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Community Involvement

There are so many different components that go into running a successful Association that listing them could prove exhausting and counterproductive in the area of reader interest. Often times we attend meetings and hear "How do you promote Community Involvement?"

There are numerous ways to recruit and involve new members as participants in Association activities and governance. Possibly, the first opportunity comes with the presentation of a "Welcome Package" to new Association members. This first communication with a new owner or resident can go a long way towards dispelling misgivings that new members may have formed due to any number of reasons. The "Welcome Package" can explain the operations of the Association governance and at the same time invite newcomers to engage in their community. This communication tool has the potential to educate residents about what it means to live in a Community Association. If current residents can deliver the welcome information it is even better as they can personally welcome the newcomers and invite them to any upcoming meetings or social events.

Another important means of recruitment is through the Association manager. The manager has contact with the members as well as with the Board. When residents call in with issues, the manager is in a position to act as their voice, and at the same time educate a resident on how the system of governance works. Chances are that if a resident interested enough to express concerns about something, they would be interested in participating in the activities and governance of the Association. The manager plays an active role in getting to know community association members and working at even difficult issues to create a unified community. Many times, an individual will accept not getting exactly what they want as long as they have had the opportunity to be heard. In this manner, they may gain a better understanding of why they can't have things their way and how to go about

making a change if the community agrees with their point of view.

Surveys can be very effective in promoting community involvement. When surveys are done door to door there is an opportunity to personally speak with community residents. In addition, a survey lets individuals know that their opinion is appreciated and that they have some input relative to the decision making process. Surveys can include a section that deals with volunteerism and getting involved. Surveys can also give residents a chance to communicate their interests and concerns about the community.

A suggestion box placed in a prominent area could also be a great source of owner/resident input. Some individuals might find it difficult to actually attend a meeting, but may have some great suggestions for the Board to consider. If the Board communicates that they have heard and considered the suggestions, individuals might feel that their input is appreciated and be more inclined to make an effort to devote some of their time to Association business or functions.

Newsletters are a valuable tool that can be used to get residents involved in Association activities. They serve to communicate information. This information can be anything from Board actions to upcoming social events. They can list upcoming board meetings and present financial information. When residents know how and why things are happening, they are much more likely to get involved.

With an open meeting policy, the Board can personally get to know the residents. The residents can see how the Board functions, and hopefully mature into potential new board members. If the residents can see and understand the governing parameters that the Board works within, they will be in a much better position to understand how the Board arrives at their decisions for the good of the community as a whole. Holding an open forum at Board meetings will allow the voices of owners and residents to be heard, but can be limited to the agenda items for that particular meeting.

cont. on next page...

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Articles, ads or other submissions must be submitted prior to the dates listed below for inclusion in the issue immediately following. All dates are firm. If submission is missed, updates will be in the following issue.

WINTER 2018
January 15th

SPRING 2018
March 15th

SUMMER 2018
June 15th

FALL 2018
September 15th

Currents encourages and welcomes articles on any topic relating to the many "Currents" of community association interest. Please include a twenty to thirty word description of the author at the end of the article. All articles are subject to editing.

Please send your submissions to:
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PRESIDENT'S perspective continued

Town Hall Meetings, are also a good option for the Board to receive the interest of the community members and can be conducted in a less formal setting and are not limited to just agenda items. The Board is elected to act on behalf of the owners, it is extremely important that the Board be sensitive to what the owners want and need.

Social functions are another great means of involving new members in the workings of the Association. A real sense of community is of vital importance to a Community Association. Without it, people become complacent and do not care. Frequent social functions will allow a relaxed atmosphere in which interactions can flourish. Information is shared and common concerns and needs can be identified. Individuals will slowly merge into a real community and will actually become acquainted with their neighbors. Once a sense of community is established, it is much easier to work out problems and issues that arise.

Last but not least, the utilization of committees will go a long way toward promoting active participation by the Association's owners and residents. The more individuals that are involved in the workings of the community, the more individuals will be networking in the community as a whole. Committees serve to provide communication from the Board and input from the residents. In the committee setting, individuals can be educated and groomed to move on to more structured positions within the community. Even if committee members never serve on the Board, the education gained from being on a committee will enable them to share their knowledge with others in the community. They may want to get more involved themselves, or at the very least, will better understand the workings of their community government.

How do you promote Community Involvement?
Communicate! Communicate! Communicate! A sense of community increases involvement and involvement is based on interaction and communication. It is important to use every source available to communicate and to share the responsibility of the community as a whole.



Colletta Ellsworth-Wicker, CMCA®, AMS®, PCAM®, is the Vice President with the Management Firm of *Associa® Community Group* in the Newport News Branch. Colletta has been active with SEVA-CAI since 1999, and has received many awards and accolades as a Committee Chair and a member of the Board of Directors.

FROM THE
executive DIRECTOR

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Time for a New Roof

By George M. Nicholas, Esq., AIA, Vandeventer Black LLP





There are three things that are unavoidable in life and home ownership: death, taxes and the need to re-roof. However, the right team of professionals and contract documents can increase your chances for a successful re-roof project outcome.

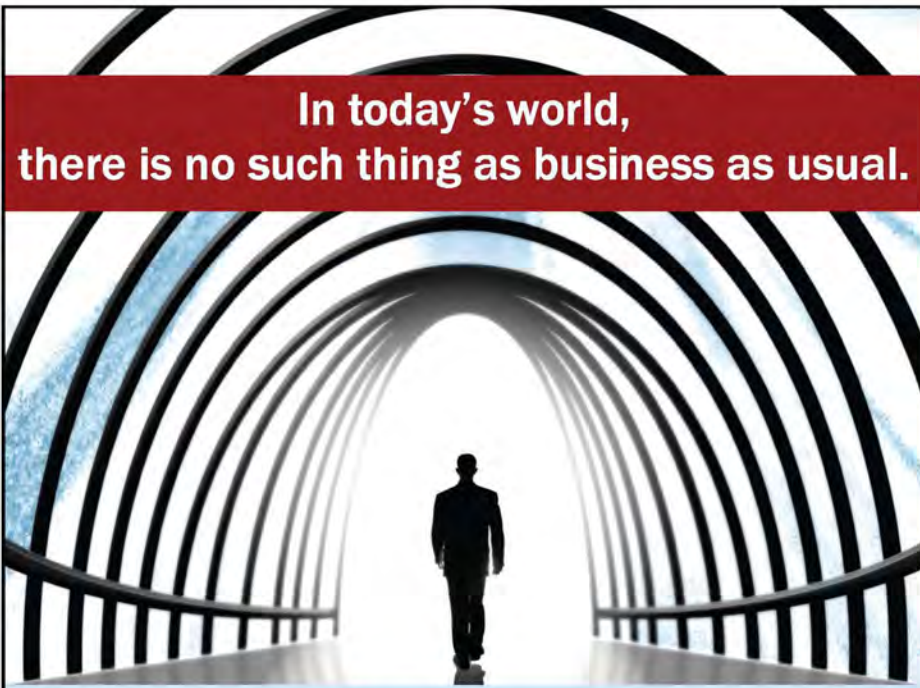
Our homes are like our bodies, they occasionally need some work, but sometimes we also just want them to look and perform better.

