

CONDO MEDIA

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AUGUST 2013



On the Rise

Condominium Loans are Easier to Obtain Today but Still Not as Flexible as They Need to Be

The Official
Publication of
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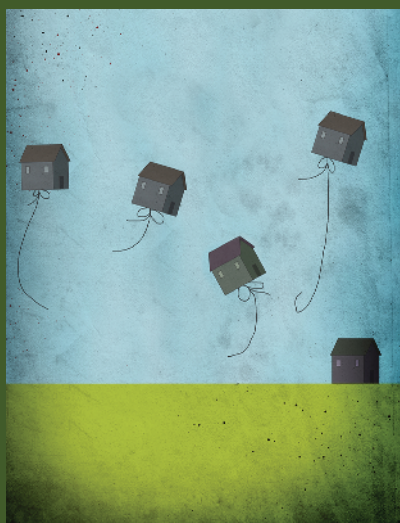
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ON THE RISE

Condominium Loans are Easier to Obtain Today but Still Not as Flexible as They Need to Be

By Nena Groskind



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Claudette Carini

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Everything Old

In today's fast paced, high-tech environment that consumes more of our time and challenges our expertise, demands better information and instantaneous results, and tolerates only the fastest and most reliable communication tools available, once-mainstream opportunities now considered "old school" are often overlooked.

In an effort to keep up with the ever-changing needs and demands of *Condo Media* readers and CAI members, new and innovative programs and resources have been introduced, from a digital *Condo Media* magazine edition and chapter Facebook account, to website posts of industry articles and educational programs delivered in webinar format. However, while many have sought out these resources and take advantage of their ease of access, many more have remained fans of traditional resources including a *Condo Media* publication that arrives via U.S. postal service and traditional classroom training that provides real-time answers and real-life interaction with other volunteer association leaders and industry professionals.

As with many things, a reflection on where we are and where we've been will often lead to the realization best described in the song co-written by Peter Allen and Carole Bayer Sager in 1974 that "Everything Old is New Again." And in looking to make "new" the "old" tried and true classroom programming, the chapter program advisory council is seeking new speakers and program content ideas to add to their offerings of fall programming. CAI members are encouraged not to forget this now often overlooked opportunity to meet and share their expertise with community association volunteers, homeowners, and professional managers. If you are a CAI member and are interested in presenting an educational program, submissions including program outline and length of presentation should be emailed to ccarini@caine.org for consideration by the committee.

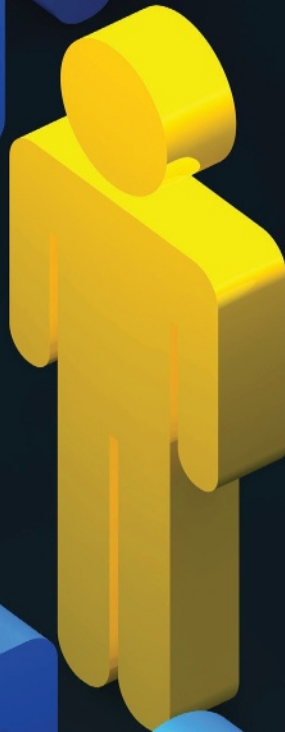
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Sincerely,



Claudette Carini
 Chapter Executive Director

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2013 CONDO MEDIA EDITORIAL BOARD MEMBERS**Jared McNabb, CMCA, PCAM | President**

McNabb, a community association manager with Crowninshield Management Corporation, has chaired the membership committee since 2005, was 2009 chapter president, and is currently serving on the CAI-NE board.

**Wesley K. Blair, III | Vice President**

Blair is senior vice president of Brookline Bank, has chaired the CAI-NE communications committee, and is a past president of CAI-NE and *Condo Media*. He is a founding member of the chapter *Condo Media* board.

**James Connolly | Treasurer**

Connolly, a manager with Thayer & Associates, Inc., was elected to a second three-year *Condo Media* board term commencing in 2010. He has served as *Condo Media* treasurer since 2007 and has been involved with the chapter for more than 15 years.

**Ellen A. Shapiro, Esq. | Clerk**

Shapiro is a partner in the firm Goodman, Shapiro & Lombardi LLC. She served two CAI-NE board terms, was CAI-NE chapter president in 2006, *Condo Media* president in 2007, and was elected to a second *Condo Media* board term in 2009.

**Richard Brooks, Esq. | Director**

A partner in the firm Marcus, Errico, Emmer & Brooks PC, Brooks served as CAI-NE chapter president in 1998 and 2008 and *Condo Media* president in 2009. He was elected to a third *Condo Media* board term in 2011.

**Claudette Carini, CED | Director**

Carini has held the position of CAI-NE chapter executive director for more than 18 years. In addition to overseeing magazine editorial and production, she brings story and magazine design ideas for board consideration.

**Jack Carr, P.E., RS, LEED-AP | Director**

Jack Carr is senior vice president with Criterium-Engineers in Portland, Maine, and has been involved with CAI and *Condo Media* for more than a decade. A member of the Maine Regional Committee, he is serving his second term on the *Condo Media* board.

**Richard Churchill | Director**

Churchill, president of The GroundsKeeper Inc., has served two terms on the CAI-NE board since 2001 and was elected to a third *Condo Media* board term in 2011.



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CAI NEWS

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MEMBERSHIP NEWS

Foundation for Community Association Research is Keeping Members Informed

The Foundation for Community Association Research (FCAR) unveiled a newly designed e-newsletter this summer. The name of the newsletter was changed from *Sources & Resources* to *Catalyst*. While the Foundation is a source of information and a resource for those who live and work in common-interest communities, the new name *Catalyst* captures the Foundation's essential mission: identifying challenges and gaps in industry knowledge that can be addressed with reliable and actionable research.

More than ever before, the Foundation seeks to be the industry catalyst for needs-driven research that informs and enlightens all community association stakeholders — community association residents, homeowner volunteer leaders, community managers, service providers, legislators, regulators, and the media. Visit www.cairf.org to learn more about the Foundation and to download its many research projects and Best Practices Reports for free.

Catalyst will be emailed to all CAI members on a regular basis and will include detailed analysis of research and industry surveys and will provide links to other information and data-based perspectives you can't get anywhere else. 



Top Hits on the CAI-NE Website

www.caine.org www.caine.org www.caine.org

The CAI-NE website — www.caine.org — provides invaluable resources and information for volunteer board members and industry professionals. Check out the following pages.

- **Program & Event Registration:** Managers' Summer Social
- **Helpful Resources:** Financial-Reserves Directory
- **Helpful Resources:** Legal Directory
- **Q&A:** Advice Replacement Cost vs. Cash Value
- **Feature Article:** Looking for Answers: Changes, Challenges & Concerns



Community Association Volunteer Leaders

Membership Pays More Than it Costs

CAI is committed to helping homeowner volunteer leaders enrich their communities. With membership in CAI, you also get the benefits of the Center for Community Association Volunteers (CCAV). Through this specialized member group, volunteer leaders learn about innovations in other communities, can access time and money-saving tools and information, and have a forum to share knowledge.


While joining CAI on your own is important, having your entire board connected to CAI is the best way to ensure you are making informed decisions

— and an excellent way to help your board members achieve the results, respect, and recognition they deserve. In addition, volunteer leaders can take advantage of membership fee discounts when joining boards of two or more.

Here are some of the many resources and services you'll receive as a CAI member:

- Board Member Tool Kit
- Rights and Responsibilities for Better Communities
- Community Association Governance Guidelines
- Model Code of Ethics for Community Association Board Members

- FREE Newsletter Articles for Homeowners
- Local Chapter Education and Networking Events
- *Condo Media* and *Common Ground*TM magazines in addition to other specialized newsletters
- Community Volunteer Leadership Development Program
- Advocacy Center
- Service Directory and Credentialed Professionals Directory
- Publication Discounts
- Member Discount Programs

Take advantage of your many CAI member benefits and you'll discover the value of your dues investment. 

CAI-NE Welcomes New/Renewing Members

Community Association Volunteer Leaders

- **Beacon Park Condominium Trust**, Kathleen Aherizk
- **Beacon Park Condominium Trust**, Arthur Couture
- **Beacon Park Condominium Trust**, Chuck Grey
- **Beacon Park Condominium Trust**, Barbara Thrasher
- **Beacon Park Condominium Trust**, Marilyn Travinski
- **Botany Bay Condominium Trust**, Alla Demihousky
- **Botany Bay Condominium Trust**, Kathleen Giarusso
- **Botany Bay Condominium Trust**, Candy Murphy
- **Botany Bay Condominium Trust**, Lincoln A. Spaulding
- **Botany Bay Condominium Trust**, David Tiberii
- **Creskide Condominium Trust**, Jonathan Arata
- **Creskide Condominium Trust**, Dorothea Dunphy
- **Creskide Condominium Trust**, Diane Gore
- **Devon Wood Condominium Trust**, David Solomon
- **Forest Park Condominium**, Robert Breault
- **Forest Park Condominium**, Velinda Brown
- **Forest Park Condominium**, Debra Burak
- **Forest Park Condominium**, Sue Gillooly
- **Forest Park Condominium**, Stephen Pflug
- **Harborside Inn Condominium Trust**, Joseph Badot
- **Harborside Inn Condominium Trust**, Anne Corcoran
- **Harborside Inn Condominium Trust**, Richard Edry
- **Mt. Edge Condo Association**, Constance May
- **North Farm Homeowners Association**, Herman Ferreira
- **North Farm Homeowners Association**, Foster Knight
- **North Farm Homeowners Association**, Eileen Sanderson
- **North Farm Homeowners Association**, Paul Twelves
- **North Farm Homeowners Association**, Dean Wood
- **Orchard Hill At Charlestown Heights Condominium**, Charles R. Levin
- **Prospect Hill Estates**, Fern Caron
- **Prospect Hill Estates**, Edmund King

- **Pudding Brook Condominium Association**, Elaine Sebak
- **Pudding Brook Condominium Association**, Evelyn Thomas
- **Rising Bear Lge/Heartstone Lodge COA**, Board Member
- **Saugus River Condominium Trust**, Jeffrey Barnes
- **Sea Meadow Village Condominium Association**, Lys Terkelsen
- **Sea Mist Resort Condominium Trust**, John Livingston
- **Sea Mist Resort Condominium Trust**, Harold McInnis
- **The Ledges Condominium Trust**, Roy Lindquist
- **The Ledges Condominium Trust**, Robert McIndoe
- **The Ledges Condominium Trust**, John Russell
- **Weekapaug Bluffs Condominium Association**, Karen E. Lemay
- **Winnecunnet Shores Condominium Association**, Diane Kolakowski
- **Winnecunnet Shores Condominium Association**, John Reale
- **Winnecunnet Shores Condominium Association**, Thomas Tullie
- **Woodland Park Condominiums**, Brian Differ
- **Woodland Park Condominiums**, Raymond Fournier
- **Woodland Park Condominiums**, Monique Kanadanian
- **Sharon A. Cleary**
- **Tami Goldsmith**

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- **Appletree Bay Property Management**, Bradd Rubman
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- **Webster Five Cents Savings Bank**, Jessica L. McGarry
- **Windsor Federal Savings**, Daniel J. Rys

Calendar of CAI-NE Programs

Upcoming Events

August

- 8 Emerging Leaders Network (ELN)
Managers' Summer Social**
 - 4:00 p.m. - 7:00 p.m.
Hard Rock Cafe, Boston, Mass.
- 14 Board Authority and Responsibility**
 - 1:00 p.m. - 2:30 p.m., Webinar
- 22-23 M-205 Risk Management***
 - Natick, Mass.

