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# *Proactive Association Management*

By **Gail Blecher, CMCA®, AMS®,** President, *Diamond Management LLC*

Are you managing the association or are you allowing the association to manage you? We all want to be proactive managers but what does that entail and how do you deal with all the items that creep into the day preventing you from dealing with the tasks that you planned to accomplish?

First, let's determine if you are a reactive manager vs. a proactive manager. Are you running from one crisis to another and ending each day with a mountain of to-do's that keeps getting longer and longer, are your board members driving your tasks list for the community, or are the homeowners, or contractors? Do you feel like you are going from one board meeting to the next and have no time in between to address any of the action items from the previous meetings? If you are doing this most days, then your community may be running the show and that will lead to the Board not feeling supported by their manager. We have all been there when we start a day, walk into the office ready to tackle a to-do list, and then the phone rings or you receive an email and the first crisis of the day needs to be addressed, next thing you know its 5 PM and all you did was help poor Mrs. Smith with her leak in her condo unit and then Mr. Miller with a sinkhole in the common area next to his lot, your to-do list wasn't touched and you just added four more things to it for tomorrow. The key to proactive management is to deal with these issues and still have time to work on the to-do list and not let it become an everyday occurrence.

There are several best practices to being a proactive manager, including utilizing a management plan, an action item list, and completing regular inspections. Proactive management also involves time management, communication, and having a vendor list of responsive, knowledgeable, and above all trustworthy vendors.

Time management is an essential step toward proactive management. Controlling your time helps you stay focused and gives you the ability to utilize the other tools to be a successful manager. Start each day with a list of the six most important items to accomplish for the day. This helps you stay focused and six, is a reasonable number that allows for time to address any mini crisis that pops up continually in this field. Start with a small task, then move to a more challenging task. The reason to start with a small task is it won't take a lot of time and by knocking one item off this list, you achieve a sense of accomplishment. This helps with the motivation to tackle that challenging task you dread that may take a few hours.

Management plans for each community you manage will assist you to stay on top of items and ensure you are focusing your time on the items that need attention as well as assist the Board. Review the management plan each month to see what contracts are up for renewal in the next three months and what the renewal options or cancellation requirements are. The management plan will also remind you when regular maintenance

items are due, such as power washing the buildings or every 5-year painting schedule for the building exterior. Communicate with the Board on each of these on a monthly basis in your management report. Make sure the Board has the information they need to assist with the request for proposal (RFP) or hiring a professional to draft the RFP or a project manager depending on the scope of work.

An action item list builds off the management plan but also each month during the meeting, keep a running list of action items from the meeting to help you focus on the tasks for each community. Review the action item list each month with the Board to share the status of a task and what you have accomplished. If an action item is assigned to one of the board members or committee members follow up with them before the meeting to see if they need any assistance but also to remind them to have an update for the Board. Some communities keep the action item list review as a standing item on the agenda under old business. To assist the Board President prepare for the annual meeting, keep the list of accomplished action items at the end of the report for the preparation of the President's Report. This provides an update to the owners on the Board and Managements' accomplishments for the year. Also, as a manager, you can share with the Board all the work you have completed for the community when it comes time for a contract or management review for the Association.

Inspections are another way to stay proactive in managing the community. Look at the common area amenities, is the roof looking like shingles are missing, does the pool deck need a good scrub before opening for the summer, or is a sidewalk slab starting to sink, creating a trip hazard? Discuss with your contractors to obtain the proposals for the work and present them to the Board. Being proactive involves looking for potential issues before they become bigger issues. For example, the sinkhole next to Mr. Miller's lot, did you notice it on the last inspection? If you did and addressed the problem with the landscaper or a stormwater contractor, you may have prevented Mr. Miller's call or been able to tell Mr. Miller you are aware of the issue, and the contractor was on schedule to repair without having to take additional time out of an already busy day.

Remember that phone call from Mrs. Smith about her roof leak and how it took half of your day to resolve, find a vendor who could get out there, stop the leak and then be able to repair the damage? Having a strong vendor list for your communities and having knowledgeable and trustworthy vendors will go a long way in assisting you with being proactive and keeping you from running from one crisis to another. Being able to call a contractor, explain the situation and then let them take care of it, knowing they will do it right the first time and ensure Mrs. Smith is happy is crucial. It keeps you from dealing with multiple calls from Mrs. Smith or possibly from dropping everything to run out there and

inspect the damage yourself. Your contractor should be able to go out, meet Mrs. Smith, take pictures, make the repairs, or do what they can to stop the leak until they can make the repairs and communicate to you without you ever leaving the office, so you are able to focus on other tasks. Vet your vendors, call for references, and inspect their work. If you are not knowledgeable about the project they are doing, then contact a professional who can assist you with the inspection of their work. Talk to the owners after the contractor completed a project and ensure they were happy, if not quickly address any concerns.

The most important step of being a proactive manager is communication. Communication between the manager, board, owners, and contractors is essential in this field, especially to ensure you are being proactive. Make sure you let your Boards know when you will be in the community for inspections, and ask if they have any concerns they would like you to check on. Send them a report after the inspection or include it in the board package each month. Ensure you communicate when contracts are coming up for renewal and the cancelation clause requirements. Communicate with owners, address their repairs in a timely manner, let them know when the contractor is expected, and let them know if there will be delays. Return the messages in a timely manner, don't let Mr. Miller's sinkhole just keep expanding along with his frustration because he did not hear back from you. The last thing a manager needs is walking into a meeting with Mr. Miller telling the Board he called not once but four times and never heard from you. It is better in most cases to address the owner immediately and if necessary, tell them you will investigate the issue and get back to them in a few days or a week but then get back to them if only to say you are still working on the issue or you have a solution and here it is. The owners will appreciate your honesty and the fact that you are keeping them informed of the process, even if it isn't the best news or what they want to hear.

Taking control of managing the community and being proactive involves communication, utilizing a management plan and action item list, and time management. One of my favorite quotes from a friend is, "Don't confuse effort with results." By focusing your efforts, you will achieve results and take back control of managing your communities.



Gail Blecher is the President of Diamond Management. She has over 10 years of Association management experience with another 10 years of Real Estate development and management. She created Diamond Management to bring high quality, personal relationships between a manager and their communities.

