adam Cohen, Esq. on the facing page for further discussion.)

### Sec. 47-250. Meetings. Rules. (a);

(2) An association shall hold a special meeting of unit owners if its president, a majority of the executive board, or unit owners having at least twenty per cent, or any lower percentage specified in the bylaws, of the votes in the association request that the secretary call the meeting. If the association does not notify unit owners of a special meeting within fifteen days after the requisite number or percentage of unit owners request the secretary to do so, the requesting members may directly notify the unit owners of the meeting. Only matters described in the meeting notice required by subdivision (3) of this subsection may be considered at a special meeting; ■

# FALL FUN

## Education and Networking Party

Wednesday, September 28th  
3:00 - 7:00 pm  
Hops on the Hill, South Glastonbury

**GOOD FOR  
2.0 CEUS**

Our Fall Fun Event includes an Expert Legal & Insurance Panel with Dave Pilon, CIRMS – *Bowvier Insurance*, Scott J. Sandler, Esq., CCAL – *Sandler & Hansen, LLC* and Andrea Dunn, Esq. – *Bender, Anderson & Barba, PC*. Our team of experts will discuss in times of record inflation the importance of proper budget funding, board power and discretion to approve anticipated and unexpected expenditures, and insurance coverage. The presentation will be followed by a Q&A. Immediately following enjoy our vendor fair, local beer, axe throwing, trash can pizza and networking party. You don't want to miss it!

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## Legally Speaking...



Adam Cohen, Esq.

### Condo Mutiny *The Mechanics of Recall Votes and Board Takeovers*

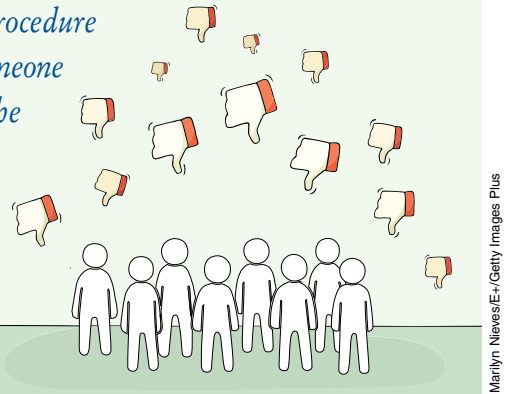
By Adam J. Cohen, Esq.

As aging buildings deteriorate, property values decline, common expenses increase, amenities are closed and reopened due to Covid, and tough administrative decisions have to be made, more and more boards are facing recall petitions and takeover bids by unhappy groups of unit owners. Anecdotal evidence suggests that these kinds of efforts may have become more frequent and heated lately. The interests of the community and the people involved therefore require that they be familiar with what these mechanisms are and how they work.

“Recall” is the procedure for removing someone from office by the vote of his or her constituents. It can be used to target a single board member or against an entire board simultaneously to cause a complete change of leadership. Recall is different from a board member’s demotion from a particular officer position by the board’s other members, which most condominium bylaws allow, and it does not involve court litigation, which state law authorizes in cases of serious wrongdoing. Neither is it a challenge to the validity of an election or a person’s eligibility to serve. Instead, the recall procedure exists so that the unit owners have the option to quickly remove someone from the board who, for any reason or no reason at all, they simply no longer wish to have there. Basically, state law entitles the unit owners or board to call a new election for any director or all of the directors at essentially any time.

The recall procedure often begins with a petition. At least 20% of the unit owners (or fewer, if the declaration or bylaws say so) generally submit a written demand to the board’s secretary for a special meeting to vote on whether to remove the director or directors. The unit owners can schedule the meeting themselves if the board fails or refuses to do so within 15 days after receiving the petition. What usually follows is a period of campaigning for and against the measure, with the incumbent board publicizing the good they have done for the community while the insurgents try to rally opposition support and seek voting proxies. Neither side can use the association’s funds for these purposes. Likewise, the board is entitled to use the association’s lawyer for explaining the process itself, but not for advice on their personal interests such as strategies for defeating the recall. All of the ordinary rules governing the rights and responsibilities of the board and unit owners remain in effect. For example, the challenged director or directors remain in office in the meantime, and the board still determines the date, time, and location of the recall meeting. The board cannot withhold the condominium’s records from or otherwise mistreat the insurgent unit owners, who must in turn continue to pay their common charges and obey the community’s rules of behavior.