Mark Your Calendar

September

- 10 CAI-NE Board Meeting**
 - 8:00 a.m., Wellesley, Mass.
- 10 Condo Media Board Meeting**
 - 10:00 a.m., Wellesley, Mass.
- 10 Reserve Fund Management & Tax Considerations**
 - 1:00 p.m. - 2:30 p.m., Webinar
- 12 Fiscally Fit**
 - 9:00 a.m. - 12:00 p.m., Warwick, R.I.
- 18 Attorneys' Committee Meeting**
 - 6:30 p.m., Location TBD
- 19 Managers' Committee Meeting**
 - 8:00 a.m. - 10:00 a.m., Natick, Mass.
- 19-20 M-206 Financial Management***
 - Manchester, N.H.
- 21 Maine Condo Forum & Expo**
 - 9:00 a.m. - 2:30 p.m., South Portland, Maine

AUGUST 8

Emerging Leaders Network (ELN) Managers' Summer Social

4:00 p.m. - 7:00 p.m.

Hard Rock Cafe, Boston, Mass.

Open to all CAI members and nonmembers, this ELN-hosted event provides an opportunity to meet and greet colleagues and friends in a fun and relaxing setting. The unique downtown venue at the Hard Rock Cafe will provide a casual outdoor atmosphere with drinks and hors d'oeuvres as well as door prize drawings, giveaways, and more. Come find out what ELN is all about and how you can benefit from this professional network of industry veterans and newcomers.

AUGUST 14

Board Authority and Responsibility

1:00 p.m. - 2:30 p.m.

Webinar

The role of the board, unit owners, and the manager should be clear and distinct. When responsibilities are not well defined or are misunderstood, chaos ensues and communication breaks down. Learn how boards, owners, and managers should interact and understand the authority and responsibility of association decision makers.

Approved for one point for CMCA continuing education.

AUGUST 22-23

M-205 Risk Management*

Natick, Mass.

Learn how to protect your community and respond to emergencies. This course shows you how to prepare for your community's future by identifying insurance risks and addressing critical issues. Find out how to optimize your community's risk-management program and gain strategies and resources for evaluating property coverage, reporting losses, and managing claims.

SEPTEMBER 10

CAI-NE Board Meeting

8:00 a.m.

Wellesley, Mass.

SEPTEMBER 10

Condo Media Board Meeting

10:00 a.m.

Wellesley, Mass.

For more information

on CAI-NE meetings or upcoming events, visit www.caine.org, call (781) 237-9020, ext. 10, or send an e-mail to info@caine.org. Please note, programs and meetings are subject to change.

SEPTEMBER 10**Reserve Fund Management & Tax Considerations**

Webinar

1:00 p.m. - 2:30 p.m.

While there may be different schools of thought about reserve studies and how to fund reserves, financial management and tax considerations for reserve funds are more cut and dried but not always clear. Can the association borrow from reserves? Which expenses can be paid from reserve funds? Is a reserve fund required for FHA approval? Are associations required to have a reserve fund? What is the board's responsibility in managing and investing the reserve fund? Answers to these questions and other common misconceptions will keep the association on solid financial footing.

Approved for one point for CMCA continuing education.

SEPTEMBER 12**Fiscally Fit**

9:00 a.m. - noon

Warwick, R.I.

One of the most important responsibilities of association boards is managing the association's finances. As fiduciaries of the association, board members must protect assets, budget responsibly, and invest wisely. Speakers will address reserve studies and funding association reserves and offer insight into effectively managing association budgets and addressing budget shortfalls. In addition, presenters will facilitate a discussion about investment options for community associations. This program for association managers and board members will provide insight into the most common obstacles that keep associations from being fiscally fit.

Approved for three points for CMCA continuing education.

SEPTEMBER 18**Attorneys' Committee Meeting**

6:30 p.m.

Location TBD

An opportunity for CAI-NE member attorneys to share their comments and concerns about condominium case law and recent court decisions.

Open to CAI-NE member attorneys in good standing.

SEPTEMBER 19**Managers' Committee Meeting**

8:00 a.m. - 10:00 a.m.

Natick, Mass.

CAI-NE member managers discuss industry best practices, emerging trends, and professional management development. At this meeting a focus on technology and office and staff productivity will include a discussion surrounding software,

communication tools, and innovative products available in the marketplace.

Open to CAI-NE member managers in good standing.

Approved for two points for CMCA continuing education.

SEPTEMBER 19-20**M-206 Financial Management***

Manchester, N.H.

Learn how to best manage your association's money. This course gives you the tools to understand and apply principles of financial management to your community association. You'll learn the entire budget process, from identifying line items to reconciling accounts to gaining board approval. In addition, find out how to analyze and report on association finances.

SEPTEMBER 21**Maine Condo Forum & Expo**

9:00 a.m. - 2:30 p.m.

South Portland, Maine

This annual forum and expo provides the opportunity for those living in or managing Maine community associations to get essential and relevant information that will help them better manage their communities and address homeowner concerns. Industry professionals will present programs and discuss those issues that challenge board members and professional managers. Ask questions, get detailed explanations, and meet local industry suppliers and vendors.

Approved for five points for CMCA continuing education.

**All PMDP programs are approved for continuing education for CMCA. AMS recertification requires at least one PMDP 200 Series course every three years. To register for PMDP programs, go to www.caionline.org.*

Mark Your Calendar!


COMING IN OCTOBER 2013

OCTOBER 5**CAI-NE Annual Condo Conference & Expo**

• 8:00 a.m. - 2:30 p.m., Marlborough, Mass.



20th Annual CAI New England Chapter Golf Tournament

On June 6, CAI members, work colleagues, and friends were invited to The International Golf Club in Bolton, Mass., for a day of golf and networking. The weather was beautiful and made for a great day for golfing. A dinner reception and awards ceremony concluded the day's activities. The reception was host to a silent auction that raised \$5,096 for Homes for Our Troops. A special thanks to our tournament sponsors and volunteers who made the day such a success. 



▲ Golfers get ready to head out onto the green at the start of the day.



▲ Golfers register for the day.



▲ (L to R) Jeff Ewing, Paul Winnick, Brendon Kilcoyne and Jeffrey Winnick



▲ (L to R) Hugh Shaffer, Bob Corsetti, Tony Chiarelli, Dave Battaglia, Nick Boit, Chris Danielle



▲ (L to R) Paul Delaney and Brian Shimkus



▲ (L to R) Myra Poverman, John Shaffer, Mary Santiago and Nicollette Santiago

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- Greater Boston Properties Inc., AAMC
- Harvard Management Solutions, Inc.
- Leahy Landscaping, Inc.
- Puritan Flood Restoration



▲ (L-R) Pat Panzini, Susan Ebersole, Dave Abel, and Mike Gavin



▲ (L to R) Maria Benway, Melissa Landry and Matt Gaines



▲ (L to R) Jeffrey Lin, Wayne Dow, Keith Allcock, Ed Allcock, and Stephen Marcus

► David Abel drives his ball down the green.



▼ (L to R) Jon Skonieki, Steve Lewis, Ryan Flanagan, Doug Van Heest



▲ (L to R) Kimberly Bielan, Jen Barnett, Lisa Sullivan and Lisa Allegro



▲ (L to R) Scott Wolf and Peter Westhaver

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House of Representatives Tackles Homeownership

Recently, the United States Congress has again begun taking a stronger look at housing reform on their legislative agenda. The U.S. House of Representatives has unanimously cleared legislation permitting the Federal Housing Administration (FHA) to make changes to the popular Home Equity Conversion Mortgage (HECM) program. More commonly known as reverse mortgages, HECM loans allow senior citizens to access equity in their homes.

H.R. 2167, the “Reverse Mortgage Stabilization Act of 2013,” was spearheaded in the House of Representatives by Reps. Denny Heck (D-WA) and Patrick Fitzgerald (R-PA). The unanimous vote in the House reflects broad concerns about FHA’s financial health. Community associations have a direct stake in reforms to FHA’s reverse mortgage program. While homeowners are not required to make payments under the terms of a reverse mortgage, homeowners do remain responsible for taxes, insurance, and association assessments. When these items become delinquent, FHA faces significant losses as municipalities, lenders, and associations seek to enforce homeowner obligations.

FHA Financial Condition Worsened

According to an independent audit of FHA finances, losses on reverse mortgages have placed a severe strain on FHA’s financial condition. Auditors found that the main insurance fund backstopping FHA reverse mortgages has an economic value of negative \$5.25 billion.

More recently, President Obama’s 2014 budget proposal estimates FHA

may require as much as \$943 million in direct taxpayer assistance to bolster reserves against future losses. The FHA has never required direct taxpayer assistance to fund claim payments or to increase reserves in its 80-year history.



The FHA is already clamping down on its reverse mortgage offerings, suspending one program and limiting the maximum amount of equity homeowners may withdraw in a second. If H.R. 2167 becomes law, FHA will be granted additional administrative authority to manage and reform its reverse mortgage program.


One key reform under consideration by FHA is a requirement that homeowners demonstrate an ability to pay monthly housing obligations such as taxes, insurance, and association assessments. In some cases, FHA may require that lenders establish the functional equivalent of escrow accounts to ensure homeowners have sufficient funds to pay these monthly housing obligations.

Senate to Debate

H.R. 2167 will be forwarded to the U.S. Senate for debate and consideration. The Senate Banking Committee scheduled a hearing on proposals to reform FHA’s reverse mortgage program. CAI will continue to monitor congressional action to reform FHA’s reverse mortgage program and will provide member updates as the legislative process continues.

In an attempt to guide the House in its agenda, on June 18, CAI submitted a report to the U.S. House Financial Services Committee Subcommittee on Financial Institutions & Consumer Credit called, “Examining How the Dodd-Frank Act Hampers Home Ownership.”

The Subcommittee’s hearing focused on the Consumer Financial Protection Bureau’s Qualified Mortgage (QM) rule, which implements key mortgage lending reforms required by the Dodd-Frank Act. The QM rule requires that mortgage originators reasonably verify borrowers have the ability to make payments under the terms of a mortgage loan before extending credit. The QM rule also mandates that terms and conditions of mortgage credit meet minimum consumer protection standards.