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Rebecca (Becky) Gehl, CPA, has been a part of DesRoches & Company's journey for more than twenty years; specializing in providing tax, audit & accounting services to condominium and homeowner associations. She is essential in conducting our mission and helps us invest in our team with her compassionate leadership and direction. We heartily believe that our people are our most valuable asset, and she embodies that statement. She is deeply involved in the development and training of our staff, passing on her wisdom and knowledge to make the company stronger. Becky is as enthusiastic about her life outside of the office as she is about company growth. Her commitment to a work-life balance has made her an incredible role model for our entire staff. For all these reasons and more, it is our honor to begin the New Year on January 1, 2022, with Becky's promotion to Partner.





# "Post Covid" Pool Season

By **Continental Pools**

As we prepare to dip in our local community pools for another season there are still uncertainties from the repercussions of the pandemic crisis. Even with relaxed COVID restrictions, we expect the 2022 swim season to be a challenge. The primary concerns are the labor shortage and supply chain issues. An awareness of these headwinds is an important part of navigating the pool season and managing resident expectations. These hurdles can be somewhat mitigated by making decisions early and maintaining good faith communications with your pool service professional and community residents.

The national labor shortage and COVID has drastically affected the lifeguard sector and the impacts are felt by all companies providing the service. The recruitment of seasonal lifeguards was essentially shut down in 2020 and limped back in 2021. The resulting deficit will

have a long term effect on the lifeguard labor market. The majority of pool staff are hired at age 16 and they will return from year to year as they transition from high school to university. With the employment gap caused by COVID, potential lifeguards may have found employment elsewhere and never began their poolside career. As the minimum wage rises, other jobs become more desirable than before.

Worker expectations have been changing and the pandemic has accelerated a demand for improved working conditions. Many people are looking for better working environments. Even the work from home alternatives are also impacting the lifeguard market and lifeguarding from home is obviously not an option!

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at your community pool is to sign your management agreement as early as possible. The earlier your vendor can start recruiting for your community pool, the more opportunities they will have to hire a full staff. There are actually several local swimming pool companies that have stopped taking contracts as of January 2022 due to the labor shortage. Another tactic we've seen communities do to support mutual success is to share their pool professional's job postings and training opportunities with their resident networks. This can help bring in additional candidates and raise awareness of the opportunities for work in the area. We have seen much success with this approach.

While there are some tangible benefits to working as a lifeguard, they also spend 8 to 10 hours a day exposed to the sun and heat with minimal breaks. This job also demands certification and licenses, requiring base level skills and an investment in time that other jobs do not require.

When it comes to improving work conditions, consider reducing operating hours and dates to reduce the number of guard hours required to operate the facility and improve worker conditions. The optimal day is from 7-8 hours and a weekends only strategy while school is in session reduces inconsistent service at the start and end of season. Support the guard team if they need to clear the pool for breaks and to perform secondary duties. Take a look at the lifeguard station, does it have ample shade? Is the chair in good condition and reasonably comfortable? Are clear rules for patrons posted and enforced among residents?

The international students who have participated in Summer Work and Travel have been impacted as well. Geo-political strife, COVID vaccine requirements and unpredictability in the program has reduced participation. In the past two years, students have planned on coming to the USA to work. In both these years, embassies have been closed and travel restrictions have made it impossible. There are many students that are not willing to pay money and risk losing those funds when the program is canceled. This has created many challenges for companies that depend on these programs and further tightened the labor market for all

If your property has a swimming pool, you can mitigate many of these issues with clear and early communication and some proactive decision making. COVID's grip may be waning but the effects will be lingering for a while still.

The supply chain disruptions seen across all industries remains a pool operator's constant frustration. The supplies and equipment used at your swimming pool range from computer chips to chemical staples. Since swimming pools are not the highest priority to chip manufacturers, the pool industry often finds itself in competition with automakers and other industries for these vital components. They can turn a large profit on their existing inventory and auto makers are willing to pay a hefty premium. Existing replacement parts previously earmarked for repairs are being consumed to manufacture the complete new products.



You may have been able to easily replace an impeller on a pump but, today, it is increasingly more difficult to acquire the impeller alone. Many chemical plants in the US have issues with natural and man made disasters. This has slowed or halted production of many chemicals that are required for your pool. In many cases we are seeing products, parts and chemicals costs increasing as much as 140%. Last season we saw the price of pool chemicals and parts increase on a weekly basis.



As a community manager or board member we provide the following actionable advice to help We have found the best way to mitigate a staffing shortage



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# So You Joined the Board...*Now What?*

By **Don Plank, AMS®, PCAM®, National Cooperative Bank**

Bravo to the many homeowners who have either sought or agreed to serve as a member of a community's board of directors. A well-functioning board is vital to the health and success of any community. Below is a summary of some of the top tips for new board members gleaned from experienced board members, managers, community association attorneys and business partners.

## Tips from Management

**1) Do Your Homework.** This takes multiple forms, mostly in the way of being informed. One primary way is to prepare for board meetings by reading the board packet management prepares – if you are a managed community. Knowing the background of any issue on the agenda makes for much smoother meetings as well as better and more timely decision making. Another way to do your

homework is to review old minutes. Minutes from prior board meetings hold a wealth of information. It's surprising how many times a similar issue may have arisen in the past, and minutes will often give insight into why and how an issue was handled.

**2) Don't Jump to Conclusions.** Remember that we often don't know the whole story behind some action that may have or may have not been taken in a community. Have an open mind and try to form a constructive partnership with management/business partners. Those relationships are key to your success.

**3) Be Aware of Fiduciary Duties.** As a board member, you now have fiduciary obligations to the community. A good way to view what being a fiduciary means is to remember that you are always required to act for the good of the organization



**2) Have Thick Skin.** You will be criticized. Rarely will you find 100% agreement in a community. Owners may be frustrated and may take it out on you. Remember. It's rarely personal.

**3) Be Involved.** Know what is happening with other board members and committees. You don't want to be surprised about a new issue/conflict, etc., at a board meeting.

**4) Take Responsibilities Seriously.** As a board member, you are likely helping oversee a community that represents the largest asset many people have – their home. Respect that and show it by taking your position seriously and putting in the necessary effort and time to make the best decisions you can.

and not for the benefit of yourself. This can take many forms, from the contracts you approve, to rule enforcement, to the consistent and timely collection of assessments.