Our homes gradually age and inevitably need maintenance repairs to address the effects of natural weathering, material failure, improper installation and or storm damage. Repair and replacement projects can range from projects like the replacement of door hardware or access gates to large projects like window replacements, masonry repairs, balcony repairs, handrail/guardrail replacements, structural repairs, and building re-cladding and re-roofing projects. Some projects can be prevented, some deferred, and some, like re-roofing projects, are unavoidable. What is avoidable, is the tendency to underestimate the importance and complexity of a re-roofing project if executed properly. Make no mistake, a re-roofing project can easily be characterized as just short of a full-scale construction project, complete with all the dust, noise, cost, confusion, and a heavy dose of uncertainty that goes hand in hand with any construction project.

As with any community project, it is the Board's duty to enter such an agreement based on a reasonable and informed basis to make the best and most economical decision possible. To do so, Boards are urged to seek the right team of professionals and contract documents geared toward their specific project and level of complexity. Depending on the size and complexity of a re-roofing project, typical team members might include an association manager or Board member to act as a liaison for the Board among the other team of professionals, an architect or building envelope specialist to assess the needs of the Association, a construction administrator to observe and document that the project is being constructed in accordance with the Association's design, and legal counsel to prepare and or review contract documents (including the bid and proposal documents before the contract is presented).

Do not underestimate the complexity and critical nature of a roofing project. You do not want to learn from a stream of water through the ceiling that you did not get what you thought you needed or bargained for. Just because re-roofing projects are done all the time, it does not mean that they are properly executed and result with happy, trouble-free end users. Because most of us are unaware of important nuances with roof systems, it is easy to trivialize the importance or complexity of one of the most important components that keeps homes water tight. In fact, it is easy to agree to replace the roof that already exists with a similar in kind installation.

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Should you save money and hope for the best by not using professional services, or budget the cost of these important components into the project to avoid future costly surprises?

But, consider assessing: what type of roof is in place, whether it is an appropriate material for the application, and whether it was designed and installed properly in the first place. Simply referring (or more appropriately deferring) to a manufacturer's warranty period (10 year, 30 year, etc.) to describe the roof that is to be provided is not adequate to insure an appropriate roof installation. Manufacturer's warranty periods have broad and varied meanings that can result in surprising results if not fully understood.

Many other factors should also be taken into consideration when selecting a roof system, such as the building's location. A building located on the waterfront typically will encounter far harsher weather conditions than a building located further inland and similarly will require more robust detailing and materials to perform properly. Details such as reinforced eave and rakes can provide added support and wind uplift protection to perimeter shingles with minimal additional cost.

The number and pattern of fasteners can be critical to the warranty and effectiveness of the roof. A roof assessment should include an analysis to determine

what type of roofing material and/or grade is most appropriate for the pitch or slope of the building at its location, as well as what type of roof underlayment is best suited for the application. The use of a rubberized membrane at the roof perimeter, penetrations, and valleys can also significantly increase performance at minimal additional cost.

Other critical considerations include whether the original flashing, the material at penetrations and intersections of dissimilar materials intended to shed intruding water to the exterior, will be replaced or reused. And if it is to be reused, whether it was installed properly, is in serviceable condition, or (unfortunately in many instances) whether flashing was installed at all. Further, where new flashing is to be installed, consider whether adjacent materials (i.e. siding, weather barrier, etc.) need to be removed and replaced to facilitate the proper installation of the flashing and new roof.

To resolve these questions and to seek the best value for the community, it is recommended that Associations seek the services of an experienced architect or building



Unless you are gaming in Las Vegas, do not risk the funds of a community without the right team of professionals and the right contract documents.



envelope specialist to assess, design and specify the right system for the intended application. Contract documents, such as clearly defined drawings and or specifications are frequently incorporated (or not) to provide important information to avoid possible misunderstandings regarding materials required, quality of construction, and scope of work. On their own, however, drawings and/or specifications do not address many other important terms and conditions that need to be addressed in companion written contracts. Proposal and bid documents also frequently omit standard and recommended contract terms.

Should you save money and hope for the best by not using professional services, or budget the cost of these important components into the project to avoid future costly surprises?

Even with drawings and/or specifications, a handshake after a discussion or the use of a simple purchase order are not adequate to address many important, yet frequently overlooked terms and conditions. Contract disputes frequently arise when one party has a different expectation about the terms of performance and obligations than the other party. Written contracts that describe at a minimum, the scope of work, payment terms, project schedule, insurance requirements, terms for corrective work, terms regarding a change in scope of work, are critical to ensure that each party has a clear understanding of its obligations and expectations, and as to what happens when things do not work as planned.

Written contracts should be used to address important terms and conditions such as project schedules. Project duration periods should be specified with particularity, along with including but not limited to defined material laydown areas, hours of construction, documentation of existing conditions, damage/repair of adjacent property, damage/repair/replacement of damaged personal property, use of site utilities/facilities, staging, termination, and scheduling/notice to owners to mention a few. In the event the project does not go well, important issues such as warranties, insurance, and avenues of legal recourse such as mediation / arbitration / litigation and venue should be clearly defined to protect the Association and assure the best possible footing when things go wrong.

Written contracts may be specifically tailored to the project or edited from families of standard form contracts published by organizations such as the American Institute of Architects or Consensus Documents. Form document families are widely used and generally seen as favorable to both parties, but may not always have enough protection for community associations. In some cases, a contractor or service