CAI supports mortgage lending and securitization reforms that ensure access to credit on reasonable terms for Americans who choose to live in a community association. Alternatively, CAI strongly opposes any aspects of new mortgage lending and securitization policies that treat homeowners choosing to live in community associations differently. To read the complete comments, visit www.caionline.org. 

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Save the Date: Condo Conference & Expo, Saturday, October 5

The CAI-NE Annual Condo Conference & Expo brings together New England association decision makers and the professionals serving the industry. Free for association board members, homeowners, and managers, this full-day event to be held at the Best Western Royal Plaza Hotel in Marlborough, Mass., will provide a variety of resources and timely information to help volunteer leaders and professionals build better communities.

Exhibit Hall and Professional Advice

Business partners from a wide variety

of industries will participate in a sold-out exhibit hall featuring more than 100 vendors, service, and product providers. Answering questions and posing solutions to everyday problems and concern ranging from asphalt to windows and contracts to complaints, all the professional one-on-one advice and expert resources you need can be found in one place — in one day.

Educational Programs and Forums

Experienced industry speakers will present programs that will address the most pressing issues facing condominium boards and association



Lunch provides the opportunity to meet other board members and industry professionals.

managers, while panel forums will provide a more interactive exchange and debate of specific audience questions. Associations are being challenged with new lending guidelines and requirements, maintaining accurate reserve studies and funding goals while addressing the realities of a slumping economy that include increased foreclosures, collection and budget shortfalls, and often neglected maintenance, so more than ever before they are looking for answers to complex questions. In addition to these current-day problems, the conference will address the age-old challenges of common interest communities like rules enforcement, by-law amendments, and owner disputes. The ever popular panel discussions, presented by seasoned condominium attorneys, engineers, managers, CPAs, and others, will explain what associations and managers should do in everyday situations. **CM**

Register today at www.caine.org or contact the chapter office at (781) 237-9020 x10 for more information and registration form. The Conference & Expo is open and free to registered attendees.

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Call for Nominations


2014 CAI-NE Chapter Board of Directors


The CAI-NE nominating committee will open nominations in September for 2014 seats on the chapter's board of directors. The committee will be charged to present a slate of candidates for election to serve three-year terms on the 11-member board beginning January 1, 2014. Board service provides members the opportunity to participate in strategic planning discussions, be involved in policy development, and take an active role in guiding the chapter in programming, communications, and other areas critical to the continued success of the chapter.

The strength and growth of the chapter depends on qualified and dedicated leadership. In addition, it is important that the interests of all member specialties be balanced and represented. New members bring new ideas that enhance and build upon existing local chapter services, with the ultimate goal of assisting in the effective operation and management of community associations throughout New England.

Board service is a rewarding experience but also involves a commitment to participate. Meetings are held five times each year at the chapter office in Wellesley, Mass.,


and board members are expected to represent the chapter at events and help promote CAI to a greater audience. CAI members in good standing with the chapter and interested in taking a more active leadership role are encouraged to submit a nomination request to the committee for consideration. Submission of a request does not guarantee nomination for election.

If you would like to discuss potential nomination to the board or obtain a nomination form, contact Chapter Executive Director Claudette Carini at (781) 237-9020 x13 no later than September 1, 2013. 



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Make a Difference

Legislative Action Committee Nominees Sought

More than ever before, legislatures throughout New England are making decisions affecting the authority of condominium associations. As the advocate for condominiums in the CAI New England chapter states of Maine, Massachusetts, Rhode Island, and Vermont, CAI and the New England chapter are committed to encouraging the active participation of community association members and industry professionals in helping define community association law.

Legislative Action Committee (LAC) members ensure the voice of condominium associations is heard and heeded by legislatures, agencies, and courts in local, state, and federal jurisdictions. The chapter is seeking LAC nominees to serve two-year terms, which run from 2013-2015, on the Maine, Massachusetts, Rhode Island, and Vermont LACs. All delegates must be CAI-NE members in good standing. 

For a LAC Delegate Nominee Information Form, contact Chapter Executive Director Claudette Carini at (781) 237-9020 x13 or email ccarini@caine.org. Deadline for submitting the 2013-2015 LAC Nominee Information Form is August 31, 2013.

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2nd Annual Managers' Summer Social

Sponsored by ELN, Takes Place Aug. 8 at Hard Rock in Boston

It's time for a friendly summer get-together. Join the ELN committee and other managers from around the chapter after a long hard day at work for some fun and relaxation. The second annual Managers' Summer Social will be held on Thursday, Aug. 8 at the Hard Rock in Boston from 4:00p.m. - 7:00p.m., and will include free hors d'oeuvres and cash bar. Get ready to win raffle drawings and take part in the popular "meet and greet" for cash prizes.

The event is sponsored by the ELN committee, CAI-NE, and the Managers' Committee. Contact the chapter office at (781) 237-9020 x10 or online at www.caine.org for more information and registration. 



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Life's Good Here

Improving a Condo's Image Requires More Than a Positive Slogan

Crossing the bridge over the Piscataqua into Maine, you will notice we do not have billboards except the one in Kittery on the right side that proclaims, "Welcome to Maine — The way life should be." That got me to thinking about a new client's comment at a recent board meeting when I asked how things were at his condominium and he responded, "My condo. Yes, life's good here."

Of course everyone around the table recognized immediately he was parodying the recently announced slogan for the city of Portland, "Portland, Maine. Yes, life's good here." As part of the public relations launch of this new slogan, businesses and organizations were encouraged to tag their own names to create a tie-in, such as, "My Store. Yes, life's good here."

Though this slogan may remind you of words on a T-shirt or an appliance logo, the branding image message is clear. If only it were that simple to improve the image of a business or a condominium. As I said, this slogan got me to thinking of the meaningful ways a condominium's image is viewed by outsiders and what can be done to improve it.

When I have to deliver bad news to a condo board such as a discovered hidden building problem or underfunding in their reserves, I always suggest to the board that they remind their unit owners not to "hang out their dirty laundry." Sharing this type of negative information with a unit owner's hairdresser or dentist often results in the information becoming quickly distorted and the wrong story may be circulating in the local community or real estate market.

This is not to suggest this information be kept secret, as potential unit buyers have a due diligence right to be provided the correct available information to make an informed purchase decision. But in that case, the information can be provided in a controlled manner.

Beyond Curb Appeal

Regarding the general outside appearance of the condo complex, most folks recognize the importance of curb appeal. In these modern days, real estate brokers are looking beyond the outside appearance of the condo façade or the amenities available. They are asking to see the last two or three board meeting minutes to discover serious issues currently being considered. They are also asking about the percentage of renters, assessment arrears, and the overall financial condition of the association.

Though the Maine condominium market avoided much of the devastating wave of foreclosures and other financial problems experienced in other corners of the country, there are associations in Maine lacking adequate financial controls and capital improvement plans. Much of this goes back to a history of Maine condo boards having an independent streak as well as their overall size allowing them to be self-managed.

It is not unusual to find a Maine condo association without a formal reserve fund in place. Rather they depend on an internally generated budget for operation and capital improvement needs. This type of management can work, particularly if it is a relatively new association, but whether this less formal practice can function, there are problems due to the changes occurring in lending practices.

Six or seven years ago, lending guidelines allowed much more lax policies including sub-prime loans. At that time the Federal Housing Administration (FHA) accounted for less than 5 percent of the mortgage market share. Since the collapse of the mortgage market, Fannie Mae and Freddie Mac have dramatically tightened the underwriting guidelines.

This means banks and other lending institutions are looking at their own lending policies. Knowing they will be selling some of their loans to Fannie Mae, they tend to model their policies over the new requirements dictated by FHA and the U.S. Department of Housing and Urban Development (HUD). These new standards have severely increased the requirements for the level of reserve funds held by a condominium association before a prospective buyer can secure a loan to purchase a unit within that community.

This new underwriting requirement makes it mandatory a reserve fund must be established and it must be funded by setting aside 10 percent of the money collected monthly by an association. Therefore many condos are performing reserve fund studies for the sole reason of gaining FHA certification to attract a wider range of buyers and thus protect their unit owners' ability to sell. In effect, as important as curb appeal may be to attract buyers, demonstrating a solid financial basis is now key to hanging out a sign at the condo's entrance saying, "Yes. Life is good here." ■

Jack Carr, P.E., RS, LEED-AP, is senior vice president with Criterium-Engineers in Portland, Maine. He is a member of the Condo Media board and a frequent author and speaker.



A Trash Story

Pursuing Equal Services for Condominiums

On Monday, May 13, 2013, the condominium owners in the city of Agawam once again met to discuss the issue of municipal trash pickup. I attended this meeting on behalf of CAI to lend support to a group of condominiums trying to obtain equal services. Unfortunately, this group has been requesting that the city pick up their trash for more than a decade. Their requests have been met with resistance, mainly by the mayor.

Jeff Gurney of Atrium Property Services told me that his group would never give up. He was young and new to the business when this issue was first raised in Agawam. Jeff has always generously provided his time and some administrative costs to the cause.

Jeff asked me to attend the meeting with the hopes that the city councilors and mayor would attend. Unfortunately, only one city councilor attended; however, Senator Michael Knapik's aid, Dan O'Brien, who represents their district, also attended to see if he could lend a hand.

At the meeting, the condominium trustees and the city councilor discussed the road they had already traveled and what options were ahead. I urged them not to give up hope and that most importantly they needed to have unit owners in attendance at the next city-wide hearing. They are planning on raising awareness among all the unit owners and asked them to attend the budget hearing. It is hoped that if the mayor and other city councilors witnessed a large group of condominium owners at this hearing,




Condominium owners in Agawam meet to try to hammer out the issue of municipal trash pickup.

that then they would understand that this issue must be resolved.

It is also an election year in Agawam, which means the politicians will pay more attention to their constituents' concerns. It was agreed at the meeting that city councilors and other politicians don't often hear from their constituents in large numbers. Therefore, if the condominium homeowners come out in force, maybe after a decade's worth of work they would reach their goal of obtaining municipal trash pickup.

I told the group of my experiences with the other 36 cities and towns that have changed their policy over the years. I vividly remember watching the city councilors' and board of selectmen's faces when hundreds of homeowners would arrive to protest

the unfair treatment. In the city of Revere, many years ago, over 300 condominium owners attended a city council meeting and the room, which was not small, would not hold all of the condominium homeowners. It was not long after that that the city of Revere agreed to pick up the condominium homeowner's trash.

In the end it comes down to a battle of fairness versus costs. Usually fairness will win out. Unfortunately, sometimes it takes a while. 

Richard E. Brooks, Esq. is a partner in the law firm of Marcus, Errico, Emmer & Brooks, P.C. Twice past president of the CAI New England Chapter, he currently serves on the chapter's membership committee and Condo Media board.