**4) Review Liabilities and Responsibilities.** This ties into being a fiduciary of the community. As a board member, be measured with your comments and actions. Review what having Directors and Officers insurance means. It doesn't give blanket coverage to any action you may take as a board member.

**5) Be Involved in CAI** (Community Associations Institute). Roughly speaking, CAI is the trade organization for community associations and provides a wealth of helpful training information for board members. There are many chapters across the country, including our local Southeastern Virginia Chapter. Check it out and consider becoming a member today.

## Tips from a Board Member

**1) Know Your Governing Documents.** Being familiar with all your governing documents is definitely a must for any board member. This means reading more than the rules section of the bylaws. Read them all - declaration, bylaws, resolutions adopted throughout the years, etc. You may even have articles of Incorporation and numerous amendments. Also be sure to become familiar with the hierarchy of the documents. This is important. For example, resolutions adopted by the Board cannot contradict bylaws as bylaws are higher in the hierarchy.

**5) Become Involved in CAI.** Attend the local chapter's CA Day held annually in the spring. From meeting vendors to attending various education classes, you will learn a tremendous amount in just one day. In addition, the Southeastern Virginia Chapter of CAI has a wealth of information as does the national CAI website.

## Tips from an Attorney

**1) Get to Know (and really know) Your Governing Documents.** Community associations are governed by a set of governing documents that serve as the foundation of your association's authority, rights, and responsibilities (among other things). Governing documents typically consist of a Declaration, Articles of Incorporation (if incorporated), Bylaws, Rules and Regulations, and Architectural Guidelines. Boards should consider providing new (and existing board members, if not already done) a binder that contains complete versions of the governing documents. Board members should read and become familiar with the governing documents as they provide the framework on which the board and association operate.



## 2) Request a Board Orientation or Board Training.

Community associations are unique entities that have attributes of business and government and place individuals of different backgrounds and experiences at the helm. A board orientation for new directors and/or yearly board training for the entire board help ensure that board members understand their and the association's roles and responsibilities, in addition to statutory requirements (think fair housing laws, Virginia Property Owners' Association Act, Virginia Condominium Act, federal satellite regulations, etc.). Training can be conducted by the association's management team, legal counsel, or a combination of both. CAI also is a great resource for educational programs throughout the year. Taking the time to educate and invest knowledge in your board members will help lay the groundwork for a well-run association.



## 3) Work with your Association Manager.

If your community association is professionally managed, reach out to your association manager to schedule some date(s) and time(s) to learn about the management-aspect of the association. Your association manager is a trained professional, who implements the day-to-day operations of the association, and works at the direction of the board, and is thus an important partner in carrying out your duties. It may also be beneficial to review the management agreement so that you understand the contractual arrangement with the management team.

## 4) Understand Open Meeting Requirements of the Board.

Meetings of the association's board of directors are where the business of the association is discussed or transacted. Both the Virginia Property Owners' Association Act and Condominium Act mandate that all meetings must be open to all members or owners of record. This also includes all association committee and subcommittee meetings. Both acts prohibit the board

from using work sessions or other informal gatherings of the board to circumvent the open meeting requirements. Nonetheless, both acts permit the board to convene in executive session for very limited purposes following specific procedures. Thus, new (and returning) board members should familiarize themselves with the statutorily-mandated board meeting requirements.

## 5) Be a Prepared and Informed Board Member.

Serving on the association's board of directors is not a passive role. Board members have fiduciary duties to the association that require active engagement and knowledgeable involvement about the association's affairs and business. At a minimum, this requires board members to: (a) know the association's governing documents to understand the association's rights and responsibilities, (b) review board meeting packets in advance of the board meetings to be prepared, (c) attend board meetings, (d) consult experts when needed to make educated decisions, (e) understand the association's financial statements and regularly review them, (f) be familiar with and review the association's reserve study, and (g) act in the best interest of the association and not for personal gain.



Don Plank spent 9 years managing community associations before assuming his current position as Vice President of Association Banking Services at National Cooperative Bank. Don is involved in multiple chapters of CAI and is an active committee member in each one of them.

## thanks for the tips!

**Management Tips** – Brian and Jen Reese are the owners of Community First Management. Community First Management has been in business since 2011 and provides management services to homeowner, condominium associations and co-ops throughout the Greater Hampton Roads and northeast North Carolina areas.

**Board Member Tips** – Chandler Calvert is a resident of The Villages at West Neck in Virginia Beach and is a board member of both the West Neck Community Association and the Wordsworth Condominium Association.

**Attorney Tips** - Kathleen W. Panagis is an attorney with Vandeventer Black LLP and a member of the firm's Community Associations law team. With more than a decade of experience, she serves as general counsel to homeowner and condominium associations located in Virginia. Kathleen serves as a member of SEVA-CAI's Board of Directors and serves on the chapter's Executive Board. She frequently teaches at chapter events and regularly authors articles for SEVA-CAI's Currents publications.



# Why and When Do Associations Need Legal Counsel

By **Brett C. Herbert, Esq.**, *Gordon Rees Scully Mansukhani*

Community associations operate at the complex and multi-faceted intersection of business and community. From vendor contracts to emotional support animals, it is no secret that community associations face a wide variety of legal issues. Despite being typically operated by all-volunteer boards, community associations routinely face legal issues that impact the community association itself and its membership. A community association ought to consult with its legal counsel when facing legal issues. The failure to do so can have wide-ranging implications.

This article covers the basics of why a community association needs legal counsel, and some common

situations in which consulting with legal counsel would be a good idea.

## *Why Do Community Associations Need Legal Counsel?*

There is no doubt that community association board members are hard-working folks doing their best for their communities. However, the scope of legal matters faced by community associations is wide and seemingly ever-changing. The issues facing community associations can be complex.



Consulting with legal counsel can help minimize potential legal liability. The financial costs of not engaging legal counsel when faced with a challenging legal problem can be considerable. Lawsuits may arise out of a community association's failure to carry out a duty set forth by law or the governing documents.

The community association may also be prejudiced in its rights relating to the prosecution or defense of claims. These failures may result in lawsuits brought against the community association and even the directors themselves, which can lead to potential claims on the community association's insurance policies, as well as potential legal liability for the

community association and the members of the board.