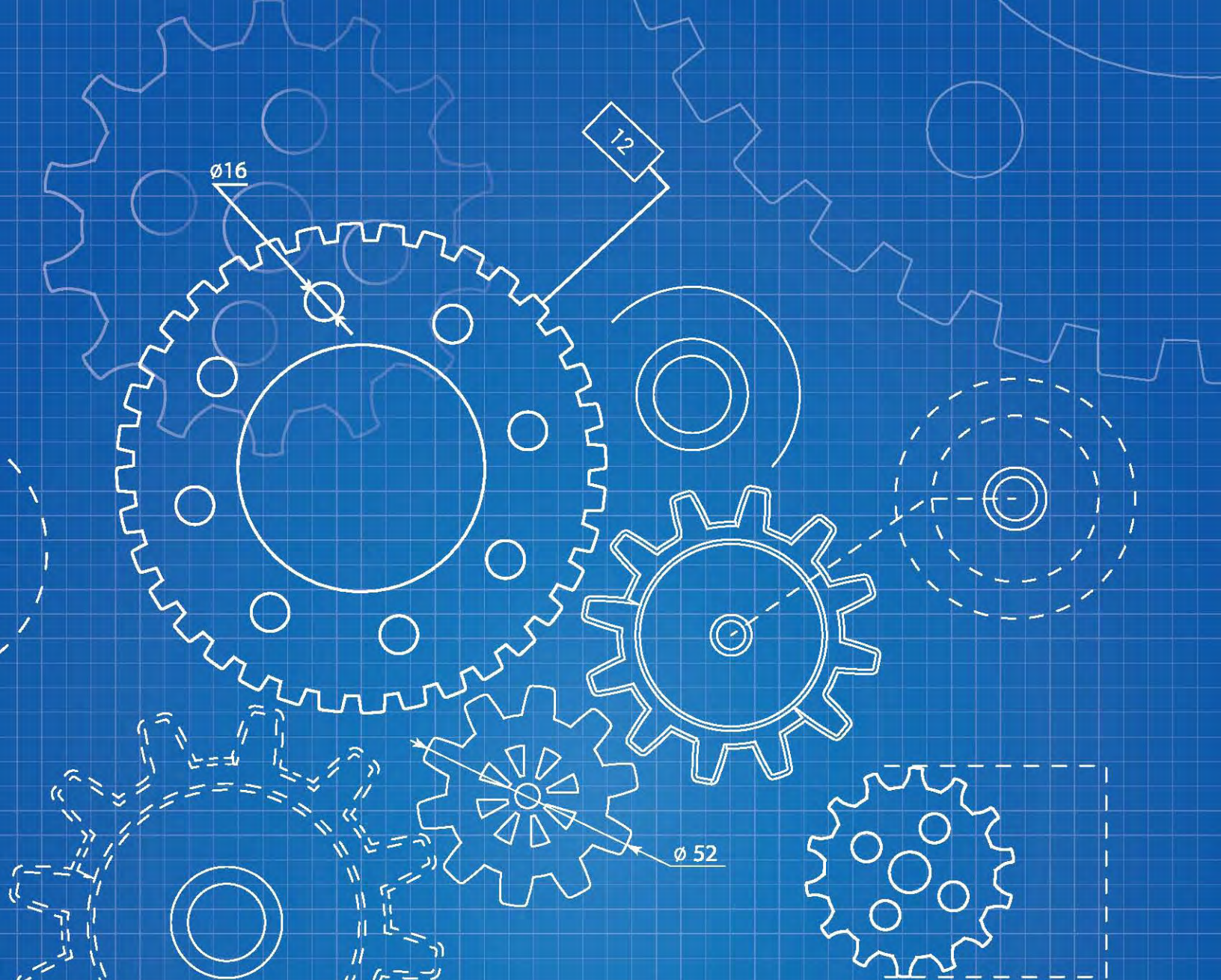
provider may insist on the use of their own contract form. Where such an agreement is proposed, Boards should be on heightened awareness for terms and conditions that may be unfavorable to the Association, are vague, or do not clearly or accurately describe the project as previously understood. These agreements are written by the contractor generally for its protection. Whether you rely on standardized document forms such or a contract document prepared by a contractor, communities with both small and large projects are urged to seek legal counsel to review the collective contract documents to ensure that all the documents speak in unison and most importantly that they speak in the best interest of the community association.

Remember that a written contract is important to define, and assign risks and rewards, as well as the rights and responsibilities of each party. Contracts are an integral part of the building design and construction process, and should address all relevant aspects and unique phases of a project. The Board should enter agreements that are tailored to the specific needs of the project and Association. If executed without proper safeguards, even a small project can result in costly damages, necessary re-work or replacement, additional legal costs, and potentially jeopardize the Association's legal recourse. An attorney with experience in contract and construction matters should be consulting at the time the project is contemplated rather than after the proposal or contract is signed or the work has halted, is wrong or has issues. Do not wait until it is too late to learn that the Board has inadvertently entered an agreement with little or no warranty coverage, obtained a new roof that leaks worse than the old roof, or can seek redress only in a court in another state.

Unless you are gaming in Las Vegas, do not risk the funds of a community without the right team of professionals and the right contract documents.



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Creating an Effective Training Program

By Don Plank, *National Cooperative Bank*

Most of us have sat through bad training programs. They're a dime a dozen and too often are the result of training being an afterthought instead of a well-planned program. Now think about some of your favorite training programs. Knowledgeable and patient instructors, hands-on, specific goals, in-person and well-timed are some characteristics I think about. Kind of sounds like a favorite elementary teacher's classroom. Can you imagine teaching a classroom of 7 year olds without a plan, structure, very specific goals or hands-on activities? Definitely a recipe for revolt and chaos.

So, what are some of the more basic components of a strong training program? For this article, I'm going place the components into the scenario of adopting new technology. Many businesses involved in association management, whether on the management or business partner side, are constantly searching and implementing new technology to help gain an edge and stay competitive.

Identify Team Leaders

The training process should start before the new technology is even purchased. This is particularly true if the technology will be rolled out to a larger staff. Start the process by soliciting volunteer leaders to be involved in testing and giving feedback on new technology options. The more invested people are in the process, the more effort they will put into effectively implementing whatever technology is selected.

These same volunteer leaders can then be used for the actual training when the technology is rolled out to everyone. While one person may be the expert, it will be more efficient to have multiple people who know and understand the technology. In addition, since team leaders were involved in the process, you can be assured they will advocate for use and full implementation of the technology.

Set Goals

What do you want to achieve with the technology? Start there and work backwards. Identify specific steps to reach that goal. For example, if your goal is to minimize time spent writing violation letters through the use and implementation of an app-based inspection program, think of the various steps needed to reach that goal. Things like:

- Familiarity with using an app on the phone. (Hint: Not everyone is good at using apps.)
- Percentage adoption goals to be achieved by certain dates? It is highly unlikely you'll get full adoption within the first month. Set reasonable goals and monitor.
- How many training sessions do you need? Should it include an actual site visit to a property with a buddy system?

Hands-On Training

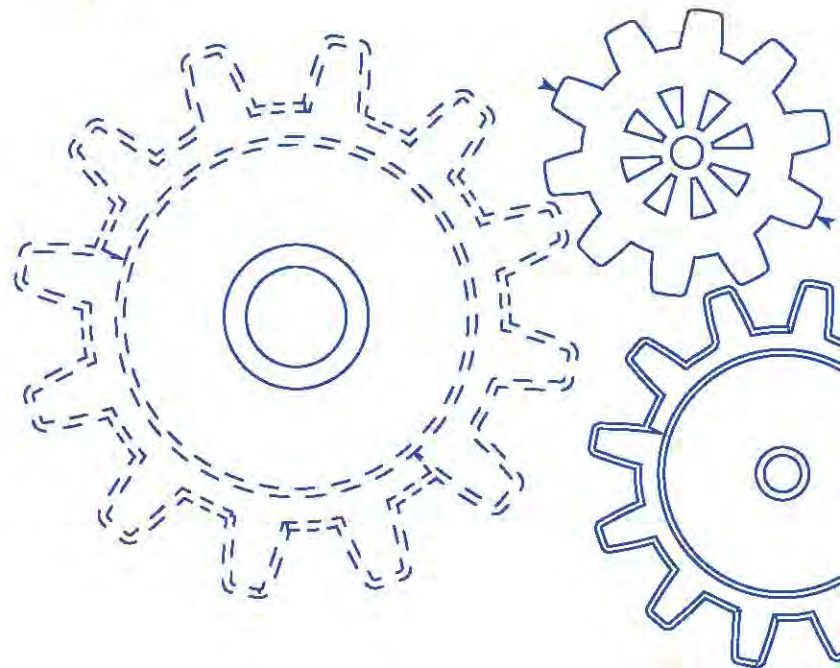
Leave the PowerPoint at home. (I'd like to underline that 15 times.) Think of how many boring PowerPoints you have sat through. Too many! If you want to teach someone something, they have to practice doing it. Do a show and tell. If you're using a computer, project your screen onto an overhead screen. If it's an app, do the same. Show everyone what you are doing – in clear, definable steps.