That “First Day of School” Feeling

Inside a Newly Transitioned Condo’s Unit Owners Meeting

This is the August issue, and for the kids in our communities, the first day of school will soon put an end to these summer days of carefree sun and fun. I was reminded of that first day when I recently attended a unit owners meeting for a condominium — their first one since the transition from developer control. The air inside the meeting hall had the distinct “first day of school” feel to it. And like those all-important beginnings of the school year, no student really wants to be there, but all realize the importance and show up.

This particular condominium was a small community of 30 units, built within the last two years. The executive board members were not really new to the game, and this would become apparent to me very quickly. While none had served on an executive board before, each had at least a modicum of leadership experience.

Leadership Skills


The president seemed especially able to field questions from the audience — must have been his many years of experience as chairman of the bowling league. I am mentioning him because he had a good leadership style that bears illustrating. For instance, a unit owner raised his hand, again like back in the classroom (there was always someone who knew it all). For whatever reason, this unit owner felt that he could screen in his porch without permission from the board. The president politely validated the man’s question with words to the effect that, “Well, with these documents that are a bit vague regarding porches, I could see how you might believe that, but,

if you look at the bylaws, it specifically says that any alterations to the unit, common element, or limited common element — which your porch would be — needs approval from the board. But let’s ask our legal counsel.” All eyes were then on me and I reaffirmed the president’s response, backed him up, and added that the proposed alteration would need unit owners’ approval as well. “OK,” he said, “just wanted to check.” Although the unit owner didn’t get the answer he wanted, he wasn’t embarrassed about having asked the question.

There were many other questions, and the board members took turns fielding them, helping one another if they were stumped, or directing questions to me or the insurance representative present as well. One issue bothering all members was the reckless driving of some individuals. Clearly the board knew who the culprits were, but rather than embarrass them publicly, they chose to make their comments generally, and appealed to their natural instincts as parents, or in this case, grandparents — “a lot of us have been blessed with grandchildren — God forbid one of them gets hit” or “hey, let’s face it, most of us are too damned old to jump out of the way of your car.” That got the place rolling. The president got his point across with humor, empathy, and a small but manageable dose of fear.

The last item on the agenda was the budget. Due to the developer’s poor management of expenses, two months post-transition the association was dealing with a deficit to a degree that it warranted a fee

increase. The increase triggered a requirement for unit owner approval. The board members, knowing that this vote would be crucial, had knocked on doors to get the word out about the meeting. As a result, most unit owners were in attendance. I realize that this is a small community, and that knocking on doors may not work in larger condominiums, but here it proved to be successful. The point is that these board members were proactive from the start. There were many concerns and questions regarding the deficit, and many wondered why the fees needed to be raised at this early juncture. The president and the rest of the board patiently answered the questions and essentially said that the developer may not have represented the true cost of running the condominium — or had “low balled” the fee. They got the message across that under the circumstances, there was no sense in sending good money after bad to sue the developer and collect it from him. My takeaway: Being proactive and keeping it real proved to be a success, as the unit owners unanimously approved the budget with the increase.

At the conclusion of the meeting, the “first day of school” aroma fell silently away and was replaced by a smell of fresh coffee, pastries, and assorted Italian cold cuts for the unit owners. 

Frank A. Lombardi, Esq. is a partner in the law firm of Goodman, Shapiro & Lombardi LLC. A long standing member of CAI, he is the 2013 chapter president-elect and a frequent chapter author and speaker.

A Jolt of Progress

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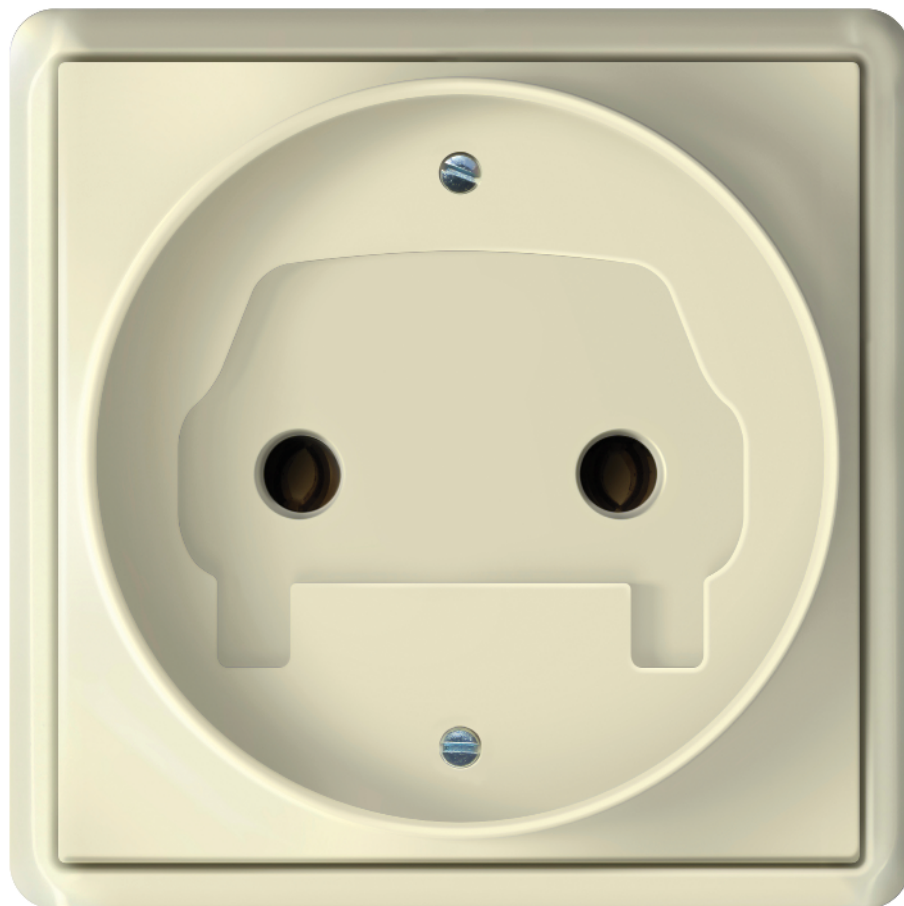
Vermont and Quebec have taken the first steps toward establishing an “electric charging corridor” linking the state and the province, providing recharging stations for drivers of electric cars traveling that route.

Gov. Peter Shumlin and Quebec Premier Pauline Maoris jointly announced the plan, which will initially install more than 20 charging stations along the 138-mile route between Burlington and Montreal. The plan envisions adding more charging stations incrementally along other routes as more drivers opt for electric cars. The Burlington-Montreal corridor is expected to open this fall.

“Alternative fuel vehicles lower our reliance on gasoline, helping both our environment and our energy independence,” Shumlin said in a press statement. “With the number of alternative energy vehicles growing at tremendous rates, these stations, along with websites identifying their location, will support visitors and residents as they use this clean and efficient mode of transportation,” he added.

In another move highlighting Vermont’s emphasis on energy conservation and the development of alternative fuel sources, Gov. Shumlin signed three newly enacted measures that will provide new financing options for corporations investing in sustainable energy projects, improve the state’s thermal efficiency programs, and streamline the permitting process for farm “digesters,” which produce energy from animal manure.


The new financing law authorizes the Vermont Economic Development Authority (VEDA) to borrow up to \$10 million from the State Treasury



to establish two new commercial sector loan programs and a new energy efficiency loan guarantee program. This bill also provides \$6.5 million to finance residential efficiency loans through a program run by the Vermont Housing Finance Agency.

The thermal efficiency law streamlines the state’s building energy standards and confirms Vermont’s participation in the Regional Greenhouse Gas Initiative, which will generate revenue targeted for the development of thermal efficiency programs. The law also requires a Public Service Board to

report on options to improve thermal efficiency efforts and revises the Home Weatherization Assistance Program to increase financial assistance for the least energy efficient buildings. The farm bill streamlines the permitting process for operating digesters.

“In Vermont we have led the nation with programs that help save money while cutting carbon emissions and promoting economic development,” Gov. Shumlin said at the bill-signing ceremony. “I am proud to sign legislation that will continue our progress on energy efficiency.” 

Collect Correct


The Uncomfortable Task of Collecting Overdue Payments

QUESTION: Our small (15-unit) Massachusetts condominium is having trouble collecting the monthly fee from some unit owners. As a result, we are having trouble meeting the association's expenses. The association's rules give the association the right to impose a \$25 late fee on residents who don't make their payments on time, but this has not proven to be an effective deterrent, and the board members responsible for enforcing the rules find it awkward to demand overdue payments from their neighbors. Can you offer any advice on how to collect the payments and still keep the residents of this small community on friendly terms?

ANSWER: The collection process can (and should) be polite, business-like, and even sensitive. But I'm not sure there is any way to ensure that the efforts to collect overdue payments will be perceived as "friendly" by the residents from whom the payments are being demanded. On the other hand, there is nothing "friendly" about their refusal to make their payments on time. As you noted, the collection problems are making it difficult for the association to meet its financial obligations, which puts the interests of all the other owners at risk. Failing to pursue delinquent payments in a timely fashion may also limit the association's ability to fully recover those costs. The Massachusetts Superlien statute allows you to collect up to six months' unpaid fees plus the legal costs related to them. So if nine months of delinquent payments have amassed before you file, three months will be beyond your reach.

Your desire to maintain a pleasant atmosphere is understandable, especially in a relatively small community. And certainly demanding payment from your neighbors is awkward, to say the least — but not nearly as awkward as failing to cover essential expenses would be for the association. Your board should certainly try to talk to the delinquent owners to see if the problems can be resolved in a non-adversarial way. If there are hardships, the board can try to find solutions outside of legal action that may be less painful for the owners involved. All of those steps are possible, but the bottom line is that a condominium is a business, not a social club — at least, it should be.

You can be as charitable as you want to be — but do it with your own money, not the association's. It's not fair to the other unit owners to subsidize those who aren't making their payments. If your neighbors are having problems, you can feel badly for them and you can try to be sensitive. But ultimately, your board has a fiduciary duty to

pursue the collection efforts as aggressively as necessary. If board members are uncomfortable taking these measures themselves, they should retain an attorney or a management company to handle the process for them. 





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On^{the} Rise

Condominium Loans are Easier to Obtain Today but Still Not as Flexible as They Need to Be



The property, 25 years old and poorly maintained, was a mess by almost every measure. David Abel, CMCA, senior manager at Boston-based First Realty Management Corp. AMO, recites the litany of problems he found when First Realty replaced the former manager at the 108-unit community in a moderate income neighborhood of Boston.

“Everything leaked.” The roofs, which the association had replaced (poorly) seven years before, were failing and had to be replaced again.

The siding and windows in all 18 buildings also needed replacing.

The parking areas and driveways were riddled with potholes and had to be repaved.