As a legal matter, community associations are typically considered separate legal entities – most often, non-stock corporations – with specific legal requirements, obligations, and duties. Their legal obligations and duties are set out by law and in the governing documents of the community associations themselves. Complying with these legal duties and obligations is required. Additionally, individual directors on the boards owe legally-enforceable fiduciary duties to the community association and members of the association.

Consulting with legal counsel is a way to minimize potential risk. Proceeding without legal counsel when disputes arise can be at the community association's and the board members' peril, as these disputes may result in litigation and legal liability on the part of the community association and the individual members of the board.

Legal counsel can provide guidance in complicated situations. Like any other person or company, community associations need guidance in complicated situations. Legal counsel can provide the board with competent advice on the issue at hand, as well as provide insight as to the potential future ramifications of a community association's actions or inactions in a given scenario.

Additionally, legal counsel can help boards make well-reasoned judgments at a time when emotions may be running high. It goes without saying that legal disputes are often stressful and emotional. Without steady legal advice, it can be difficult for even the most well-informed and skilled board to make and execute sound and reasoned judgments.

Consulting with counsel also helps members of the board carry out their fiduciary duty of care (one of the fiduciary duties discussed above). When faced with a legal issue, it could arguably be a breach of that duty of care for the board to not consult with legal counsel.

## *When Do Community Associations Need Legal Counsel?*

For a good number of the day-to-day activities of a community association, legal counsel may not be required. To be clear, obtaining legal advice on an issue is probably never a bad idea, however, there is, of course, a cost that comes along with obtaining it.

There is no way to create an exhaustive list of scenarios for when a community association should consult its legal counsel. However, below is a non-exhaustive list of situations where it is practically imperative for community associations to seek advice from their legal counsel (note: this is by no means a complete list of when a community association should consult with its legal counsel):

### **1) Filing any collections or covenant violation lawsuit (to include recording a memorandum of lien).**

**-Why?** A community association should have its legal counsel file any lawsuits or pleadings on its behalf. In Virginia, a community association, as a separate legal entity, typically may not be represented by a non-attorney in court. Moreover, any legal filing may be deemed a binding admission on the community association. As a result, making a mistake or assertion on such a document may result in prejudice to the community association in the future.

### **2) Facing a threat of a lawsuit or claim from an owner, third party, or governmental agency.**

**-Why?** Threats of litigation need to be discussed with legal counsel right away for evaluation and investigation, as well as other issues such as



document preservation/spoliation and strategy matters. Legal counsel should be well-versed to help the board investigate, evaluate, and respond to claims and threats of claims made by owners, third parties, or governmental agencies.

### 3) Amending the governing documents of the community association.

**-Why?** Amending the governing documents can be extremely technical as the community association must strictly comply with applicable law and the governing documents themselves in making any amendments. The failure to follow the appropriate procedures may result in the attempted amendment being deemed invalid. Additionally, the substantive contents of all amendments to governing documents ought to be discussed with legal counsel. As the governing documents “govern” the community association, it is critical to fully understand the substance of any contemplated amendments, and how such will affect the community association’s business.

### 4) Entering into any easement or maintenance agreement.

**-Why?** In addition to weighing the costs and benefits of taking such an action, the community association needs legal advice as to whether it may even take the proposed action under the governing documents and applicable law. Moreover, legal counsel is also needed to consider the wide-ranging issues that face community associations in these circumstances, such as what to include in the agreement itself, such provisions relating to indemnification and costs. The failure to properly address these issues can result in legal risk/liability on the part of the community association.

### 5) Dealing with a rogue director (a director who refuses to follow procedure, engages in self-dealing, or who is otherwise not carrying out his or her fiduciary duties).

**-Why?** Rogue directors can derail a community association’s business and lead to disorder and mistrust. Rogue directors can also lead to lawsuits and legal liability on the part of the community association. A board needs to engage legal counsel promptly to discuss the legal tools available to deal with a rogue director.

### 6) Interpreting an ambiguous provision in the governing documents, especially in situations where there may be a threat of a legal claim or other dispute between the community association and an owner or a third party.

**-Why?** Ambiguous provisions in governing documents typically require the analysis and guidance of competent legal counsel. Legal counsel’s advice on these issues can help guide the board in its decision-making and in its efforts to try to decipher meaning in an ambiguous provision.

### 7) Facing any administrative or regulatory claim, or a fair housing complaint.

**-Why?** Threats of litigation and claims need to be discussed with legal counsel right away so they can be investigated and evaluated. It is also important to discuss issues such as document preservation/spoliation with legal counsel.

### 8) Entering into a contract with a third party vendor or party.

**-Why?** Third party contracts are legally binding agreements. For this reason, it is worth having legal counsel review draft contracts. The failure to properly review these and have adequate protections in the contract may pose serious legal issues for community associations. Common issues in such contracts include indemnification, insurance, standard of performance, scope of work, and termination rights. Community associations face a variety of legal issues that are often hard to predict. As a board member, it is critical to know when and why to contact legal counsel. The failure to do so can result in serious legal risk to the community association. Every community association needs to have competent and disinterested legal counsel whom they can contact for such advice.



Brett Herbert is an associate at the law firm of Gordon Rees Scully Mansukhani, LLP who focuses a significant portion of his practice on representing community associations (homeowners associations and condominium associations) and developers.



# State of the Insurance Market

## *It's Going to Continue to Be a "Wild Ride" for 2022*

By **Connie Phillips, CIC, EBP, CIRMS**, *Connie Phillips Insurance Financial*

Higher claims and increased inflation have been causing increased premiums for your association insurance. It has been common in 2021 and 2022 to see double digit rate increases. Although we are seeing a slowdown in the rate increases, carriers are now increasing property values to match current building costs which result in higher premiums for 2022. Carriers are being aggressive and increasing property values based on their valuations.

At the time of the Surfside Florida claim on June 24, 2021, the total insured property value was \$30.1 million. It was estimated that total reconstruction costs for the building was closer to \$50 million. While no one can put a value on the 98 souls that were lost, the property values were underinsured by 66%!