*“Recall” is the procedure  
for removing someone  
from office by the  
vote of his  
or her  
constituents.”*



Marilyn Nieves/E+/Getty Images Plus

The recall meeting is conducted in accordance with the bylaws’ general meeting requirements. Agendas must be created, proxy forms must be verified, minutes must be taken, and even a president who is himself the subject of the recall effort would remain entitled to conduct the meeting (but would be wise to delegate that power to another officer anyway). A separate motion for removal should be made and seconded for each of the challenged directors, who have the right to speak at the meeting in their own defense and to cast their own votes. Although many older condominium bylaws require that at least two-thirds of the unit owners present vote in favor of removal for the motion to carry, since 2010, Connecticut law supersedes these provisions and allows a simple majority to remove any board member no matter what the bylaws say.

If the recall vote fails, the meeting often ends right then and there, and the board members remain in office. There is, however, no restriction on how soon or often the insurgents can initiate another recall effort. Nevertheless, the instability and animosity caused by frequent recalls – successful or not – are bad for the entire community’s property values, morale, recordkeeping, and relationships with managers and even vendors. No one enjoys living in or working with a community which is constantly in turmoil.

If the recall vote passes, the challenged board member or members are deemed removed immediately. Bylaws may or may not specify how their replacements are installed, other than to clarify that the remaining board members cannot exercise their usual power to appoint whomever they wish to fill the resulting vacancy. Traditionally and under most newer bylaws, the unit owners conduct a new election immediately at the same meeting with nominations from the floor,

[Continues on page 24.]

## FinanciallySpeaking...



Daniel Levine, CPA

### State and Local Tax Obligations

By Daniel Levine, MBA, CPA

While there is much discussion about taxes at the federal level, there are a lot of different tax types out there. The state of Connecticut has multiple different tax types and individual towns can levy their own taxes as well. This article will look to highlight and cover some state and local tax types associations may not be aware of but could apply in their specific situation.

#### Personal Property Tax

This is a tax that is levied based on the equipment and assets an association owns. For larger associations that have maintenance equipment, this might be a tax that they pay. The filing requirement comes from the town the association is located in. The calculation of this tax is determined by reporting total assets on hand at the start of the year, adding assets acquired, and subtracting assets disposed of during the period of 10/1 through 9/30 each year. Towns provide to associations a form for completion which is known as a personal property tax declaration to list these assets.

On this form an association lists all their equipment, vehicles, office supplies, etc. by asset class. These classes are further stratified by the year of their purchase date. Listing items in this manner allows the town to apply varying reduction factors to items which reduce the original purchase value of the item based on how old it is and what kind of item it is. This reduced value is then used when calculating the overall tax. The logic behind this is that different asset classes reduce their value at different rates (e.g. a computer vs. a desk).

The town takes these reduced values listed by asset class and determines the total value of assets held by the association which they then tax via the applicable mill rate. The town then sends the association an invoice for payment of this tax. There is no formal tax paid when completing the declaration. There are penalties for filing a late declaration which are typically a percentage of the assets listed which can be a large penalty in some cases.

#### State Income Tax

While everyone is aware of the income taxes paid to the federal government, the association is also responsible for its state income tax obligations. As with previous articles where we have discussed the types of income tax filings available, the association's state income tax obligations depend on how they file their federal return. Should the association elect to file their federal return under Internal Revenue Code Section 528 (filing form 1120-H) the association becomes



*"...Connecticut has multiple different tax types and individual towns can levy their own taxes as well."*

exempt from the state tax filings. A return listing this exemption should still be filed, despite listing only zeros.

Should the association choose to file their federal return under Internal Code Section 277 (Form 1120), the association is still subject to taxation by the state of Connecticut. This state income tax is the highest of the following three calculations:

- 1) A flat \$250
- 2) 3 and 1/10 mills per dollar of minimum capital.
  - a. Minimum capital is calculated by determining the average equity of an association from using the amounts at start and end of the year. This average then has the mill rate applied to it to calculate the dollar amount of tax.
- 3) 7.5% of net income as defined by Connecticut taxation rules less the applicable carryforward losses.