The community was divided and tensions were high between board members who insisted they should simply “patch and paint” and those who argued that more comprehensive renovations were needed.

Abel agreed that a piecemeal, patchwork approach would be futile — like using a teacup to bail water from a rapidly sinking ship. “The community was in the toilet and the water was swirling,” he told resistant board members and owners as he worked over several months to explain the life-or-death (for the community) challenge they faced. Amassing facts and figures, engineering studies, and “a dog and pony show,” he finally persuaded them that only a top-to-bottom, do-everything-at-once renovation would rescue their dying community. Now all he had to do was persuade a lender to provide the \$2.1 million loan they needed to finance the work.

With the property in disrepair, 8 percent of the units in foreclosure, several owners “holding on by their teeth” to units worth far less than they had paid for them, and the \$20,000 per unit share of the loan a stretch for most owners in this moderate-income community, the association was hardly an ideal loan candidate. And the first lenders Abel approached all said no.

A Credible Story

But for all its problems, the community had a credible financial story to tell. First, the association had almost completely repaid the \$200,000 it had borrowed for the faulty roof repair project, demonstrating the ability to make those payments. Following Abel’s recommendation, the board had also increased the reserve contributions for the past two years and had increased condominium fees by between \$50 and \$75 per month. The increases weren’t “staggering,” Abel agrees, but they were significant and owners had been able to handle them.

As he reviewed the numbers, looking for a way to turn a lender’s “no” to “yes,” Abel says he realized that with the combination of adjustments they had made, the association “had crept close to what the loan would cost them.” Taking part of the money they were putting in reserves and increasing fees another \$60 a month would almost cover the debt service.

Abel took that analysis to the first lender he had approached, persuading him “to look at the numbers in a new light.” He pointed out that while the new fees would be 30 percent above the old level, they were only 5 percent above the fee owners had been paying for the past 12 months to fund operations and build up the reserves. Addressing the lender’s concern that diverting some of the money earmarked for reserves might leave the association without the funds needed for major repairs and in need of another loan before this one was repaid,

Abel pointed out that virtually every component that might need attention over the next 15 years was being replaced. “I showed him that most of the money the association needed to make the loan payments was in the budget already.”

Abel made his case. The lender approved the loan and agreed to go beyond the 10-year industry standard and provide the 15-year term that would make the payments affordable

Rockland Trust. Many banks are now competing for loans in an arena once occupied by only a handful. As condominium loans have become more widely available, boards have become more open to considering them, recognizing that they can be an effective financing tool, making large projects affordable and allowing communities, like the one in Abel’s case study, to tackle multiple projects simultaneously.

Attitudes toward condominium loans have changed. Experience has made lenders more comfortable with the loans and their stellar performance has made the loans more desirable.

for owners. “It was the only 15-year condominium loan the bank had ever done,” Abel says.

And it gave the community the financial lifeline it needed. The construction was completed last year and “it came out beautifully,” Abel reports. Unit values have increased as the real estate market has recovered, foreclosed units have been sold to new owners, and “the property looks great. I wish I’d bought a unit,” Abel laughs.

A “Si” Change

This association’s experience illustrates how much attitudes toward condominium loans have changed since the days when this financing was virtually unheard of. Experience has made lenders more comfortable with the loans and their stellar performance has made the loans more desirable.

The collateral securing condominium loans (the monthly fees paid by owners) makes them virtually risk-free. Lenders who have been originating these loans for years say they have never had to write one off.

“They are among the best performing loans in our portfolio,” says Howard Himmel, vice president of community association banking at

“Just because a community doesn’t have the money it needs for a capital project doesn’t mean the need to do it goes away,” notes Michael Monahan, AMS, director of the community assist division of The Dartmouth Group, Inc., AMO, AAMC.

Wesley Blair, senior vice president at Brookline Bank, agrees. “Given the choice between ignoring a problem or levying a large special assessment and letting the chips fall where they may” on owners who can’t afford the payment, he says, “many communities will choose a loan.”

Lenders’ policies differ on the margins, but most approach the loans in the same way with similar, if not identical, lending criteria and with the same ideas about what they will and won’t finance.

Brick and Mortar

“Brick and mortar” is how Blair describes his view of appropriate uses for a condominium loan. “If you need to repave a parking lot, replace siding or a roof, we’ll do that loan.” Building envelope work, the replacement of HVAC systems, and lighting also fall on the “will do” list for Brookline and Rockland Trust, along with construction defect repairs. In those

cases where community associations expect to recover the costs from the developer or builder — eventually — both banks will approve the loans they need to begin the work.

“We’re not afraid of those loans,” Blair says. “When and if the association wins its suit, it can use the damages awarded to repay the loan.”

Rockland Trust is also comfortable with these loans, Himmel says, “but we want to know how far along they are in the litigation, and what the legal fees are likely to be.” Sometimes those fees can exceed the amount required for the construction work, Himmel notes, and the bank wants to be sure the association can repay the full amount of the loan if they recover less than they expect or recover nothing at all.

Neither bank will finance a community’s operating expenses — “the community has to be able to pay its bills,” as Himmel said. Blair agrees and applies that policy strictly, refusing loans to communities with cash flow problems resulting from foreclosure processing delays that temporarily reduce revenue from common area fees. Those are operating funds that associations need to replace by increasing common area fees or levying a special assessment, Blair says. “The bank won’t finance them.”

Brookline Bank also won’t finance insurance premiums, although, Blair notes, “a couple of Florida banks have figured out how to do that,” nor will it loan an association money to build up its reserves. However, if a community has used reserves to finance the beginning of a capital repair project, the bank will finance 100 percent of the construction costs, allowing the community to replace the reserves it has tapped.

Into the Mainstream

Growth has brought condominium loans from the banking fringes into the mainstream, standardizing the approval process and making it seamless for most associations. Monahan says he’s

found loans for his community association clients “very easy to get.”

The application process is straightforward, Himmel agrees, but the loans “aren’t cookie-cutter. Every association is different,” he notes, and those differences are factored into the loan review. Strengths in some areas (well-funded reserves, for example) might offset perceived weaknesses (such as a high delinquency rate) in others.

With a condominium loan, as with any loan, the lender’s primary concern is the ability to repay it. To make that

determination, lenders consider:

The community’s size. It has to be large enough to make the percentage share of the loan affordable for owners. Brookline Bank will consider loans for communities as small as five units, Blair says, “but we won’t approve large loans for them.” Rockland has no official minimum association size, but loans for communities with fewer than 10 units are very difficult, Himmel says. And the bank will look more closely at delinquencies and reserves at smaller communities.



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Delinquencies. This is “a key issue” for Brookline Bank, Blair says. “We look very hard at it. We’re not concerned if a community has some delinquencies; we know that happens. But we want to know what they’re doing about it. Are they sitting on their hands, or have they turned it over to legal counsel?” Rockland doesn’t have a delinquency limit, Himmel says, but delinquencies have to be “within tolerable limits.” What is “tolerable,” he says, depends on the community’s size. “We don’t want to see very high delinquencies in small associations.”

Reserves. Brookline Bank “looks closely” at reserves, Blair says, “but we’re not as tough as some” on that issue. “We consider it on a case-by-case basis. There are some communities where a small reserve level is fine, while others ought to be contributing 10 or 15 or 20 percent of their annual budget or more to reserves every year.” Rockland looks both at an association’s current reserves and at its ability to make regular annual contributions — at least 10 percent.

Reserve study. This isn’t a requirement, Himmel says, but “we like to see it.” What the bank wants to know, he explains, is whether the community is facing other major capital expenses in addition to those for which it is seeking the loan. “If they need \$500,000 now for a roof, are they going to need another \$300,000 in two or three years for the decks? And if so, how are they planning for that?”

Financial documents. A current budget and balance sheet are fairly standard requirements. If a community can’t provide them and doesn’t have a good reason, Blair says “that is cause for concern.”

Professional management. “If I were a banker, I would dig deeply before lending to a self-managed property,” First Realty’s Abel says. Fortunately for self-managed communities, bankers don’t entirely share that view. “Many lenders won’t work with self-managed communities,” Blair says, but Brookline Bank has no

reservations on that score. His primary concern is how long the community has been self-managed. “We like them to settle out and see how they do before we lend them money,” he explains. But he doesn’t look at loans to self-managed communities any differently than those to communities with professional managers. “That comes from being in this business for 18 years,” he says.

Himmel says professional management provides “a comfort factor” for Rockland, but the bank doesn’t insist on it. However, if the loan is for a major capital improvement project, “we want to be sure someone with construction experience is overseeing it.” Although professional management isn’t a requirement, Himmel says, he has noticed that after going through the loan application process, “many self-managed communities wish they were professionally managed.”

Real estate values. Rockland doesn’t focus intensely on values, Himmel says, although if values have declined dramatically, “we would be concerned.” Brookline Bank, on the other hand, “tries to keep lending at no more than 10 percent of what we think a community’s overall value is,” Blair says. That ratio is flexible, however, varying with the property’s location and demographics. If you’re talking about \$3 million floor-throughs in a luxury Back Bay Building, repayment of a loan outside that 10 percent boundary won’t be a concern. But in a lower-income association, where owners could not easily write a \$5,000 or \$10,000 check, Blair says, “the dynamic is different,” and so is the loan-to-value calculation.

Nicholas Boit, CMCA, AMS, president of Barrington Management Co., has arranged loans for many associations over the years, and has found that real estate values are a major concern for most lenders, affecting the size of the loan they will approve and in some cases, their willingness to approve a loan at all. If a 100-unit community needs a \$5 million loan and the units are valued at only \$300,000, the

\$50,000 per owner share of the loan represents a large percentage of unit value. “Most banks won’t go there,” Boit says.

Terms and Conditions

Like the underwriting criteria lenders use to evaluate condominium loans, the terms they offer are similar.

Loan size. Most have no stated maximum or minimum loan sizes they will consider. Himmel says Rockland has approved loans as small as \$10,000 and as large as \$4 million. For Blair, the “break point” at the low end is about \$50,000. Loan origination costs — averaging between \$2,300 and \$2,500 — make very small loans un-economic, he says. If the loan fees represent 10 percent of the loan, “it doesn’t make much sense,” Blair says, but the bank has approved loans as small as \$15,000 or \$20,000 for associations that insisted on doing them.

Loan term. Three to 10 years is standard; 10 is the maximum for most. Loans should be “as short as possible,” Blair advises. Associations don’t want to pay any more interest than necessary and they want to avoid the risk that they will need another loan for another major capital expense before the current loan is repaid — a risk lenders also want to avoid.

Loan options. Some loans are structured as lump sums; others begin as a variable rate line of credit that converts to a fixed-rate, fully amortizing loan. The hybrid works well for a community that does not know initially what its borrowing needs will be. The scope of the project might expand, requiring a larger loan than initially estimated, or a large number of owners may prepay their share of the loan, reducing the amount the association must borrow. The association can tap the credit line as needed for the first few months of a project, paying interest on the funds only as they are drawn, avoiding the risk of borrowing more or less than they will need.