After you've done it a couple times, have the training participants do the same thing. Walk them through it. Enlist the help of those team leaders who already know the system and have them assist everyone.

Give extra training if someone is struggling. Don't think they will just pick it up on their own. I remember taking weekly banjo lessons. I can assure you I needed more support than that one weekly lesson. I struggled, hated it and gave the dang thing away soon after. Trust me. The world is a better place. However, failing to adopt new technology due to lack of an effective training program is not an option you want to consider.

Small Groups

Train in small groups if possible. Not only will this give the opportunity for more individual attention and time for questions, but it will also create an informal support group for participants. A smaller group will also build an environment where individuals are more willing to ask for help and give feedback. Make use of your team leaders to allow for small group training.



Feedback/Follow-Up

Ask for feedback. Lack of understanding ensures resistance to change. During actual training, stop multiple times and check for understanding. Address concerns before plowing through to the end. People stop listening if they are frustrated. Consider using team leaders as individual mentors if only one or two people are have difficulty.

Feedback also helps gauge the starting point for training. For example, if you are providing training on how to use an app-based inspection program but you have people who are unfamiliar with using apps, start with navigation tips.

- Follow-up is critical to any kind of training. Left on our own, most of us will keep doing the same things we've always been doing.
- If training on new technology, follow up the training session with screen-shot examples of what you did during the training session.
- Remind training participants of the goals that have been established.
- Set a regular check-in schedule to see how things are going. This is especially critical of those who struggled during the in-person training session.
- Provide a way for participants to ask follow-up questions. Make use of your team leaders. Schedule refresher sessions.

Resistance

Address resistance. Check to see that goals are being met. If not, find out why. I well remember a front desk clerk who wasn't using the new package login software the condo I was managing had purchased. After much frustration, I finally figured out she simply didn't understand basic computer use. Nobody likes looking "incompetent." Find the true source of the problem and address it.

Celebrate

When all is said and done, remember to celebrate a successful training program. Throw a party when you meet goals you've set. If a party isn't the answer, give a day off or recognize an employee(s) publicly. Whatever it is, take time to circle back and remind employees of how things are better after effectively adopting the new technology. It will help give you some solid street cred the next time you want to implement a change.

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Don Plank holds a PCAM® designation from CAI and managed community associations for 9 years before joining the association banking team at *National Cooperative Bank* in 2014. Don is involved in multiple CAI chapters and also serves as Treasurer of the co-op board of directors where he lives in DC.

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EMOTIONAL SUPPORT ANIMALS

Revock v. Cowpet Bay West Condominium Association Third Circuit Court of Appeals, 2017

By Michael A. Inman, Esq., *Inman & Strickler, P.L.C.*

A very instructive case was decided in a Federal Appeals Court which will demonstrate almost everything not to do with respect to compliance with the Fair Housing Act relative to emotional support animals. This case dealt with a suit brought by two emotionally disabled unit owners in a condominium community that had a no pet rule. The association had no policy regarding service animals or emotional support animals. The residents seeking approval of their dogs provided appropriate paperwork supporting their need for the dogs. Certain residents were upset by the violation of the no pet rule expressing their views on strongly worded and insulting blog postings and called for these violators to be fined.

Initially the board did not reject the request for the dogs; instead the board levied fines but suspended payment pending legal advice. Eventually the board approved the request for accommodation after the election of a new president. Nevertheless the unit owners who required the emotional support animals filed suit under the Fair Housing Act against the Association.

The Court ruled for the Association; however, the Third Circuit Court of Appeals reversed the decision of a lower court indicating that the derogatory comments concerning the disabled owners may constitute illegal harassment

under the FHA. The court focused on language defining hostile environment harassment which stated “unwelcome conduct that is sufficiently severe or pervasive as to interfere with user enjoyment of a dwelling” and said the regulation requires no more than verbal harassment in a single incident as being sufficient to create a hostile environment.

The Court made it clear that the undue delay in approval, after adequate documentation was provided, can amount to a refusal.

The lesson learned here is to act promptly and decisively when dealing with any Fair Housing issue. The second lesson is the regulators and courts are most likely to look favorably on persons with disabilities who are acting in good faith. Substantial fines can be imposed for violations.



Michael A. Inman, Esq., is a principal of the law firm of *Inman & Strickler, P.L.C.* where he practices real estate, business and land development law with primary concentration on community association creation and operations. He heads the Community Association Law practice group of the firm.

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Due to the volume of questions we receive, we regret that we may not be able to reply to each question in the next issue. Keep checking back to see your question answered!

“ Q: ”

How do I know if it's time to move on from my old toilet or if a fix of the plumbing pipes is all I need?

”

A:

It can be difficult to know if your plumbing issues are related to the pipes or the toilet. We asked one of our new members, Brian Poole of Mr. Rooter Plumbing of Virginia Beach, to help us answer this question. Here are some tips:

Clogs & Overflows

If you find yourself plunging due to random stoppages more than once a week, it's time to hang up the plunger and replace your commode. If you're certain it's stoppage related, have tried a plunger, and still find yourself grabbing for a life preserver, call a professional plumber to address those though clogs and get your toilet back in working order.

Constant Running

Flappers are simple and inexpensive to replace as well as easy to diagnose with a simple dye test. If the flapper doesn't leak, make sure the water level is not too high and running into the overflow pipe by adjusting the float. Cracks or leaks in old floats in need of replacement may also cause this issue. Be certain to address leak issues quickly to avoid having a heart attack upon receipt of your next utility bill or giving the association a reason to have to enter your unit to make an assessment.

Leaks

Damage to flooring surrounding your toilet and an overall spongy feel to the floor, if not addressed, possible mildew, rot and structural damage can result. If you notice flooring damage, contact a professional for diagnosis, which may be tricky. Both

a broken flange and a flange that's too low, indicated by rot around the flange, may cause leaks. If this is not the case, you may simply need a new wax ring. However, if these fixes do not address the situation, you may be dealing with a hairline crack. If your toilet is ancient and you've already removed it from the floor, it's a great time to consider an upgrade for water savings and avoiding expensive (and extensive) future repairs.