The state income tax return is due a month after the deadline of the federal tax filing. The Connecticut department of revenue service has also mandated electronic filing of corporate tax returns. To complete an electronic filing an association will need to know its state tax identification number. If no number has been issued, an association can file what is known as a REG 1 to apply for and be assigned a number by the state.

#### Sales & Use Tax

The last tax this article will highlight is the sales and use tax. This is a state levied tax most individuals are familiar with by paying it on their own personal purchases. Despite being a corporation, the association is also subject to sales tax on its applicable purchases. Sales tax is charged by vendors the association uses if those goods or services are applicable to the tax. Those vendors remit the tax to the state of Connecticut when they file their sales and use tax return and the association is not required to report the sales tax that they paid. Some



service providers are exempt from charging a sales tax and therefore may have no tax listed on their invoices.

While an association does not file a sales tax return, they may need to file a use tax return. Use tax returns become relevant if an association is buying items that would normally be considered applicable to have sales tax charged, but the association was not charged the sales tax. This occurs typically when purchasing items from out of state. These types of returns are typically rare for an association where most goods and services are sourced locally but could be applicable in certain situations.

Being a residential community, the association can mitigate its sales tax obligations by completing and submitting to certain vendors a form known as a CERT 103. This cert lists what percent of units were not owner occupied and requires vendors of specific services to charge sales tax based on the percentage of non-owner-occupied units. Completing a CERT 103 annually can help an association save money on the amount tax that is being charged.

### Conclusion

As can be seen there are a wide variety of taxes that an association can be responsible for. Having a general understanding of taxes and when they are due and what is required to file can help an association stay compliant and avoid penalties. ■

*Dan Levine, MBA, CPA is a Certified Public Accountant at Tomasetti, Kulas, And Company P.C. Dan has extensive experience with tax and attestation services to condominium associations from all around Connecticut. Dan is an active participant in CAI-CT related programs and can be found presenting accounting best practices at these events throughout the year. Dan is also a member of our At Large Legislative Advocacy Committee and serves on the CAI-CT Board of Directors.*

## Take Action with Authority

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## Golf 2022 – Green & Glorious

Our Annual Golf Tournament was a wonderful event! 110 golfers and lots of terrific volunteers enjoyed one of the most spectacular weather days of the year out on the Lyman course. Everyone had a fun time on the greens. We introduced a new game this year – Blind Nine (Thanks, Bill Ward!) which added a bit more variety to the day. The Golf Committee is hard at work planning the 2023 tournament. They are actively investigating potential new courses and seeking other ideas for including more opportunities for new contests.



(above) Stephanie Antriasian, Carrie Mott, Pam McCarthy & Kim Kurdziel — Bouvier Insurance



(above) Frank Goeckler & Alex Gritzuk — Bellwether Property Group

(below) Jonathan Fishman, Jeff Cody, BELFOR Property Restoration; Jim Torello, BELFOR Property Restoration & Melissa Selochan, Westford Real Estate Management



(below) Dave Pilon, CIRMS — Bouvier Insurance & Mike Famiglietti & Matt Caffery — CM Property Management & Chas Ryan, Pilicy & Ryan, PC



(above) Paul Gray, CertaPro Painters of Mystic-Glastonbury; Mathew Lisee, CertaPro Painters of Mystic-Glastonbury; Josh Parsons, Sound Real Estate Management & David Messier, CertaPro Painters of Mystic-Glastonbury

***Our wonderful Golf Committee is a terrific group that has great energy and ideas. We appreciate all of their hard work!***

Carrie Mott, EDP, Chair - *Bouvier Insurance*

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(left) Mark Liberman, On the Mark Management LLC; James Whetzel, Fairfield County Bank; Kevin Dzikowski, On the Mark Management LLC & Scott Cronin, Fairfield County Bank



(above) Ron Barba, Bender, Anderson & Barba, PC; Joe Perrelli; Norm Goodman, Norman Properties & Walt Spader



(above) Angelo D'Aleo, GAF; Jack Carrol, Luke Carroll & Jim Carrol — JP Carroll Roofing

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*GOLF... continued from the previous page.*

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Jonathan Chappell, Esq.