Although the hybrid (credit line converting to permanent loan) is common, lenders are not generally willing

to offer open-ended lines of credit that are not linked to a specific project, available for whatever expenses the community wants to fund. A structured loan “provides the discipline associations need,” notes Blair, who says he has approved only a handful of straight revolving credit lines over the years to “very special associations. They are not appropriate for everyone.”

Prepayment penalties. Competition has pretty much eliminated this once common penalty for repaying a loan early. “I’ve never charged one,” Blair says. The bank would impose a penalty only if an association refinances a loan with another lender within two years. “We don’t get a lot of loans paid off by refinances with another institution,” Blair says, in large part because the refinancing costs are high. If an association is looking to secure a lower rate, in most cases, “we can adjust their rate to market with a simple letter agreement,” avoiding the refinancing costs. “It’s better for them and better for us, because we keep the loan.”

Different Strokes

Lenders manage a loan to a condominium association as they would loans to any other borrowers. They calculate the monthly payments required to repay the loan by the end of the term, establish a payment schedule (usually monthly), and collect the amount due from the association. For association managers or boards, the payment process can be somewhat more complicated. The association calculates the share of the loan each owner must pay based on their percentage interest in the condominium and collects the amount due, usually in the form of an additional common area fee earmarked for the loan. The calculation becomes more complex if, as is often the case, some owners want to pay their share of the loan up front in a lump sum; or if some decide to make a lump sum payment a year or more into the loan, because they want to eliminate the payment or because they are selling their unit and

prepayment of the loan-related fee is a condition of the sale.

Lump sum advance payments are easy; they simply reduce the total amount the association has to borrow, reducing the interest costs for owners paying monthly. Prepayments that come later require the lender to adjust the loan to reflect the reduced principal and the resulting reduction in interest costs for owners.

“We negotiate the terms of the note to specify that the bank must accept these prepayments and re-amortize the

loan,” Abel says, and though it sounds complicated, the accounting in most cases “is really straightforward,” he insists. “It’s not rocket science.” But the calculations can get convoluted, as was the case for one client juggling three separate loans: one for an old project begun under a different management company, on which some owners had made some prepayments; another from a different bank for a new, large building envelope project; and a third from the association to several owners who had to pay separately for windows only



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they had to replace. The only way to keep all of those moving parts straight, Abel says, is to “keep calm, plow through it, and make sure you don’t mess it up.”

Boit has a different suggestion: “Just say no” to owners who want to pre-pay or pay according to a different schedule. Offering multiple payment options to owners creates “an accounting nightmare” for management companies, he insists. He’s done that in the past and charged associations for the added work, but concluded “it isn’t worth it.” He advises boards to offer owners two choices: “Either everyone is in the loan or no one is.” Either the association gets the loan and all owners agree to the same payment plan, or owners write a check for their share of the project costs. That is by far “the cleanest way to do it,” Boit maintains, and, he’s found, given enough time and a clear explanation of the options, “most owners will figure it out.” And in the current market, he says, many are concluding that they are better off taking the money from a savings account earning less than one percent, or obtaining an equity loan, the interest on which is deductible, rather than paying interest on the association loan, which they can’t deduct.

Getting to Yes

Bankers and association managers talk enthusiastically about the ready availability of community association loans and the relative ease with which communities can obtain them today. But for all their willingness to make these loans, banks don’t approve all the applications they receive. Poor management, inadequate reserves, high delinquency rates, too many under-water owners, depressed real estate values, or some combination of these deficiencies will put some loans outside the risk parameters lenders are willing to accept. “It pains me to reject a loan, but sometimes I have to,” Blair says.

If he’s looking at a community in which units are now worth 70 percent of what owners paid for them, leav-

ing many with no equity, or negative equity, as a result, Blair says, “I can’t finance that. As much as I know they have to do the construction work, the answer for them has to be a special assessment, not a loan.”

Abel is trying to persuade Blair and other bankers to look at some of these extreme situations differently. He described one involving a 69-unit property in two buildings converted to condominiums seven years ago by a developer more concerned about profit margins than construction quality. “Everything leaks,” Abel said. The brick pointing has to be redone, all the windows have to be replaced, “they’re basically going to have to deconstruct the property and rebuild it.” Most of the units were purchased at the peak of the boom and are now under water, so equity loans aren’t an option and few of the middle-income owners can afford the payments on their \$50,000 per unit share of an association loan. But they could afford the payments, Abel calculated, if the loan were written for 25 or 30 years rather than 10.

Pushing the Envelope

Using an analysis similar to the one that persuaded a bank to go out 15 years on the Roslindale property he described earlier, Abel pointed out that while doubling the common fee, which was part of the financing plan, would push more buyers into foreclosure, they would be replaced by stronger buyers who would purchase the units at a discount and be able to manage the higher fees. A few owners would write checks for their share of the loan “and be done,” essential renovations would be undertaken, and “the value of the property would go up overnight.”

In the normal course of things, Abel noted, 5 to 10 percent of the units would be sold every year, and those owners would prepay their share of the loan, reducing the principal balance by degrees. “What was a huge nut becomes much smaller,” Abel continues, “and the loan written for 30 years will never last that long.” So, he suggested

to bankers, “write a 15-year note with a 30-year amortization schedule, or write a 30-year note with a 15-year balloon [making the balance due at that point]. By the time the balloon comes due, the loan will have been paid down to a “manageable” level. “The association can levy a special assessment to pay it off or refinance it. They can do whatever they want. Equity,” Abel insisted, “solves everything.”

Those were the arguments he made to the banks he approached to finance this community’s loan. At 30 years, “I was pushing the envelope,” he acknowledges. And everyone said no. The financial profiles of the owners made the risks too high, they said, and 30 years was longer than any were willing to go.

Determined to spotlight this issue, Abel helped organize a CAI-NE roundtable discussion focusing on the need to find ways to address the financing needs of communities that don’t precisely fit the lending model banks are using. “The banks told me no one does 30-year loans,” he said. “But 25 years ago, they didn’t do condominium loans at all, for the same reason — because no one did them.” It is time, he suggested, for banks to rethink what they are willing to do.

Both Sides

Boit, a former banker himself, can see both sides of this argument. He sympathizes with the imperative Abel sees to help owners who have to make essential repairs and lack financing alternatives, but he also understands the bankers’ need “to make a business decision.” Matching the loan term to the repair — a 20-year loan for a 20-year roof — sounds logical, he agrees. But banks have to consider the likelihood that an association will have other financing needs before that loan is repaid. They also can’t ignore the deficiencies that make some communities poor lending risks. And condominium owners can’t ignore their own responsibility to do a better job of planning for future capital repair and replacement needs. “Lend-

ing is not the end-all and be-all,” he suggests. It’s a useful financial planning tool, but a supplement to reserves, not a substitute for them.

In Abel’s example, where owners are struggling with shoddy construction that wasn’t their fault, “morally, you want to help them,” Boit agrees. “But I’m not sure it’s the bank’s responsibility to do that.” Even if that means some communities may fail? “Sometimes that’s what has to happen.” Boit replies. In the real world, “everything isn’t subsidized.”

While he doesn’t think banks should be faulted “for failing to go out 20 years on a siding loan,” he thinks they can and should be willing to think more creatively about ways to deal with “problem” loans — the small, 40 or 50-unit community with a \$5 million construction defect, for example — an unacceptable risk for one bank, perhaps, but if three banks each take a piece of the loan, where’s the risk for any one of them? Banks regularly share the risks on large commercial loans, Boit notes. “I don’t understand why in this lending venue they can’t come up with a creative way to do the same thing,” especially given the stellar performance of condominium loans.

Banks have evolved in their thinking about condominium loans, Boit notes, but he’d like to see them evolve further.

“They are more willing now to think about [different ways of structuring] low-risk deals. It would be interesting if they would [also] look at ways to partner to help associations that have greater problems.” Boit thinks banks will eventually move in that direction, but, he says, “they’re not there yet. Bank creativity overall isn’t where it should be.” ■

Nena Groskind is president of eContentplus, providing editorial content for websites, print and electronic newsletters, and magazines.

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Mercantile Property Management

Where Customer Service and Technology are Both State of the Art

by Pamela Schweppe

When you think about Cape Cod at this time of year, you probably conjure up idyllic images of sunny skies and pounding surf, beautiful beaches and bicycle paths. What might be harder to imagine are leaky roofs, cracked pavement, and snow removal. But, like everywhere, even the Cape has property issues that need to be addressed all year 'round.

A Full Portfolio of Services

Ideally positioned to handle these and myriad other issues — both geographically and in terms of expertise — is Mercantile Property Management of Bourne, Mass. Founded in 1987, the company manages approximately 2,500 units in 37 associations throughout southeastern Massachusetts and Cape Cod.

A specialist in condominium and homeowner association management, Mercantile offers a wide variety of administrative, financial, staffing, and maintenance services that are customized to the needs of each condominium client. These services can range from a comprehensive property management plan to selected services, depending on how involved the association board wants to be in day-to-day operations.

Taking care of all these responsibilities is a staff of 37 full- and part-time employees, including portfolio managers and accounting, customer service, and general administration employees. A few properties also have on-site Mercantile staffing, such as concierge, site manager, chef, and maintenance personnel.

One such property is Hidden Bay Condominium, an upscale community of 72 units in Dartmouth, Mass. A Mercantile maintenance worker comes

on site three times a week to handle any related issues that come up. "He's incredibly helpful," says board chair Rich Brown. "That's a big plus."

Built between 1987 and 1997, Hidden Bay is facing the kinds of maintenance issues that plague older complexes, and a major, \$1.2 million renovation project is just about completed. Brown praises Mercantile's ability to work in partnership with the board in overseeing the project.

It wasn't easy. The builder originally involved in the project ran into difficulties and "disappeared toward the end," according to Brown. "That was messy for a while." Fortunately, Mercantile has a good list of vendors to draw on in any type of situation, and the company was able to step in and source another builder to take over the project. "Mercantile was fantastic in making sure things kept going," says Brown.

Another complex facing a major capital expense was Deer Crossing Condominium of Mashpee, Mass. According to trustee Fredy DiMeco, the main obstacle was financial: how to pay for the \$2 million siding project. "Mercantile is very efficient," he says. "They review the reserve study every few years to make sure we maintain a healthy reserve and help keep condo fees low. They helped us finance the project using our reserves and a bank loan."

Service with a Smile

To Mercantile founder and president Craig J. McGowan, CPM, it all comes down to one thing: "a core philosophy of helping people." For that, a focus on communication and customer service is critical. And never is that more impor-

tant than during an emergency, when a quick reaction is key. "Emergencies do occur after hours and on weekends," McGowan points out. "I think that one of the biggest things we offer is our response time."