The challenge for 2022 – All of our natural disasters, climate changes, hurricanes, floods, winter storms and wildfires are impacting today's pricing. In 2021, over \$92 billion in estimated property losses were paid in the U.S. alone. Increased frequency of these catastrophes across the country are affecting all property insurance. Rates will continue to trend upwards based on these weather-related losses.

Insurance carriers are reevaluating their portfolios and cancelling or adjusting unattractive risks. Stricter underwriting, large or "nuclear" liability jury awards, increased litigation and the "sue everyone in sight" mentality are all reasons you will see changes in your insurance in the years to come. Carriers are making changes that will impact your insurance, such as:

- Raising property valuations that result in increased premiums
- Lowering liability policy limits and not able to offer higher umbrella limits
- Adjusting or reducing coverages and terms
- Increasing property deductibles
- Adding coverage limitations on wind, hail, flood, and water damage
- Limiting or cancelling those associations with a poor claim history
- Limiting or cancelling coastal frame construction
- Limiting or cancelling buildings over 40 years old
- Discontinuing specialty insurance programs for habitational risks

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Most valuations are done based on replacement cost basis and need to be reevaluated based on actual reconstruction costs. Having the proper insurance coverage limits to meet these rising replacement costs is vital in the event the association suffers a property loss. With the demand for residential housing, the construction industry has had a major impact on these valuations due to:

- 1) Rising costs of building materials
- 2) Higher reconstruction costs to rebuild structures
- 3) Supply chain issues
- 4) Skyrocketing labor and material costs
- 5) Labor shortages causing construction projects to take longer to rebuild
- 6) Higher minimum wages
- 7) Greener building materials
- 8) Environmental impact regulating the effect of carbon in the atmosphere
- 9) Cost of renovations
- 10) New housing developments

Based on these challenges facing the construction industry, it is not unusual today for a major fire to cause contractors to take as long as 18 months to 2 years to rebuild. The construction industry will undergo significant changes in the coming years. Supply chain disruptions caused by the pandemic are expected to improve and stabilize by 2026. Let's hope it is much sooner!



Because of the delay in rebuilding, unit owners should check their insurance policies for Additional Living Expense (ALE) coverage. This coverage pays for the additional expenses to live elsewhere, until you can get moved back into your home. Typically, the homeowners policies limit the amount paid and unit owners can find themselves running out of coverage after 6 months! Review your home policy and make the necessary adjustments to ALE coverage. Try to extend the payments or coverage to a minimum of 1 to 2 years benefit.

Another major impact in 2022 involves the cyber liability policies. The trend toward digitalization will inevitably lead to more cyber incidents and associations becoming targets of increased sophisticated attacks by cybercriminals. This has led to a sharp rise in the cyber insurance costs - even doubling in premium in most cases.



Most associations have a cyber endorsement on the master policy, and they think they have the proper cyber coverage. An evaluation should be done to compare the coverages under the endorsement vs. a stand-alone cyber security liability policy. Do you have coverage for 1st party and 3rd party liability, ransomware, PCI fines, computer fraud, funds transfer fraud and social engineering? Social engineering fraud claims are on the rise. These claims happen when a person is manipulated or tricked into voluntarily issuing funds to someone pretending to be a vendor, client, or other employee. The money is transferred under these false pretenses and once it is sent to the fraudulent account, the association cannot recover the funds.

Since the pandemic, fraud and cyber-attacks are on the rise. The crime/fidelity policy and a cyber liability policy should be considered for the protection of your financial assets. Make sure you have the correct insurance coverage protection if your money is stolen. How can you survive 2022? Take a good look at your association. Do you have a well-run, professionally managed association? Are you above average with no

claims? The better you perform, the lower your premium will be. Competition will aggressively go after quality accounts and carriers will want to write more of this business.

On the flipside, poorly operated associations and accounts with claims will continue to be hit hard. These poor performance associations will need to be proactive and implement processes to review and improve their management. Here are a few areas to start with:

- Evaluating reserves and making sure they are adequately funded. Do not be afraid to increase assessment income. You need to exercise prudent financial management of your association.
- Analyzing any deferred maintenance and see how they can be improved. Identify any issues and make improvements now. Do not ignore extensive and necessary repairs.
- Focusing on sound risk management techniques and inspect your property to identify and avoid future claims
- Reviewing your governing documents to evaluate areas that might help reduce your association insurance premiums
- Considering an appraisal on your property
- Converting your association to non-smoking
- Evaluating or limiting the number of rentals in your association
- Implementing procedures that will prevent claims from happening in the first place



It is important you understand that replacement costs have drastically increased in today's market. Take the time to research any code upgrades for your association. You will need proper Ordinance or Law coverage with all three coverage agreements. This is critical for any older structure and provides coverage for loss caused

by enforcement of ordinances or laws regulating construction and repair of damaged buildings. There are three coverage parts:

**Coverage A** - Contingent Liability for Undamaged portion of the building;

**Coverage B** - Demolition Cost;

**Coverage C** - Increased Cost of Construction.

Make sure you have the proper coverage to pay for this expense.



Not every association will experience increased premiums or coverage limitations. All associations should take the time to conduct a thorough review of their insurance coverage needs. Start by identifying any changes in your renewal and making sure you have adequate valuations. Annual account reviews are necessary every year, but extremely important for 2022.

4856-5015-4010, v. 1



Connie is President of Connie Phillips Insurance. Connie has a Certified Insurance Counselor (CIC) and a Community Insurance and Risk Management Specialist (CIRMS). She is also a Community Associations Institute Educated Business Partner (EBP). Connie can be reached at 888-439-0479, or [cpi@insurance-financial.net](mailto:cpi@insurance-financial.net)

# *Civility* in an Uncivil World

By Chantu Chea, CMCA®, AMS®, Association Bridge, LLC



Over the past few years, some aspects of customary, socially correct behavior has seemed to regress or at times even disappear. From leaders in the highest offices to our most beloved celebrities, we can read about name-calling, blaming, threats, and even outright violence. Is it really surprising when these behaviors trickle into our communities and work spaces? In order to guide our communities in a more positive direction, it helps to identify uncivil behavior and lead by example. With a lot of deliberate, consistent effort, our positive behavior can become contagious.