## Electric Vehicle Charging Stations: *What Every Association Must Know*

By Jonathan Chappell, Esq.

In May, our General Assembly enacted Public Act 22-25, “An Act Concerning the Connecticut Clean Air Act,”<sup>1</sup> which becomes effective on October 1, 2022.

The Act will make unenforceable any document provision that prohibits or unreasonably restricts the installation or use of electric vehicle charging stations. This article provides you with an outline of the legislation and its procedural and other general requirements. Additionally, characterized below as “alerts,” are two items which this lawyer believes are imperative for your board to consider. This article cannot act as a substitute for your discussion with the association’s attorney.

### ASSOCIATION “ALERTS”

Below is an outline of the general requirements of Sections 2 and 3 of The Clean Air Act.<sup>2</sup> Readers are first directed to a couple of items that a board must think about.

#### Automatic Approval

One of the important items is the potential automatic approval of a charging station. Subsection (d) warrants a quote and a highlight in bold:

The approval or denial of such application shall be in writing and shall be issued not later than sixty days after the date of receipt of such application. **If an application is not denied in writing within such sixty-day period, the application shall be deemed approved, unless the board of directors reasonably requests additional information not later than sixty days from the date of receipt of such application.**

Subsection (d) gives an owner a right to file an application where it will be automatically approved unless the board acts within 60 days.

A board must have a plan in place for processing applications before October 1st when the Act becomes effective. A board may already have a review process in place – the review of unit owner proposed additions. A board may want to adopt or amend something specific to this issue. With nothing in place, the Act may mandate approval with no or limited regulation of the charging station. It is better to be proactive.

Subsection (g) authorizes a court to award attorneys’ fees to a prevailing party in litigation. Such an award would obviously compound the negative consequence of an automatic approval.

*“The Act will make unenforceable any document provision that prohibits or unreasonably restricts the installation or use of electric vehicle charging stations.”*



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### An Association Can “Opt Out”

In Subsection (h) there is a way for an association to make the requirements of the Act not applicable to it:

The provisions of this section **shall not apply** to an association of unit owners that imposes reasonable restrictions on electric vehicle charging stations or **has electric vehicle charging stations at a ratio that is equal to or greater than fifteen per cent of the number of units.**

Subsection (f)(1) permits *an association* to install a charging station within common elements for use by all owners and to adopt rules about the use of the charging station. Subsection (f)(2) allows *an association* to create a new parking spaces within the common elements for charging stations.

An association *can* decide to avoid processing individual applications, by instead building<sup>3</sup> a “charging bank,” which must include a number of parking spaces that is at least 15% of the total number of units. A board should survey owners to establish the current and future need for stations and perhaps seek information of related costs. This decision will likely be different depending on the community.

If there is a need and an association is comfortable with the costs, it may make sense for a community to construct the charging station, itself. However, this will take time, and a plan for October 1, 2022 is still necessary.

### GENERAL REQUIREMENTS

Subsection (b) of The Clean Air Act makes any document provision that “prohibits or unreasonably restricts” the construction or use of a charging station “void and unenforceable.” Subsection (a)(3) defines “reasonable restrictions” as restrictions that do not significantly increase the cost of installing the charging station, nor significantly decrease the efficiency or performance of the charging station. Whether a restriction is reasonable will most likely be reviewed on a case-by-case basis.

[Continues on page 16.]



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## EV CHARGING STATIONS...from page 14.

### The application procedure:

1. A unit owner may apply to install a charging station “in a unit parking space or in a limited common element<sup>4</sup> parking space;”
2. The board must acknowledge, in writing, receipt of the application *within 30 days*;
3. The board must review the application as that for a proposed addition, alteration, or improvement (which process your current documents may already include); and
4. The board must approve or deny the application in writing *within 60 days* of receipt to avoid automatic approval, unless its reasonably requests for additional information.