A case in point occurred last Thanksgiving, when a major water line to a property managed by Mercantile broke. Even though it carried town-fed water, the line was located on association property, so the town refused to take responsibility. "Believe me, going out there with one of my managers on Thanksgiving Day was quite an interesting chain of events, but we made restoring the water a top priority, even on a holiday," McGowan recalls. "We're there when our clients need us, 24/7."

While a burst pipe can happen anywhere, there are situations that are unique to oceanfront areas like Cape Cod. The region can be hit by hurricanes traveling up the East Coast, so the staff of Mercantile keeps a close eye on the weather and is prepared to react quickly. Additionally, some insurance companies have raised wind deductibles, according to McGowan, and some simply won't insure properties located near the water. "That's created some challenges for all of us in the industry," he says.

One association with special beachfront needs is Maushop Village Condominium of Mashpee. Because of its ocean frontage, the association fields issues relating to the beach, including beach nourishment, reporting to the conservation commission, maintaining the profile of the beach and a large revetment built by the association, and obtaining access to the beach through neighboring property.

The board has retained service providers who handle the beach nourishment and conservation commission issues, which Mercantile often facilitates in a liaison role, and also keeps the board informed about the water quality, which has to be tested weekly.

"They're always responsive, they're always on top of things," says board chair B.J. Krintzman. "They give us good advice." She adds that, because of Mercantile's long experience in property management, it's rare for them to confront a problem that they haven't already faced with another property. "With their experience with other complexes, they're able to lend that kind of expertise to our situation and inform us about what worked, what didn't work, what to watch out for, those kinds of things," she says. "We're very pleased with Mercantile. We think they do a terrific job for us."

State-of-the-Art Technology — With a Human Touch

One way Mercantile has maintained its service — and its growth — is by keeping up to date with the latest technology. The company currently uses TOPS Software Integration, a suite of tools designed specifically for property management. The system also allows unit owners to use ACH (Automated Clearing House) payment processing, in which they can pay their condo fees with their debit or credit card.

Additionally, with TOPS software, Mercantile can offer a web system to its clients that provides an array of services. "Once a website is set up, owners have the opportunity to review a calendar of events and all documents, notices, newsletters, and other forms of communication," McGowan reveals. "They also have the ability to review their personal account balance and work history."



Mercantile Property Management is fully staffed to handle all your association's needs. Back row (from left): Carol Lee; Allison Denning; Kerry Beaulieu, AMS, CMCA; Lisa Held. Center row (from left): Clara Moco; Kathleen Roche, CMCA; Lisa Arruda; Kelly Nogueira; Jenna Correia. Front row (from left): Allen Carleton, CPM; Craig McGowan, CPM, President; Christine McGowan, Treasurer; Ryan McGowan, CMCA.

Still, in McGowan's words, "one thing that sets us apart is we still answer the phone. You don't get a machine — you get a human being when you call my office, and in turn, we'll direct you to someone who can assist you as quickly as possible."

Education for All

Education is another important component in keeping up in the fast-paced world of condominiums. McGowan points out that many board members are new to condominium living. To help prepare them for some of the issues they may encounter in this setting, such as construction, finance, insurance, vendor contracts, and the enforcement of governing documents, Mercantile encourages board members to attend various industry-related seminars. "Decisions they make will impact not just the board, but all homeowners at the property," McGowan says. "We want to make sure the board has the whole picture."

McGowan's commitment to education isn't limited to board members, however. He advocates ongoing education for his management staff as well. Mercantile's portfolio managers are expertly trained and hold professional certifications such as Certified Manager of Community Associations (CMCA), Association Management Specialist (AMS), Certified Property Manager (CPM), and more. They also strongly support the Community Associations Institute (CAI) and frequently attend seminars to keep up with the latest developments in the industry.

It's all part of Mercantile's focus on doing the best job they can for their clients. "We really care about each association," says McGowan. "We're willing to go the extra mile to get the job done as cost effectively as possible."

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Keep Your Cool

Saving Refrigerated or Frozen Food During a Power Outage

Power failures can be one of the most annoying — and disabling — occurrences in a community. Whether caused by summer storms, power lines crippled by winter ice, equipment failure, an overloaded regional grid, or an animal disrupting a power line, electrical outages can be costly.

Residents can face many hazards when a power failure occurs (usually without any warning), including losing refrigerated and frozen foods. Some food items can be salvaged, however, if you're prepared.

In anticipation of a power failure:


- Have at least one or two coolers on hand, and at least one spare five-pound bag of ice in the freezer.
- Know where to get bag, block, or dry ice, particularly if you anticipate a long-term outage. (Caution: Dry ice is made from carbon dioxide, so it requires safe handling. Never breathe in its vapors or touch it with your bare hands.) According to the Food Safety Branch of Kentucky's Department of Health, a 50-pound block of dry ice

will keep a tightly packed, 18-cubic-foot freezer cool for up to two days.

- Have an instant food thermometer or appliance thermometer available to ensure your freezers, refrigerators, and coolers are staying cool enough to store food safely.
- Arrange the fridge and freezer efficiently. Frozen food lasts longer in a full freezer — up to 48 hours if tightly packed — and refrigerated food lasts longer — up to four hours — if there is room for air to circulate.

When the electricity goes off:

- Avoid opening and closing the refrigerator unless absolutely necessary.
- Check the temperature of refrigerated foods if the power is out for more than a few hours. Discard any food item that's been at 40 degrees Fahrenheit or warmer for two or more hours. Exceptions include butter and margarine; hard cheeses like parmesan and Romano; some condiments like mustard, soy sauce, and olives; and fresh, uncooked fruits and vegetables.
- Check the temperature of frozen foods as well. While tightly packed freezer foods will stay frozen for many hours, some items that may have thawed can be refrozen if they still retain ice crystals or have remained at a temperature lower than 40 degrees.

Since the appearance and odor of a food item isn't an accurate indication of its safety after a power outage, use the 40 degree rule of thumb. And when in doubt, discard the food. 

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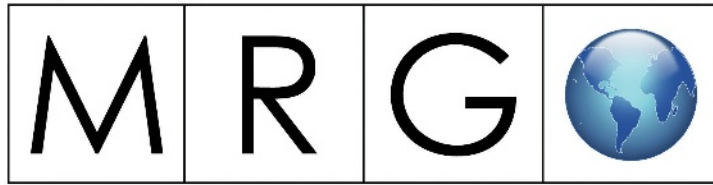
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Judgment Call

A Board's Good Faith Decisions are Protected Against Owner Lawsuits

It will not be a revelation to those who serve on condominium association boards that disputes can arise between unit owners, and that disputes even can arise between a unit owner and the board itself. Indeed, condo boards exist *because of* disputes. The role of a condo board is to identify the association's resources, evaluate how those resources might be used, and deploy those resources in the manner that best serves the association's needs. This process of allocating scarce resources is inherently a process of dispute resolution.

But what happens when the board cannot resolve a dispute? Particularly, what happens when a unit owner simply refuses to accept the decision of a condo board? Unfortunately, if the owner is sufficiently determined (and sufficiently disgruntled) these sorts of disputes often end with the association's board forced to defend its decisions in court. Lawsuits brought by unit owners against condominium boards can generate emotions, but they also raise interesting and important legal issues of which association boards should be aware.

The Business Judgment Rule

Among the issues relevant to suits against condominium boards is a legal doctrine known as the business judgment rule. Think of it this way: Apple decides that it wants to make a new iGadget. With the approval of its board, Apple invests millions of dollars in research and development, millions more in production, and millions more in marketing. Finally, the iGadget launches ... and it flops. A few people buy it, but Apple loses money on its investment and pulls the new iGadget from the market. As a result, Apple's share price drops \$25. Can a single Apple

shareholder win a lawsuit against Apple's board seeking \$25 on the grounds that the board did a bad job overseeing the sale of the iGadget?

The answer is no. While it is clear that Apple misfired and cost its shareholders real value, the business judgment rule nevertheless prevents suits like these from going forward. As opposed to statutes passed by state legislatures, the business judgment rule is a judge-made rule that is applied by courts in the course of lawsuits. Although its precise contours differ from state to state, the rule generally holds that a court must dismiss a plaintiff's lawsuit when it is premised only on a disagreement about a company's reasonable and good-faith decisions. So, an Apple shareholder cannot sue the company's board when Apple does its best, but fails, to sell a particular product. Similarly, if the Apple board is presented with an opportunity — say, to buy a startup tech company — but decides that the company isn't the right fit, the business judgment protects the board's decision, even if the startup turns out to be a hit.

On the other hand, the rule has its limits. If an Apple board member urged the company to develop and sell the iGadget, but at the same time had a financial interest in an Apple supplier who would stand to gain by the project, then the protection of the business judgment rule would evaporate. Moreover, the business judgment rule typically does not protect inaction that is the result of a complete abdication of responsibility. In this way, if instead of actively deciding not to buy that tech startup the Apple board simply forgot about the opportunity, the business judgment rule would not apply.

In short, the business judgment rule typically protects the *considered, good faith* decisions of corporate board members and directs courts to dismiss lawsuits arising out of such considered, good faith decisions. The policy reasons underpinning this rule should be clear. Not unlike the relationship between voters and elected political leaders, shareholders delegate their authority to corporate boards so as to further the efficient management of the corporation. Permitting those same shareholders to sue every time the corporation made a bad business decision would make workable, responsible corporate governance impossible. Ultimately, the business judgment rule realizes that shareholders who do not like the good faith performance of their board should remove those board members via the ballot box.

Condominium Associations can be Corporations Too

Although condominium associations can exist in different corporate forms, one of the most common is the non-profit corporation. While one typically does not think of condominium associations as being like Apple or other large multinationals, condominium associations can be corporations too. In this way, the corporation is the condominium association, the corporate board is the condo board, and the shareholders are the unit owners who are members of the association. As such, condominium boards may enjoy the protection of the business judgment rule in lawsuits filed by unit owners concerning the board's management of the association.

A recent case my firm litigated all the way to the Maine Supreme Judicial

Court illustrates how the business judgment rule might work in the context of a suit against a condominium association board. In *America v. Sunspray Condominium Association*, 2013 ME 19, a unit owner sued the association's board claiming that the board was not enforcing a condominium-wide ban on smoking, a ban that included smoking within individual units. The unit owner claimed that he was aware that certain other unit owners were continuing to smoke despite the ban and that he had been harmed as a result. Rather than sue the alleged smokers, the unit owner sued the board, claiming that the board members were violating their fiduciary duties by failing to take appropriate steps to deter and prevent smoking.