Poor Flush (or the dreaded no flush)

Take a peek in your tank and see if it is filling to proper levels (one inch from the top of the overflow tube) or needs a fill valve adjustment. You can do this with the help of a screwdriver on valve style mechanisms or by adjusting the clip on float-style mechanisms. If this isn't the case, grab a wire coat hanger, being careful not to scratch the bowl, and try loosening debris in the holes or jet with the help of a small mirror.



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INVESTING COMMUNITY ASSOCIATION FUNDS IN AN ERA OF LOW RATES: WALKING THE TIGHT ROPE

By **Adam Nielsen**, Founder and Principal, *Hunt Club Advisors*



“ When returns drop, many investors reach for more yield and ultimately get burned by underestimating the risk. ”



A major negative consequence of near-zero rate policy since the 2008 recession has been the impact it has had on investment funds where the spirit of the mandate is something like “earn enough to keep up with expenses and NEVER lose a dime.” Consider the challenge for Community Association decision makers investing funds. Conservative investments are yielding next to nothing while the cost to maintain, repair and update has accelerated much faster. As a consequence, the Fiduciary is in an uncomfortable spot. The board can stay conservative and fund a shortfall through assessments or go searching for yield in riskier investments and potentially suffer some loss (or somewhere on that spectrum). And again, we find the financial services industry leaning toward selling commoditized products versus customized solutions.

Over my career I have seen the attitudes toward risk change with the business cycle. Predictably, when returns drop, many investors reach for more yield and ultimately get burned by underestimating the risk. The age old

cont. on next page...

financial alchemy is to get something (more return) for nothing (no additional risk) and the temptation is certainly acute right now. Understanding the dynamics of risk and reward conceptually is one of the best investments you can make even if you have an advisor. Let's look at five main concepts that can help you protect community funds, enhance returns or lose it all or suffer heavy losses, depending on how they are used.

RISK FREE INVESTING

We need to establish a practical risk free rate as a benchmark for Community Association Fund investors. Money Market Funds and Certificates of Deposits (CDs) are the two most popular 'risk free' categories for investors like Community Associations. Did you know banks use your Money Market Funds to essentially make loans to those looking for daily financing? While Money Market Funds are shielded from default by the nature of the securities they invest in, during the Financial Crisis they dropped below par value for a period of time. CDs are probably the highest yielding 'risk free' category and I have seen some 1-year CDs recently offered at 1.0% vs. the 0.50% 1-year Treasury. CDs are insured up to \$250,000 by the FDIC. So why the disparity between returns on CDs vs. the one year? Many investors get hung up here, but it all has to do with who is using the funds. With Treasuries, the government is using the funds. With CD's a bank or brokerage is using the funds as a cheaper funding source than raising money through a bond offering. What might banks be using your CD funds for? Right now, we see a lot of banks investing in securitized credit card, home improvement, and car loans. Does that sound familiar?

BEWARE CREDIT RISK TRAPS

If you have travelled outside of risk free investing, and are interested in low risk debt investments, you should understand credit risk traps. Investing in bonds offered by lower quality companies offers a higher rate of return but also a higher risk of default and potential loss. When a recovery starts to take shape as was the case in 2005 and 2013, borrowers with lower credit quality look like reasonably safe bets at a 7% or 9% premium above a Treasury securities of similar maturity. But fast forward to today and the premium has become quite slim compared to the risk. When greater market uncertainty returns, the

spread between safer and higher risk securities explodes and investors lose much more on the High Yield bond than they were looking to gain in extra yield. Last cycle it was a wave of homebuilders and mortgage finance companies that went bankrupt, despite ratings agencies signing off on the strength of their balance sheets. This cycle it could be resource industries and financials. High Yield can play a part in enhancing yield at the right time in a conservative portfolio, however the company and industry specific fundamentals must be well understood and the risk must fit into the portfolio framework.

DON'T GET THROWN A CURVE BALL

(YIELD CURVE/INTEREST RATE RISK)

Another way investors get stuck with more risk than they bargain for is by investing in securities that mature further in the future (longer duration) which typically have a higher yield but greater volatility. Now is a great time to discuss the yield curve – think of it as a line connecting the 2-year, 5-year, 10-year, 20-year and 30-year yield on US Treasuries. Worldwide, investors are flocking to the US Dollar and safety of Government securities. All of this pressure has bid up the price for of the longer dated Treasuries (20 and 30 year) and pulled down the yield. The curve has become very flat meaning there isn't much incentive to invest in a 30-year Treasury vs. a 2-year for the interest it pays you. However, there is a huge difference in the price swing of the security for a small interest rate change. So as conditions normalize and rates eventually move higher 1%, the value of a 30-year



bond drops 19%! Of course the Government would be good for the principal and all coupon payments but you would need to wait until 2046.

OVERRELIANCE ON MATH AND COMPUTERS VS. PROFESSIONAL JUDGEMENT

Math and computers have helped manage risk on one hand, but as we have seen, led to disaster on the other when misappropriated. We have continued to see increasing reliance on low-fee automated portfolio management products that rely on numbers and relationships alone instead of incorporating the professional experience and discretion of industry experts. Structured and yield enhancing products not too dissimilar to the Mortgage Backed Securities that soured last cycle are making a comeback. Recently, I have seen auto loans offerings hit the market at relatively attractive yields but investors must be aware that delinquencies have also been ticking higher. Equity linked structured products – securities tied to the price of a stock index but with max and min profits capped off – have been another big push by the banks of late for investors looking for more yield. To me, these vehicles are essentially high-fee attempts to repackage risk and as an investor, one thing you should know is the source and size of the risk.

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PORTFOLIO BALANCE AND SOME IDEAS GOING FORWARD

Ideally, industry professionals and Community Association decision makers can make some sacrifices of time for the good of the community in the near term as I expect some important directional decisions will need to be made in coming years. As for portfolio balance, I encourage everyone to become familiar with the concept of stress testing a portfolio. Go ahead and have an advisor put together a portfolio for you. I bet they come back with something like "We can get you 3.25% return". That's a static number and I want you to be thinking about what happens in a changing world. Ask him what happens if interest rates go up 1%. Hmm, did the value drop 9%? Ask to name the top 10 High Yield securities. Hmm, all oil names that are yielding a lot because they might go out of business? Ask what the average duration on the Investment Grade and Treasury securities is. Hmm, 20 years? So while the return of 3.25% looks nice, the exposure is not at all what you want. But there is always an appropriate level of risk out there for you to take so don't be afraid to start thinking about getting off the ledge to reach for the right amount.



Adam Nielsen is Founder and Principal of *Hunt Club Advisors*. Before founding Hunt Club, Adam was a member of Goldman Sachs' Global Investment Research team, and previously worked with Citi Investment Research, and RBC Capital Markets. He began his investment industry career in 2006 at Coronat Capital Management, LLC, a global macro hedge fund and earned his MBA from Fordham University.