Pursuant to Subsections (e)(1), the board “shall approve if the owner agrees in writing to:”

1. Comply with the governing documents regarding additions, alterations, and improvements;
2. Engage a licensed and insured contractor to install the charging station;
3. Provide a certificate of insurance, within 14 days of approval, that demonstrates insurance coverage in amounts deemed sufficient by the board;
4. To pay for the costs associated with the installation of the charging station, including, but not limited to, increased master insurance policy premiums, attorneys’ fees incurred by the association, engineering fees, professional fees, permits, and applicable zoning compliance; and

5. Pay the electricity usage costs associated with the charging station.

Pursuant to Subsection (e)(2), after installation, the “unit owner, and each successive owner”<sup>5</sup> is responsible for:

1. The costs for damage to the charging station, common elements, or units resulting from the charging station;
2. The costs for the maintenance, repair, and replacement of the charging station until it has been removed;
3. The costs for the restoration of the physical space where the charging station had been installed after it is removed;
4. The costs of electricity associated with the charging station;<sup>6</sup>
5. The common expenses as a result of uninsured losses; and
6. Disclosing the following to prospective buyers of the owner’s unit:
  - i. The existence of the charging station;
  - ii. The responsibilities of the unit owner with regards to the charging station; and
  - iii. That the purchaser accepts the electric vehicle charging station unless it is removed prior to the transfer of the unit.

Pursuant to Subsection (f)(3) and (f)(4), an association may also:

1. Require the unit owner to remove the charging station prior to the owner’s sale of his or her unit, unless the purchaser agrees to take ownership of the charging station; and
2. Assess the unit owner for any uninsured portion of a loss associated

[Continues on page 22.]



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Amanda Mahaney

## Beneficial Buffers: *Native Plants for Ponds & Lakes in New England*

By Amanda Mahaney

Establishing a beneficial buffer around your lake or pond's shoreline and littoral zone can help reduce the likelihood of water quality issues and erosion damage. Buffers also provide habitat for native birds, help deter geese, and hinder mosquitoes by minimizing habitat for their breeding. Beneficial buffers should be composed of native grasses and flowering species and should extend three to five feet or more from the water's edge to receive maximum benefits.

Below are native buffer plants to Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. These plant species will help filter excess nutrients like phosphorus and nitrogen from enter-

### Some Buffer Plants Native to New England

Black cohosh	Cardinal flower
Black eyed Susan	Ostrich Fern
Bloodroot	Summersweet
Bulrush	Swamp milkweed
Button bush	White water lilly

ing the water column where they can potentially fuel algal blooms and nuisance aquatic plant growth. In addition, native plants can also help secure the shoreline with their roots, helping keep soil in place when natural erosion occurs.

Please reference the USDA plant database to confirm a plant is native to your area before adding it to your beneficial buffer. ■

*Amanda Mahaney, is an Aquatic Biologist with SOLitude Lake Management.*



Clockwise from left:  
button bush, ostrich  
fern, white water lilly,  
cardinal flower.



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## Manager's Column...



Rich Wechter, CMCA

### Being Practical, Part LXXIX

## Board Resignations-How to Prevent Them

By Rich Wechter, CMCA

In this column, I tackle various topics of interest with the intent of imparting practical advice. In this issue's column, I address the inevitable matter of board resignations and offer some ways to avoid them. My next article will be a companion piece on how to deal with board resignations when they cannot be avoided.

### A. Setting the Table on this Topic

Jack London noted, "Life is not always a matter of holding good cards, but sometimes playing a poor hand well." It is easy to function as a board member when things are quiet and there are no significant issues that require thought or action. However, life is not that easy. Problems will arise and board members are going to have to deal with them as part of the duties and responsibilities they must accept when joining a community association board of directors. The great author Ian Fleming once noted that: "Everyone has the revolver of resignation in his pocket." For some of us, stepping down from adversity seems the only sane and logical option we have. I would suggest otherwise. As Kohta Hirano noted "Resignation is what kills people. Once they've rejected resignation, humans gain the privilege of making humanity their footpath."

I look briefly on how to prevent board resignations.

### B. How to Avoid Board Resignations

I offer just a handful of ways to avoid board resignations. In providing this list, I fully recognize that some board resignations are unavoidable (illness, death, selling a residential unit, pressing business or family matters to name a few).