We've all dealt with the outburst from a client or Unit Owner who doesn't get their way and writes a dramatic email or says something nasty. It's easy to dismiss them as unhinged, ignore all their future complaints and get defensive in these unpleasant situations. It's important to be self-aware of these human tendencies, because it can lead to habits that will not serve you well. If you hide from the tough conversations, you might miss out on the opportunity to connect with others, learn from the interactions and grow. Even though it may trigger tough emotions to deal with the challenging client, confronting them can nip problems in the bud. You may even gain an ally! Start by making a conscious effort to put yourself in the strongest mental state so that you are best-equipped to deal with the inevitable challenges that arise.

## 1. Self-Reflection:

Be cognizant of how much media you're taking in every day and the influence it might have on you. The trend of constant media and social network notifications may work well for those who benefit from extra views or clicks, but excessive exposure might have an adverse impact on our thoughts, attention and behavior. Sometimes we expend so much emotional energy reading the news that by the time we arrive at work, we're depleted. Disconnect from the breaking news long enough to focus on what's most important, both personally and professionally. *How is the information you absorb moving you towards your goals and who you aspire to become?*

## 2. Empathy:

Depersonalize the situation whenever possible. In more cases than not, the client isn't yelling because of you but because of the situation. Think about what they might be going through in their personal life with the challenges in the world and take a deep breath before responding. You may be the only person who listens to them today. If you can, counter their distress with a calming tone and a thoughtful response. *Will your undistracted attention for the next ten minutes save you hours over the next month?*



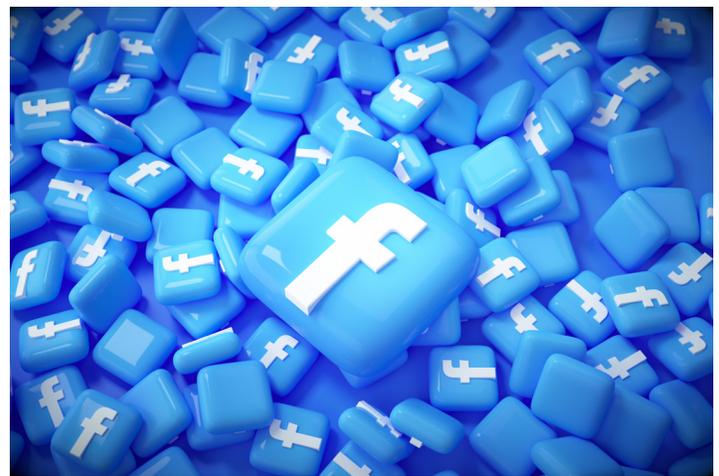
## 3. Situational Awareness:

Some of us have also noticed situations where someone makes a bold political statement to strangers or in the workplace, under the assumption that everyone agrees. I've seen it make others in the room very uncomfortable or outright angry. While it's tempting to share your opinion about the latest piece of legislation in Congress, don't forget to take note of your environment, your relationship to the listener and the possible repercussions. For example, if you're getting interviewed for a job, you may not want to risk blaming a person or administration for the current events of the day. Even if the community is in a location where the demographics seem to point to a particular opinion, you don't want to put your foot in your mouth later. Once you learn about the political or ideological leanings of a person, just remember to keep it professional at work.

Keeping these habits in mind can help us deflect and appropriately respond to uncivil thoughts and behaviors. Some other challenges that you may run into at work can be ameliorated by practical strategies.

### 1. Write it down:

Some people's stress shows up as aggressiveness, while others' stress manifests as anxiety. Anxiety can cause us to start thinking selfishly or otherwise worry about possibilities that may never happen. When others come to you with concerns or hypothetical situations, fight the inclination to dismiss them as unrealistic. Instead, try brainstorming your concerns (or your residents' concerns) and plan some possible solutions. The anxiety becomes less of an abstract idea to obsess over and more of a concrete problem you can solve. *What are the pros and cons of each option? What is the worst thing that can happen and how can you mitigate it?*



## 2. Set Expectations:

In a world where we can get instant groceries, dates and packages with the click of a button, some people expect the same instant gratification of their community manager. Asking to “speak to the manager” has become an internet joke. For managers, it can often translate to copying the entire Board of Directors to an email. Unfortunately, some creative solutions require time to develop, especially if they are to last. If a problem will take some time to resolve, let the resident know the challenges you are considering. Provide an estimated time for completion or resolution and keep them in the loop of any progress.

## 3. Acknowledge opposing views:

Things aren’t always black and white in community management. Nor can we predict the future. So it’s important to acknowledge counter-arguments even when they don’t fit the narrative we want to create. If you make a mistake, predict something wrong, or there are possible negative consequences of your recommendation, talk openly about it. How might you pivot your plans moving into the future?

It can be instinctual to tune out anything that requires extra time or energy when it feels like you don’t have any to spare. With everything going on in the world, our emotional state and the example we set may be the least of our worries. However, as a leader of your community, you are in a position to be a calming and positive influence. Small, deliberate interactions can accumulate and create real change. You may find that you not only save time in the long run, but you also get a little peace of mind!



Chantu serves as Creative Collaborator and Resident Contrarian for the consulting firm Association Bridge, LLC. She enjoys making connections from her daily life to her work and vice versa.

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# 2022 CAI National Law Seminar Recap

By **Deborah M. Casey, CCAL** and **Kathleen W. Panagis, Vandeventer Black LLP**

CAI National's Community Association Law Seminar was back live and in-person at the La Quinta Resort & Club in Palm Springs, California from February 9th through 12th. We were more than happy to attend the "live and in-person" portion of the Law Seminar, especially since the weather in Palm Springs was the exact opposite of the cold temperatures in Southeastern Virginia. Attendees had the option to participate virtually as well. Overall, roughly 500 people attended the Law Seminar in person while another 200 attended via video.

The Law Seminar is a perennial favorite amongst lawyers, management professionals, and other industry leaders who want to stay on the cutting edge of the latest legal trends and practices in the community associations industry. Attendees meet with and hear from other legal professionals on a whole spectrum of issues impacting community associations. By learning from others and sharing experience, community association practitioners strengthen their knowledge and hone their skills and thus better serve their community association clients.