Prior to entering industry, Adam was a PGA member working at Winged Foot Golf Club in Mamaroneck, NY and as Head Teaching Professional at Rye Golf Club in Rye, NY.





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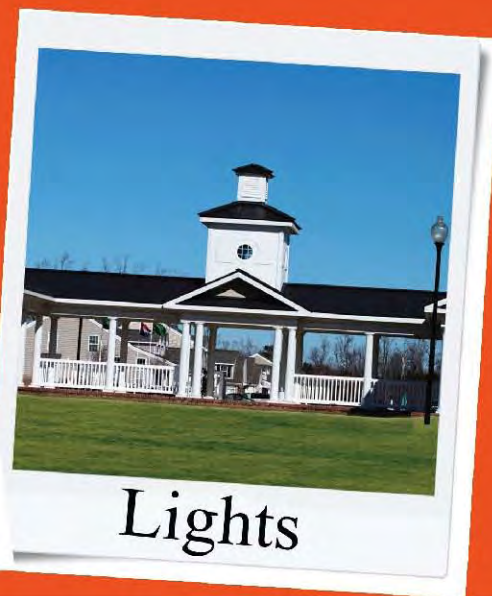
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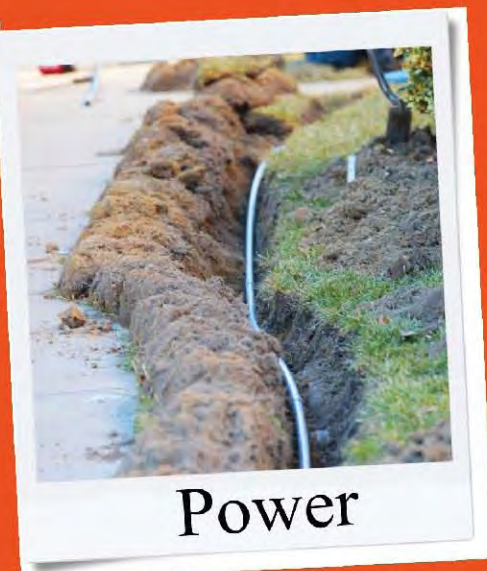
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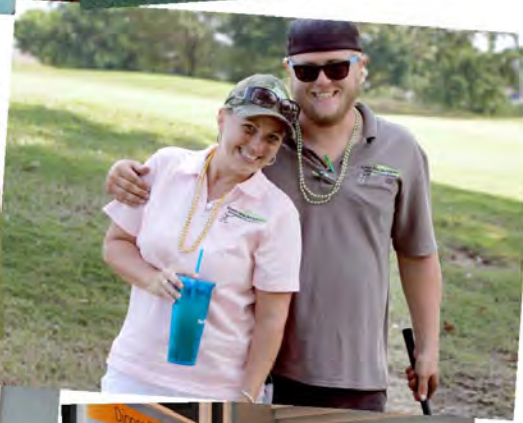


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COMPARING A TRADITIONAL ROOF TO A TESLA SOLAR ROOF: COSTS, PROS, & CONS

By **Erin Steuber**, *Tidewater Roofing*

The Tesla Solar Roof was unveiled by Elon Musk earlier this year and has immediately polarized audiences. It comes with all the sleek, precision-manufacturing excellence we expect from Tesla's electric cars, but also a quiet ambiguity when it comes to specific energy performance and cost.

But how does the latest top-of-the-range solar roof compared to the traditional residential roofing which has served Americans for generations? Let's find out.

THE COST OF ROOF REPLACEMENT

The cost of replacing a traditional asphalt roof can be anywhere from \$5k-25k depending on the pitch, layout complexity, accessibility and the cost of specific materials used. A middle-of-the-road value would be \$12-15k, though you should get an accurate quote.

Some homeowners are unhappy with the choice of tiles, but most often a roof replacement comes as a result of damage or materials exceeding their sell-by date. For those looking to replace their roof, they now have a high-tech option: the Tesla Solar Roof.

WHAT IS A "SOLAR ROOF"

Hot from the design and manufacturing teams at Tesla, their new Solar Roof is a collection of sleek, seamlessly integrated, dark glass tiles. Around 40% of these tiles will be solar panels, though they all look identical to passersby.

HEFTY PRICETAG

For an average home on the West Coast, the cost of a Solar Roof installation is around \$50,000. This assumes a 3000 sq. ft property which relies entirely on solar. If your solar requirements are smaller, then of course the number of "standard" tiles increases and the price drops.

cont. on next page...

WHICHEVER WAY YOU LOOK AT IT, THE TESLA SOLAR ROOF IS ANYWHERE FROM 2-4 TIMES MORE EXPENSIVE THAN TRADITIONAL ROOFING.

WHY BUY FROM TESLA?

The most obvious attraction to Elon Musk's new product is twofold: the aesthetic appeal and the brand name, Tesla.

Photos of houses with the Tesla roofing are impressive. The roof is regular and pristine, and can be either opulent or subtle depending on your tile choice, with more design options being made available in 2018.

Of course, Tesla is a firm with global renown and an enormous following – their efforts to find technological solutions to the energy crisis has enamoured millions. Having their latest release decorating your roof is a show of status which will appeal to many buyers.

The company is too smart to rely purely on reputation and style, however. The toughened glass panels make excellent roofing tiles which will provide safe, reliable protection from the elements for decades after the solar panels give up. Of course, the solar elements will simply be replaced 20-30 years down the line.

Another big plus for potential buyers is the lifetime guarantee offered with every roof. They have 100% faith in their product, and that translates into promises of excellent maintenance.

THE DOWNSIDES

Cost is the main one. Unless you have substantial savings and no major plans for investing them elsewhere, \$50k is a lot of money. More importantly, this is a first generation product, and that brings all sorts of problems on its own.

Extensive in-house testing never prepares a company for the real rollout to consumers. There will be teething problems and, if you're investing such a huge sum, you might choose to wait until Gen 2 or 3 like you would when buying an iPad.

Waiting a few years also means a bigger market, higher demand, and lower costs. We can't predict it, but the price is likely to drop significantly once Tesla has established a sizeable market share.

TESLA POWERWALL

Solar energy requires a management system to store and direct electricity as needed. The most efficient way to use solar panels is with on-site battery storage; save energy when you're at work, use it during the evening when you're home. Tesla's Powerwall is their solution – and it will put you back an extra \$6,000.

A Tesla Solar Roof is undoubtedly impressive and will give your house an aesthetic appeal above any of your neighbors, but the pricetag is a serious deterrent. Add in the complexity of integrating your home energy system and on-site storage, and it becomes a full energy solution – not just a roof. The future for Tesla and this technology, however, is extremely bright.



Erin Steuber is the Marketing Director at *Tidewater Roofing and Carefree Gutter Guard*.



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Short Term Rentals

As new statutes became effective July 1, 2017, in Virginia, our common interest community industry faces many challenges, some new, some not so new.