1. Keep civility in play both at board meetings and in dealing with the community association members themselves.
2. Accept the fact that as a board member, you have a large target on your back.
3. Learn to separate your board life from your personal life and business life. In almost thirty years of involvement in one form or another in community associations, I have seen far too many board members allow their board life to overwhelm their personal life and interfere with their business life. This is in my opinion the number one reason why board members resign their positions before their term is up.
4. Look to include others in what you do for the community. Do not isolate yourself from others allowing no input or consent from your fellow board members. A runaway President may provide



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*"...do not make a decision on resignation in anger. It should be the last resort of a board member."*

a tremendous amount of effort and results but will likely lead to frustrated fellow board members and finally to an embittered President who, when faced with the consequences of their solo flight, will not be able to handle the fallout from their solo act.

5. Seek consensus from your fellow board members and community residents. You may always be right in your convictions but be unable to accomplish anything despite your convictions.
6. Accept the fact that while you may be the smartest person in the room, that will not always get others to agree with you.
7. Accept the concept that baby steps are always better than no steps at all. Take the minor victory on the battlefield and live to fight another battle tomorrow.
8. Avoid taking matters personally. Remember the immortal words of Tom Hagen in the original Godfather movie, "It's not personal Sonny. It's strictly business."
9. Deal with the reality that when faced with two equally tough choices, many people will elect to avoid selecting either tough choice. The head in the sand approach of some is a reality that we all have to deal with.

10. Do not, I repeat, do not make a decision on resignation in anger. It should be the last resort of a board member.
11. Discuss your concerns with your community association manager who after years of experience is trained to talk almost anyone off a cliff.
12. Finally, discuss your issues with your fellow board members. They may be having some of the same thoughts and having a frank discussion with them may prove beneficial to everyone.

### C. Conclusion

Everyone on this earth has a breaking point when nothing will change one's mind to resign. We are only human. However, the desire to move forward and get through the tough times as a board member must overcome the pain and suffering from the day-to-day difficulties that some board members experience. The cliché "Suck it up buttercup" may be a bit too clever to note here, but perhaps it is spot on. What does not kill us does indeed make us stronger. In conclusion, I would urge board members to be those buttercups, handling the bumps and bruises of board membership and sticking it out to reach a better place. I hope that this article will encourage board members to avoid the last resort act of resignation from the board and work out the issues that have gotten them up to but hopefully not over the inevitable cliff that we find ourselves dealing with in our lives. ■

*Rich Wechter, CMCA is Senior Vice President at Westford Real Estate Management, LLC. Rich serves as a LAC Delegate and a member of the Legal Symposium Task Force.*

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Timothy Wentzell, P.E.

## TECHNICAL EXPLANATIONS

*This column appears in each edition and is intended to touch on technical topics of general interest to common interest associations. Topics will be of a general nature, but I will also accept and respond to questions from readers. On occasion, it will be guest authored when topics can best be addressed by experts in other fields.*

### How is a Reserve Study Really Used?

By Timothy Wentzell, P.E.

This title implies some sinister motives. That really is not the case, but we have found through our many years of preparing reserve studies that people's perception of a reserve study and its benefit to the association can vary significantly. The obvious answer to this question is to accumulate funds so they will be available when large capital projects are needed. However, more importantly, it becomes a good planning tool for an association, although there are some shortfalls that need to be understood and considered. A reserve study can have great value, but the limitations of what a reserve study can do, or more importantly can't do, need to be understood.

When preparing a reserve study, for example, an item that often is included in a reserve analysis is when will the need for a roof replacement occur? This is usually one of the two or three largest expenditures facing a common interest community. The reserve study, for example, may speculate that in year twelve a roof replacement will need to be done and may have a cost of \$400,000. Likewise, for instance, the same association's reserve analysis may state that in year fifteen the pavement needs to be done and this might have a cost of say \$500,000. These dates and costs obviously have a range, and often this range can be very significant resulting in a reserve balance which may or may not be sufficient. The timing may vary as well. For example, roofs may have significant ventilation issues, suffer future ice damage, or have unnoticed manufacturing defects, which may not be obvious at the time of the reserve study preparation. These can result in a wide range of variance regarding when this expenditure may be needed.