As always, CAI National and the College of Community Association Lawyers' Law Seminar Committee worked hard to create yet another memorable Law Seminar. The conference kicked off with keynote speaker Jonathan Fields, who inspired us to discover the work that makes us come alive and lets us lead with greater purpose and possibility. This year's fantastic educational line-up included classes such as *We're Staging a Coup! How to Manage Homeowners Insurrections in Community Associations*; *Love Thy Neighbor and Your HOA: Reducing Conflict in Community Associations*; *Surfside Public Policy Panel*; *What a Nuisance: Managing the Spread of Sounds, Smoke, Smells (and more) in Community Associations*; *The War on Single-Family*

*Zoning: Are Single-Family Use Restrictions Going the Way of the Dodo?*; *Breaking Up Is Hard to Do: Challenges in Condo Termination*, and a conference favorite—*Case Law Update*. The Case Law Update spans four hours with four speakers over two days and covers the most important cases from around the country, and their implications for our practices. It is a not to be missed mainstay of the Law Seminar.

There was, of course, no shortage of fun networking events, including the by invitation only College of Community Association Lawyers Dinner, Law Seminar Reception, and Women in Community Association Law Meetup. When not attending official Law Seminar events, attendees caught up with colleagues and made new connections at the various pools, spa, and/or one of several on-site restaurants and lounging areas.

The Law Seminar for 2023 will take place in New Orleans, LA. For information, including future registration, check out <https://www.caionline.org/Events/Pages/default.aspx>



Deborah M. Casey, CCAL® is a partner with the law firm of Vandeventer Black LLP where she Chairs the firm's Community Association Law practice and serves on the firm's Executive Board. She has represented Virginia community associations for more than thirty years.



Kathleen W. Panagis is an attorney with Vandeventer Black LLP and a member of the firm's Community Associations law team. With more than a decade of experience, she serves as general counsel to homeowner and condominium associations located in Virginia.



# Can We Go Virtual?

## *Virginia Changes Law to Permanently Create Flexibility for Virtual Meetings and Electronic Communication*

By **Jeffrey A. Hunn, Esq.**, *Pender & Coward, P.C.*

During the Coronavirus pandemic over the past two years, the Governor of Virginia temporarily enabled boards of common interest community associations to meet virtually as long as certain requirements were met. Association managers and board members were forced to master the use of electronic platforms like Zoom, Microsoft Teams, GoToMeeting and Skype to effectively conduct board business. Still apprehensive about meeting in person and potentially contracting Covid-19, association managers and members hoped these temporary measures would become law. The time has arrived. Effective July 1, 2021, the Virginia General Assembly passed a new law amending the Condominium Act and the Property Owners' Association Act to allow virtual meetings, electronic voting

and electronic communication unless these are "expressly prohibited" by the association's governing documents.

### **Conducting a Virtual Meeting**

Under the new law, any meeting of the association or the board of directors, including any subcommittee or other committee of the association or board of directors may be held entirely or partially by electronic means. The board is given the discretion to determine whether the meeting will be entirely or partially by electronic means. "Electronic means" is defined to mean "any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and

reviewed by a recipient of such communication,” including meetings conducted by “teleconference, videoconference, internet exchange, or other electronic methods.” In order to take advantage of the new law, the board of directors must adopt guidelines for the use of electronic means for such meetings that ensure persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so.



they are not supposed to and that the meetings will now be recorded and accessible to anyone even if they are not members. Others worry that virtual meetings will allow board members to control questions or input from concerned members and, ultimately, reduce crucial face-to-face communication between board members and the community they serve.

The change in the law was designed to make community governance easier for everyone involved. But, will it work? There remain many questions. For example, if a member of the association is not capable or does not desire to attend the meeting by electronic means, what must a board do? In this situation, the Association, at its expense, must make available a “reasonable alternative” for the member to conduct business with the association without use of the electronic means. What is considered “reasonable?” “Reasonable” is defined as “being in accordance with reason; not extreme or excessive; moderate or fair; inexpensive.” While you hope that everyone is able to participate in the meeting virtually, the board may have to allow someone an audio, dial-in only option. The Board may have to consider a hybrid meeting, partially in person and partially by virtual platform.

## Electronic Voting

The good news does not end there. The new law allows members of the association to vote in person, by proxy, or by absentee ballot. Whichever voting method is chosen, the new law allows the voting to take place by “electronic means.” The board, however, must adopt guidelines for such voting. Further, the board must ensure the electronic voting means selected will protect the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting must be used.

## Electronic Communication

There is more good news. Finally, the new law allows the board to communicate with the members of the association by electronic communication. Instead of the traditional mailing of paper notices, associations may send notice of meetings by “electronic means” if the owner has consented to this process. The officer sending the notice, however, must certify, in writing, that the notice was sent and, if the electronic mail is undeliverable, the notice was subsequently sent by traditional United States mail.

## What Does This All Mean?

There are many recognized benefits to holding a virtual meeting. By conducting a meeting entirely or partially by electronic means, the association can reduce overhead costs associated with its meeting, increase the number of members able to participate in the meeting, and increase the efficiency of the meeting. Members no longer have to walk or drive to the meeting. They can participate in the comfort of their own home. There are, however, some skeptics who question the new law. Some people worry that people may have access to a meeting when

Further, how does a board deal with older documents that do not address the use of virtual meetings and electronic communication. What if the documents specifically state that the board meetings or meetings of the members must take place at a specific place or time? For example, consider a provision that states, “the annual meeting will take place at the clubhouse on the fourth Thursday in April.” What if the governing documents require voting to be in person or by proxy? Online electronic platforms do not work well for voting, especially if voting is required to be done by secret ballot. Can the board still hold a virtual meeting? In these situations, the board will need legal advice because all documents are different. The governing documents may need to be amended.

Unfortunately, it is not as easy as sending a GoToMeeting invitation to the members announcing a meeting date and time. The new law has specific rules one must follow if they intend to take advantage of the new law. Every association should review its governing documents to confirm there are no prohibitions or limitations preventing the association from conducting virtual meetings, voting electronically and communicating electronically. Regardless, it is clearly the intent of the Virginia General Assembly to promote the use of virtual meetings and electronic communication, and I anticipate courts will interpret any challenge to this style of community governance in favor of the use of the most advanced technological means.



Jeffrey A. Hunn is a Shareholder with the law firm of Pender & Coward, P.C. where he leads the firm’s Community Association Law practice group. Jeff has been an active member of SEVA-CAI for more than 10 years, and is currently serving on the SEVA-CAI Board of Directors.