It is tempting to take a dire view of our industry given the holdings in recent Virginia Supreme Court cases, but I do not think that is warranted or appropriate. Instead, I would encourage our industry to be the leaders of inquiry, research and change, and to continue to support the foundation activities of "what we do" that we have known to work to create and maintain successful associations for many years now.

First, to be leaders of inquiry, research and change:

"Airbnb" is not only an organization but a synonym for short term rental property. And the short term rental property industry is not going away. That is why the General Assembly adopted a new law authorizing local governments to create a registry of short term rental property to require the "operator" of short term rental property to participate in the registry.

Effective July 1, 2017, the term "short term rental" means "the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy."

Many association recorded covenants do not prohibit the short term rental of homes. And, short term rental can be considered single family residential use of the home since short term rental occupants are typically referred to as "guests" of the Owner.

If an association wants to limit or prohibit short term rental of homes, the association's recorded covenants must be amended to include that limitation or prohibition. And the language used must expressly prohibit short term rentals. Here is sample language for a short term rental amendment to Condominium Instruments:

Sublease; Periodic Use. No portion of any Unit other than the entire Unit shall be leased for any period. No sublease or subletting of a Unit or any portion thereof shall be permitted. No Unit, or any portion thereof, shall be subject to or used

for any cooperative, licensing, periodic, timesharing or other arrangement that would entail daily, weekly, monthly, short term rental or any other type of revolving or periodic occupancy by Owners, guests or residents.

Please be sure to review any proposed amendment to recorded covenants with your association's attorney prior to asking your Owners to adopt an amendment.

However, amending your recorded covenants is not the end of the effort involved in the short term rental question. The Board and Association's Manager will have to enforce the provisions of the amendment.

How do you do that when it is Saturday morning and short term rental guests arrive at the swimming pool? As with other covenant enforcement matters, an association's "discussion" on the topic is with the Owner of the home, not with the Owner's guests.

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So, as you think about a short term rental amendment, you will have to think about adopting some new Rules and Regulations as well. As an example: "Short term rentals are prohibited in the Association. Any Unit listed on short term rental websites or on the local short term rental registry as available for short term rental is considered a violation of the Association's short term rental amendment and may result in covenant enforcement action."

But who is going to review those websites and the local registry on a regular basis on behalf of the association?

In those cases where short term rental amendments prove impossible to achieve, the association's Board of Directors will have to use its rulemaking authority to govern how the association's common areas are used by short term rental guests. As an example: "The swimming pool may be used by Owners, residents and their guests. An Owner or resident must accompany their guests to the swimming pool and must remain with their guests throughout their visit to the pool."

On the opposite end of the discussion, is it a good idea to limit short term rentals? I have many association clients that have answered this question by amending their documents as discussed above. But, in some cases, the answer could be "maybe not".

Each Board must review the question in reflection of the best interests of the community. As an example, an association may decide the intrusion of its common areas by short term rental occupants can be offset by charging a fee for use of a home as a short term rental to generate income for the association. Of course, the authority to collect such a fee must be in the association's recorded covenants.

“

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If the association's owners have been impacted negatively by changes in the economy, tolerating short term rentals may keep owners in their homes and common expense assessments current.

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As another example, if the association's owners have been impacted negatively by changes in the economy, tolerating short term rentals may keep owners in their homes and common expense assessments current.

However, no association should undertake this type of activity without complete review of the accommodation of short term rental occupants by the association's insurance agent since this may affect the association's property and liability premiums.

Even though I can support short term rentals in some association cases, I am leaning away from suggesting leasing caps or leasing cap amendments in many of my client associations.

Many associations will not likely become investor-saturated since the level of rent required to make the investment attractive to an investor-Owner is higher than the median level of rent in our geographic area. Certainly, many associations, if not a significant majority, are well within that median range. But does that mean the association will become investor-saturated without a lease cap?

I have many association clients without a lease cap in place. And I track the owner-to-investor occupancy ratio for many of those condominium clients since I am also managing their Fair Housing Administration certifications.

Of the hundreds of FHA Certifications I have completed, one, and only one, was not possible to submit due to the number of investor-owned Units in the association. A few were close to the 50% mark. The significant majority, though, reflect an investor pool in the 20%-30% range.

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Associations do not flounder or fail due to the owner-to-investor ratio in the community. They do so due to poor financial management, insufficient routine maintenance and lack of covenant enforcement.

”

In my opinion, that means the home sales market is stabilizing itself on this topic. That stabilization comes through the availability of attractive financing for owner occupied homes, as well as a sufficient homes inventory on the resale market to satisfy the occupation and investment demand.

Lease caps are administratively intense for both the Board and the Association's Manager to manage. Constant vigilance is required, which can take time away from much more important tasks. And I have not seen any substantive information supporting the argument that a lease cap keeps an association's property values high in this Hampton Roads arena.

Another concern on this topic is based on the hardship rentals that most lease cap provisions authorize. Very few people choose to leave a home they want to own and live in. But, things happen and sometimes that is required. Unfortunately, though, I have witnessed some true hardship requests get denied, or learned of them after it was too late to advise of a different approach. Lease caps can be very unfair at the wrong time.

All of this said, I do have client associations that want to avoid rentals altogether and have no interest in FHA Certification. And the only way to do that is to impose a lease cap.

And on the other end of the spectrum, I have client associations that are less than 35% owner occupied. Occasionally, a Board will discuss implementing a lease cap to return the association to an owner-occupied

association. The only way to do so is to convince the owners to adopt a lease cap amendment, and work on reducing the investor-to-owner ratio slowly, over time. By definition, that limits the resale pool to those owners who agree to occupy the home, which makes such amendments unattractive. And it could take many years to achieve the desired result, which means the Board and owners who made the decision to try to convert the association's demographics will likely be retired from the Board or gone from the association.

However, again in my opinion, the residential real estate market works well in our area to balance the owner-to-investor ratio of residential real estate.

And, again based on experience, associations do not flounder or fail due to the owner-to-investor ratio in the community. They do so due to poor financial management, insufficient routine maintenance and lack of covenant enforcement.

Which brings me to the foundation activities of our common interest community world that work. I authored an article in an edition of Currents in 2008 with the title "Are We OK?" That article is just as pertinent today as it was then.

An association's overall health, and therefore prosperity, continues to rely on foundation concepts:

Know your Governing Documents. These documents drive our work and reflect the soul of the community. Never talk about what you think they say. Know them, or admit you don't. You will forget what they say, so refresh your memory every once in a while, and always before you answer a question about what they say.

Know the association's Contracts in place and the professionals who administer them. There are a lot of moving parts to every association, and each part has a corresponding professional working on the association's behalf. I would encourage Boards of Directors to bring in those professionals to meet with the Board and Owners on a regular basis. Often, putting a face to a task and hearing the challenges professionals face as they work with the association helps manage expectations.

The association's Reserve Study tells you where the Association is going. There is very little else in your life where that is true. Embrace it.