Correspondingly, relatively new pavement may have a wet sandy base, which would not be known to the reserve study preparer and which can cause accelerated deterioration, or numerous other defects such as thin pavement, or other problems which would not be readily obvious until the pavement ages much more significantly. Correspondingly, the cost for these replacements could vary significantly from the period of time when the reserve analysis is prepared. Pavement is an excellent example of that. The raw material used to make pavement, in addition to sand and aggregates, is crude oil based and we all know how this cost can vary. Shingles use a fair amount of asphalt as well. Another example of this could be siding. Siding can



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The Foundation for Community Association Research has a series of Best Practices Reports. One item from the Reserve Studies/Management Report #1 states:

**COMMUNITY ASSOCIATIONS SHOULD** conduct regular reserve studies to assist community leaders in determining the appropriate amount of reserves needed to fund replacement costs and the most useful funding mechanism for their reserves.

**To view the full report, go to:**

<https://foundation.caionline.org/wp-content/uploads/2017/06/bprs.pdf>

be affected by many environmental factors, but perhaps even more by perception of the association. What looks good to one association may look terrible to another and this being so subjective can be an area of subjectivity on the part of the preparer of the reserve study as well.

I remember recently meeting with an association to review the bids for an upcoming paving program where we had done a reserve analysis for this association approximately seven years earlier. A complaint was received from one board member that the pricing that we had received for the paving was five percent higher than what our reserve analysis had speculated. I remember thinking during his statement something to the effect of "damn we're good", until he went on and on asking how we could be so far off. I guess reinforcing the age-old adage; beauty is in the eye of the beholder? One would think that an estimate done seven years earlier that came within five percent of cur-

[Continues on page 22.]



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## TECHNICAL EXPLANATIONS...from page 20.

rent costs would be considered good by most observers.

Does this mean to imply that a reserve plan is unneeded? No, I would argue just the opposite. The greatest benefit of a reserve plan is really that by having approximately appropriate amounts available, an association can have the ability and flexibility of making the judgment calls of when the time is appropriate for large capital projects. The reserve study gives them guidance in and advice on how to make those important decisions but understanding that things need to be adjusted over time. Just like I have often thought that the distinctive dividing line between folks that are well off or not, is whether they are a payer or receiver of interest. That is, do they pay someone else for the use of money or receive payment for the use of their money. An association is likewise able to conduct its business in a proactive basis if they have appropriate funds set aside as opposed to being in the opposite position. The reserve study can put them in that position by guiding them what the reserve balance should be as they go along as well as estimating when and how much, appropriate projects will result in the use of those reserve funds. A similar analogy might be if one was to strike off for vacation in Maine we wouldn't take any route labeled east in order to reach our destination, but instead would plan the most effective route understanding full well that there might be obstacles such as traffic jams or construction along the way. ■

Please address any questions or areas of interest that you would like answered in future columns to Timothy Wentzell, P.E., (e-mail: [ConnPropEng@cox.net](mailto:ConnPropEng@cox.net)).

## EV CHARGING STATIONS...from page 16.

with a charging station, whether resulting from a deductible or otherwise, regardless of whether the association submits an insurance claim.

Your board should discuss this, including the needs of the community and whether the association might plan a project to preemptively install charging stations and how to regulate use. The board must be prepared for October 1st, when it may receive individual owner applications. ■

*Jonathan Chappell, Esq. is an attorney in the law firm of Feldman, Perlstein & Greene, P.C. based in Farmington, CT. Jonathan serves on our At Large Legislative Advocacy Committee and is a member of our Publications Committee.*

### END NOTES:

- 1 Available at: <https://www.cga.ct.gov/2022/ACT/PA/PDF/2022PA-00025-R00SB-00004-PA.PDF>
- 2 Section 2 applies to communities created before January 1, 1984 and Section 3 to those created after that date. The requirements in these Sections are basically the same and this article will refer to Subsections together.
- 3 An association that already has enough charging stations in the common elements may do nothing. This seems unlikely.
- 4 If the parking space is a limited common element allocated to more than one-unit, written approval of each owner is required.
- 5 Because of the inclusion of a successive owner, it seems best to execute and record an agreement on the land records.
- 6 Subsection (e)(3) provides "[a] unit owner shall not be required to maintain a liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug."