# West Neck Educators Club

## *Raising Scholarship Funds for Kellam High School Seniors*

By Pearl Taylor, West Neck Community Association, Inc.

The West Neck Educators Club (WNEC) is a charitable nonprofit organization that receives donations throughout the year for its WNEC Scholarship Fund. They award scholarships to Kellam High School (KHS) seniors furthering their education. To raise funds the club sponsors activities throughout the year, such as Holiday Cookie Walks, informative learning programs for residents, socials with donated food, cashola dinners at local restaurants and Virtual 5K runs.

For the Holiday Cookie Walk the members bake cookies and sell them to the community before the holiday. Last year cookies filled lots of tables of delectable offerings. Put December 7th on your calendar, leave the baking to us!

In September we sponsor Community Night, an activity that highlights all the clubs and organizations in West Neck. Here are just a few: Investment Club, Social Committee, Canasta, Bunco, Poker, Bible Study, Marketing Committee, Garden Club, West Neck Learns and many more of interest to our residents. This is an evening to discover how to become more involved in clubs and activities of interest that are available.



There are also opportunities for volunteering within the Virginia Beach City Public Schools.

The WNEC participates in numerous volunteer activities in Kellam High School. Virginia Beach Reads works one on one with students to enhance their learning skills. This helps students become more successful in their studies and work toward their graduation. Mock Interviews teaches students how to interview for a job. In addition, it gives them the skills of how to speak and promote themselves to adults in any situation.

Many of our members judge students involved with the S.T.E.M. program. This is an approach that combines science, technology, engineering, the arts and math. It groups together these academic disciplines. It is a hands on problem based learning program. The contest has students that compete with others within the Virginia Beach High Schools. The topics such as clean the beach made robots to enhance their subject.

Our members participate in the SOL Boot Camp. The test sets forth learning and achievements for core subjects from grades K-12. It measures the success of students meeting the Board of Education expectations. The WNEC serves Pizza after the test to the hungry and appreciative students.

The Veterans Day program in November honors our residents who are also veterans. The Day Break Singers entertain our residents with beautiful music appropriate to the day. Members of the community are acknowledged as World War II veterans.

Knights' Faire the students dress in medieval costumes and participate in jousting and poetry readings reminiscent of that time in history. Students erected booths and taught the subject matter during the medieval times in their current fields of expertise. They dress in medieval costumes to add to the reality of the day. The WNEC volunteers monitored the games.

The WNEC has a fun event with our four-legged friends.. Pet Walking. Students from Kellam High School bond and walk with the dogs in our community. As a result, the WNEC received the PTSA Volunteer of the Year Award. This fall pet owners will be able to show off their pets at a first-time event, a dog show.

One of the most successful fundraisers is the T.A.G. (treasures from the attic and garage) sale. There are amazing donated items of all kinds displayed in the Village Hall at West Neck. This year the WNEC reached its 2022 goal and raised \$26,000 toward scholarships for deserving students. You can help us reach our goal in 2023 by shopping our TAG sale on August 20th!



**Join us to find treasures for you home and holidays!**  
**WNEC TAG Sale: Saturday, August 20, from 8:00 am until 12:00 pm.**  
For information, call 757-406-7947.

A circular portrait of Beth Pryor, a woman with blonde hair and glasses, wearing a black top and a necklace. The portrait is surrounded by a decorative border of blue and yellow dots.

# Meet-A-Manager

*Beth Pryor, CMCA<sup>®</sup>, PCAM<sup>®</sup>*

## How long have you been a professional manager?

I have been with Community Partners for 10 years, I have 15 years in the industry.

## Where did you grow up?

Hampton and Newport News

## Do you have kids?

Yes, I have 3 children and 3 grandchildren

## Did you choose the career path or did it choose you?

I was working in the food and beverage industry working days, nights, weekends and holidays. It was time to make a change so that I could be home more for my family. My sister-in-law is the reason that I am in this industry. She has been a community manager and talked me into it. At first, I just viewed it as a job that I was doing until I found something else. I left association management for a few years. In 2012 I decided to give it a second try and went to work for CPVA as a portfolio manager. That is when the job chose me and this became by career vs just a job.

## Describe the most interesting coworker you have worked with?

I worked with a young lady that if I told you her story you would agree that she could write a book or be in a lifetime movie. What makes her so interesting is that even through all the things that she went through she never let it break her spirit. She is still a very kind and compassionate person. I find her strength and resilience astonishing considering.

## What are your hobbies?

I enjoy going for walks with my dogs, spending time with my family, traveling and the occasional game night with friends.

## What are you passionate about?

My family. I love spending time with my husband, children, grandchildren and extended family.

## What is on your bucket list?

More travel. There are so many places that I would like to see.

## A genie grants you the ability to have infinite amounts of one item. What is it?

Good Health. I have watched so many suffer with illnesses and lives lost. We don't think about our health as often as we should until something occurs. As the days move on and each year that I get older I feel a few more aches and pains.

## What is your favorite season?

Fall – I love to see the leaves change color. Cool mornings and evenings and warm afternoons.

## If you won the lottery, what would you do first?

That is a very good question. I am sure that what I think that I would do would be very different from the reality. My first thought would be to take a vacation just my husband and I.

## What is the best advice you have ever received?

That you cannot please everybody. In this job even when you are doing everything right someone inevitably will not be happy. As soon as I realized this and accepted that it became easier when receiving that disgruntle email or phone call.

## If you had to do it over again, would you choose your career path?

I find that what I do is very rewarding. I have learned so much from both the educational classes, the business partners and just doing the job than I ever realized possible. I have formed relationships both personally and professionally that are irreplaceable. Like any job there are days when we ponder why we do it but I think for me if I had to do it again I absolutely would.

Interviewed by Michael Kwiatek, ARM, CPM, CMCA<sup>®</sup>, AMS<sup>®</sup>

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# Aging Documents

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Topics:

- Familiarizing yourself with association documents
- The three most important provisions to have today in governing documents
- Engage the community in updating and amending the documents

Presented by:

Kelli Badary, CMCA®, AMS®, PCAM®  
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Sarah R. Palamara Esq.  
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