And, plan for the unexpected. All capital components will have to be replaced at some point. Finding additional damage or damage caused by improperly constructed components happens more than frequently. If it does, you may need to pause the project underway and develop what will now be a rehabilitation project. You may need an architect to redesign the failed construction at issue. Roofing, cladding, water intrusion and land management specialists are all available in Hampton Roads. These

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It is important to be leaders, to ask questions and to support change. It is just as important to remember the foundation activities that make our associations successful.

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professionals can help design the scope of and the specifications for a rehabilitation project.

Then you are ready to find a contractor to engage in the work. Do not overlook the planning and development process. Look to the long term when problems are discovered, not to the short term. The long term approach protects the association's assets best.

Review the association's Year End Budget Comparison. This will tell you what went wrong and when, if anything did at all. It will help you understand what happens, or has to happen, during the current year to adjust the association's current budget to protect the association's financial health.

Significant budget shortfalls in maintenance and repair can reflect improper attention to the association's assets. Arguably, they can also show the sudden and unpredictable weather events that occur here. Know the source of the shortfalls, and take active steps to correct them.

Be sure to adopt a good, thorough, Budget. An association's financial health is crucial to protecting the owners' investment in the association.

Do not elevate form over substance. It is more important to have a fully-funded replacement reserve than to have an additional 100 annuals for the winter holiday season. You can install those annuals when you have 120% of the replacement reserve study's suggested reserve on hand. And, yes, always try to keep a financial cushion in place.

Costs go up every year, not down. Decreasing assessments is rarely a good idea. And, it is easier for any owner population to increase assessments incrementally rather than in large chunks every few years.

Keeping assessments artificially low by failing to fund the reserves or maintenance and repair line items is arguably a breach of fiduciary duty. The costs required to manage an association financially cannot be ignored. If they are, all owners lose the value of their investment in the community, even if they had nothing to do with the financial management of the association.

As part of the budget adoption process, be sure to allow for covenant enforcement expenses. Requiring owners to comply with the covenants likewise maintains the investment each owner made in the community. The declining integrity of a community will be directly reflected in the sales prices of the association's homes and the buyer pool attracted to the community.

The budget adoption process gets easier over time if it is managed throughout the year. The association's financial health remains steady, which in turn protects the assets and therefore the value of the association.

Every once in a while I question why I do what I do, and I have been wondering lately. Writing this article has helped me to answer my own question.

It is important to be leaders, to ask questions and to support change. It is just as important to remember the foundation activities that make our associations successful.



Sarah R. Palamara, Esq. is the founder of a successful law practice dedicated solely to common interest community representation. Her client communities range in from 4 to 3000 Units. Sarah has been an active member in the Southeastern Virginia Chapter of CAI since 1999. Sarah served on SEVA-CAI's Board of Directors from 2004-2006 and has served on and supports several Committees.

¹ Senate Bill 1578, Approved March 24, 2017 (An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-983, relating to the short-term rental of property.) The term "operator" is defined in Section 15.2-983 as "the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity."

² Va. Code Annotated, § 15.2-983.

³ "Recorded covenants" as used in this article refer to a Declaration in the case of property owners' associations and the Condominium Instruments (Declaration, Bylaws, Plans and Plans and Schedules or Exhibits to those documents) in the case of a condominium.

⁴ An Association must have express authority in its recorded covenants to collect this type of charge pursuant to Section 55-79.42:1 of the Virginia Condominium Act and Section 55-509.3 of the Virginia Property Owners' Association Act.

⁵ FHA Certification typically requires 50% Owner occupancy, although FHA regulations now allow Certifications for associations with occupancy levels as low as 35% if several criteria are met. Those criteria reward the financial health of the association with a request for FHA Certification at the lower Owner occupancy level.

⁶ Currents, 2nd Quarter 2008.

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COMMUNITY ASSOCIATION KEY DEFINITIONS

CERTIFICATE OF INSURANCE

A document issued by an insurance company/broker that is used to verify the existence of insurance coverage under specific conditions granted to listed individuals. More specifically, the document lists the effective date of the policy, the type of insurance coverage purchased, and the types and dollar amount of applicable liability.

GOVERNING DOCUMENTS The purpose of a community association's governing documents is to provide for the legal structure and operation of the community. The documents:

- Define the rights and obligations of both the community association and its owners.
- Create a binding relationship between each owner and the community association.
- Establish the mechanisms for governing and funding the community association's operations, including the establishment of the automatic lien.
- Set forth rules and restrictions for the:
 - Protection of both owners and the community
 - Enhancement of property values
 - Promotion of harmonious living

The general hierarchy of authority among governing documents consists of:

- Recorded map, plat, or plan (to show the precise location of units, lots, and/or common area)
- Declaration, CC&Rs, master deed
- Proprietary lease or occupancy agreement
- Articles of Incorporation (if incorporated)
- Bylaws
- Board resolutions

OPERATING EXPENSES Budget items that occur on a regular basis for the normal and usual services and repairs for the association. For example:

- Swimming pool management
- Professional and administrative services (management, legal, accounting, insurance)
- Utilities (electric, gas, water, oil)
- Contract services (lawn maintenance, elevator, trash removal, janitorial services, painting)
- Repairs (plumbing and pipe, electrical, door and lock)
- Personnel costs (compensation and benefits for community employees)
- Educational costs for employees, board members and volunteers (membership, courses and publications from Community Associations Institute)

RULE Also called a regulation or resolution, is a specific statement of required behavior or action, a violation of which carries a penalty (sometimes called a sanction). In a community association, rules outline expected behavior, identify limitations, and govern the community in the use of common property; the use of individual lots or units; changes in the architecture, the construction, or the appearance of lots or units; and the behavior of residents, guests, and other visitors. Community associations frequently develop rules that address pets, parking, noise, garbage, solicitation, etc.

VOLUNTEER OR SELF-MANAGEMENT The community association is managed by volunteer members of the board itself or by committees under the direction of the board. While there are no out-of-pocket management fees, continuity can be difficult because of volunteer turnover and inconsistent service. Professionalism depends on the skills and experience of those who volunteer. Other management options include hiring an association-employed manager or management company.

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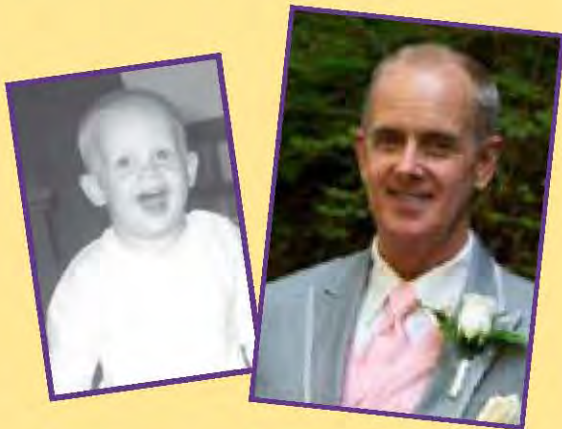
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