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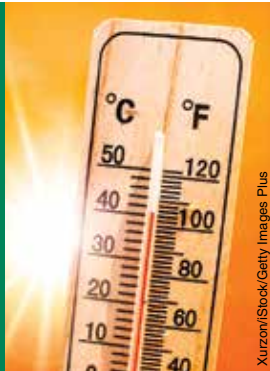
When the temperatures soar outside, many people keep their homes cool with air conditioners. This costs Americans about \$11 billion a year. Sadly, those air conditioners release about 100 million tons of carbon dioxide into the air annually — two tons for each home that has one.

Given the demand for home air-conditioning systems in the U.S. at a record high, the impact of summer cooling on the environment is probably going to get worse.

However, there are a few things you can do in order to cool off, save money, and make a significant reduction of your carbon footprint

These strategies may help for cutting costs and energy consumption with your air conditioning system.

1. Keep the filter clean. Dirty filters limit airflow and make the unit run longer. Clean or replace the filter every month or so during the summer.
2. Make sure your air conditioner is in good working order. Air conditioners require professional maintenance to keep them working effectively. A tune up every few years is a good idea.
3. Shade your air conditioner. Don't locate central air conditioners in direct sunlight. Place window units on the north side of your house, which remains more shaded. A shaded air conditioner uses up to 10% less energy to operate. ■



## LEGALLY SPEAKING...from page 7.

as long as this was specified in the written notice and agenda for the meeting. Whomever they elect takes office immediately and presumably serves a full term, consistent with any staggering required by the bylaws. The recalled directors remain fully eligible to run again for any later opening on the board or even to be appointed by the board to fill a subsequent vacancy other than the one created by their own removal.

The change in leadership which follows a board recall does not itself undo completed actions of the previous board, even if those actions were what motivated the recall in the first place. A prior board vote approving an unpopular measure would need to be timely rescinded in a new vote, for example. A signed contract with a manager or other vendor could not simply be disavowed, but would instead continue to bind the association until its expiration date or any termination provisions in the contract are followed. In addition, state law prohibits recalling the boards of taxing districts, with which many condominium boards have members in common. For all of these reasons, insurgents who successfully take over a condominium board often find it is difficult or even impossible to change the community's direction as radically or as quickly as they may have hoped. ■

*Adam J. Cohen is an attorney with the Law Firm of Pullman & Comley, LLC headquartered in Bridgeport, Connecticut. As the Chair of its Community Associations Section, he represents and gives seminars to condominiums, tax districts, and other communities in matters ranging from amendments of governing documents to revenue collection strategies and commercial disputes.*

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**Undisclosed Condo Special Assessment****A.J. from Middlesex County writes:**

Dear Mister Condo,

Is there anyone in this state that can help me? I have called every agency. I am facing foreclosure, the association called my bank as I owed \$2,000.00 for a special assessment, I didn't even own here then they tacked on \$1,200.00 in late fees. The bank has added it to my loan which was down to \$179K. It has affected my credit. I have 3 months left, I can afford this place. I was not made aware how disrepair it was in. I put \$20K into it. Please help.

**Mister Condo replies:**

A.J., I am sorry that you find yourself in the middle of this debacle. The reality is that the condo association has every right to levy a Special Assessment. If an owner (you) does not pay that assessment, they have every right to actively pursue remedy against you, including referring the matter to a collection agency for collections action and, failing a successful outcome, an attorney for actual foreclosure action. You mentioned that you didn't own when late fees were tacked on which makes it sound as though the Special Assessment had already been levied before your purchased. If that is true, and that information was not revealed to you by the previous owner, you may have action against the previous owner. I am not an attorney and offer no legal advice in this column. State agencies won't help you with a personal lawsuit against the previous owner so do yourself a favor and contact an attorney to discuss the liability of the previous owner to disclose the Special Assessment. If they did something not in accordance with state law, you may have a case. Good luck!

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