At the trial court level, the association moved to dismiss the unit owner's lawsuit, arguing that any disagreement concerning the sufficiency of the board's enforcement of the smoking ban was barred by the business judgment rule. The court agreed, holding that a board's decision concerning the enforcement of the smoking ban "is simply not a subject on which a court is going to police a condominium board." Although the unit owner claimed that the board had acted in bad faith in refusing to enforce the smoking ban, the court held that his allegations of bad faith were insufficient because a board member's personal disagreement with the wisdom of the smoking ban was not enough. Case dismissed.

On appeal to Maine's highest court, the unit owner reprised his arguments. But the Supreme Judicial Court again applied the business judgment rule and upheld the lower court's decision. The court held that the business judgment rule protected the condo board's decisions concerning how to enforce the smoking ban and that disagreement over how to

enforce the ban was not the sort of bad faith that overcomes the protection of the rule. In short, Maine's Supreme Judicial Court made clear that a plaintiff cannot sue a condo board over its decisions, so long as those decisions are made in a considered and good faith way.



Does the Business Judgment Rule Protect Decisions Made by Your Association's Board?

The existence and nature of the business judgment rule — and, particularly, whether it applies to the decisions made by condominium boards — is a question of state law. In other words, one state may adopt the rule, while another may not. There is no question that, after the Maine Supreme Judicial Court's opinion in the *Sunspray* case, the rule applies in Maine. Whether it applies in other New England states is less clear. Lower courts in both Connecticut and Massachusetts have written approvingly of its use in the context of condominium boards. See *McCreary v. One Strawberry Hill Assoc., Inc.*, No. FSTCV106006749, 2012 WL 6846391 (Conn. Super. Ct. Dec. 11, 2012); *Pompei v. Fincham*, No. 07-4743-BLS2, 2007 WL 4626915 (Mass. Super. Ct. 2007). However, courts in Vermont,


New Hampshire, and Rhode Island do not appear to have discussed the business judgment rule's application to decisions made by condominium boards.

Ambiguity over the application of the business judgment rule is important, however, because some courts and commentators have adopted and advocated

for a "reasonableness" rule that would provide lesser protection to condominium boards. In contrast to the business judgment rule, the reasonableness approach permits a unit owner to sue a condominium board for decisions that are not only made in bad faith or out of self-interest, but that are unreasonable. In other words, while the business judgment rule typically protects poor decisions that are made in good faith, the reasonableness rule would give plaintiffs more opportunities to sue in those situations. In the absence of any state court decision formally adopting the business judgment rule, associations who find themselves in litigation with unit owners should be aware that the plaintiff-owner

very likely will argue that the reasonableness rule should apply.

Conclusion

Running a condominium association is a difficult job, made all the more difficult by the physical proximity between condo board members and the unit owners they represent and govern. When faced with a lawsuit brought by a disgruntled unit owner, condo boards should make sure to assert the full measure of the protections afforded them under the law, including, where applicable, the protections available under the business judgment rule. 

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The Painful Death of Volunteerism

Why It's Happening, What to do About it

Many communities, if not most communities, suffer from a shortage of volunteers. People are busier than ever, and their time is precious. After a full day's work, it seems like a real waste of that precious time to spend it at a sleep-inducing board or committee meeting, away from family. The net result is that the available population of volunteers diminishes and boards soon discover they can't find anyone to

replace retiring board members. The result: Communities end up being managed by a small group of the same folks for a very long time.

Why are we so often unable to procure new volunteers, or fail to retain the ones we have? Unfortunately, lost volunteerism can almost always be traced back to the board of directors that does not endeavor to nurture the volunteers, place them in the right position, listen to their contributions, or acknowledge their

input. Volunteers receive their remuneration through satisfaction of process participation. No satisfaction means no participation. Let's talk about a few ways that volunteerism gets killed:

Ignoring Volunteer Input. The input of any volunteer — board member or committee member — is just that: input. That input does not have to be agreed with or followed, but it must be acknowledged. Many boards are under the false belief that acknowledging the input of volunteers means 1) the board agrees with the input and 2) the idea must be implemented. Nothing could be farther from the truth.

Micromanaging. Often at a loss on how to operate within the community association structure, the board will try to keep a hand in everything in an attempt to understand or keep track of what's going on. Unfortunately, this usually leads to 1) not really knowing what's going on at any one time because there is too much of which to keep track, and 2) dreaded micromanagement. Focused on detail in a misguided attempt at control — or a misguided attempt to feed an ego — micromanagers will stop volunteerism in its tracks every time.

Lack of Follow Up. When you become a board member, you must answer emails, return phone calls, and make personal visits in a timely manner. Not doing so makes volunteers feel as if their input is worth little to nothing. Like it or not, if you are on a board of directors, especially if you are the president, you are going to be the de facto leader of the community.

Volunteers?

Appointing People to Positions that Don't Suit Them. Anytime it's possible, boards and their management staff should try to match the volunteer's strengths with positions best suited for them. By taking into account whether or not that person has the required skill and personal attributes and can commit the time involved in the volunteer position, the volunteer will be able to contribute to the greater good and the community will reap the benefits of the volunteer.

Unproductive Meetings. How many meetings have managers, board members, and committee members sat through with their eyes rolling back in their heads, waking up only to check their watch every 10 minutes? Way, way too many. There's endless debate over meaningless minutia or non-agenda items. So make your meetings productive by 1) speaking only to those items on the agenda and 2) knowing that if a decision can't be made in five minutes, the board is not ready to make it. Period. Unproductive, long, and — well, stupid — meetings kill volunteerism.

The Fix

The good news is, volunteerism can be saved, resurrected, and made to thrive with a few simple operational tools.

Adopt a Mission and Vision Statement. Adopting a Mission Statement and a Vision Statement give the board (and community) focus on where they want to go and how they will get there.

Adopt Governing Policies. All boards should adopt a governing policy, or a method of standardized operation. For example, adopting Robert's Rules of Order prevents disorganized, long, and unproductive meetings and gives boards a tried and true platform on which they can hold more effective meetings.


Adopt Policies Governing Committee Operations. All boards should give their committees a standardized

guideline on how the committee is expected to conduct itself in relation to committee meetings, management, the board, owners, and vendors.

Conduct Annual Strategic Planning, Facilitated by an Impartial Third Party. This can save boards and committees hours of time over the course of a year by giving the entire volunteering entity (and staff) clear direction on which goals are important to achieve on behalf of the community.

Acknowledgement: Long and Loud and Public. At every turn, the board must, must, must acknowledge its volunteers and their hours of hard work and service in newsletters, in person, at meetings, and on the website. It is particularly incumbent upon the president to "spin the halos" of each and every one of those valued team members who work for the common goal of the betterment of the community.

Outstanding, Positive Communication with all Owners. Positive communication from the association fosters volunteerism because people want to be a part of something positive. This means a monthly newsletter that is more than "Don't park here!" and "Pick up after your dog!" Good news means good morale. Good morale means more volunteers.

Most of the tips on developing and retaining volunteers are easy and take very little time from the board. Why must leadership nurture volunteers in their communities? They are the fresh thinking future board and committee members, and current volunteers will feel like a welcomed and appreciated part of the process. 

Julie Adamen is president of Adamen Inc., a consulting and placement firm specializing in the community management industry. Julie can be reached via email at julie@adamen-inc.com or through her website www.adamen-inc.com.

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Save Water, Save Money

Approaches to Better the Planet and your Association's Budget

Saving water is important for many reasons. One reason is that water, electricity, and heating fuel take up a substantial part of the annual budget. Another reason is moral: In 1999, 200 scientists, in 50 countries, concluded that a shortage of water was one of the two most serious problems for the 21st century. (Climate change was the other one.)

There are many approaches to saving water, so we are going to break up the article into the different categories.

Education of owners:

Today, people are concerned about the environment and want to help. A newsletter mentioning ways that people can save water could help. Here are some simple ways for an owner to save water. The first three are the most important ones:

- Repair dripping sinks or showers. A dripping faucet can use more than 1,000 gallons of water per month.
- Fix a constantly running toilet.
- Check all plumbing components for leaks. This has the added benefit of

preventing water damage.

- Only run your dishwasher when it is full.
- Only wash your clothes if there is a full load. (You can also opt for settings that use less water.)
- Don't run the water while brushing your teeth or shaving.
- Buy a low flow toilet.
- Defrost your food in the refrigerator, not under running water.
- Take showers instead of baths.
- Wash your fruits and vegetables in a large bowl, not under running water.



Landscaping:

Irrigation of landscaping often consumes 40 percent of the water at the condominium. There are numerous ways to reduce the water used in landscaping. We will mention a few:

- When replacing plants, use substitutes that are drought resistant.
- Irrigate your plants at night.
- Use sprinklers with sensors that tell the sprinkler not to turn on if it is raining, or better yet, not to turn on if the ground is moist.
- Create dry river beds, filled with river rocks, and plants placed on the side of the river bed.
- Make sure when watering that the water ends up on the lawn or plants and not on the pavement.
- Create a basin that stores rain water that comes from the roof, and use that to water the plants with.

Accounting:

- Keeping track of changes in water bills is a great way to identify problems.

Maintenance:

- Make sure cooling system towers are properly maintained.
- Do regular inspections to check for leaks.


Sub-metering:

Sub-metering means having a separate water meter for every unit. The trustees have the right to mandate this, and to make it a common area expense. They can also issue a special assessment to fund this. There is a certain psychology about common area expenses that makes this effective. In reality, the owner pays for his water bill either directly or through his condo fee. However, human nature being what it is, people perceive water to be free when it is paid for through their condo fee. When they have to pay for their water directly, they will use less of it. In many cases, installing sub-meters is tax deductible.

There is a lot of politics that goes on in condominiums. If the board members have large families, and use a lot of water, they are being subsidized

by units that have very few occupants. This may make them less likely to want to sub-meter. On average, it takes 18-24 months from the time that sub-metering is first mentioned until a final decision is made. The cost to sub-meter is about \$210 per unit. One big advantage of sub-metering is it makes it very easy to isolate leaks. To summarize, depending on the situation, sub-metering can be very effective.

We have given many suggestions. Some will be applicable, some won't. It is always important to do a financial analysis of these programs. While a fi-

nance professor would recommend doing a discounted cash flow analysis, this is too complicated for most associations to do, and too easy to get wrong. We recommend looking for a three-year payback period. 

Ed Hofeller is the founder and president of Hofeller Management. He has an MBA degree and an AMS designation from CAI. Mark Sheingold is currently working at Hofeller Management as an assistant property manager and has obtained his CPM, RPA, and CPO designations.



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Plenty of Action

Energy Reporting, Priority Liens, and the Occasional Surprise Keep LACs Busy

Massachusetts

The top legislative news for this quarter is Boston's new energy ordinance, requiring commercial and residential buildings, including condominiums, to begin tracking their energy consumption and reporting it to the city. The theory is that making building owners and residents aware of their energy consumption will encourage them to implement conservation measures and to pressure their commercial and residential occupants to do so as well. But the city ordinance is flawed in several respects, according to Matthew Gaines, an associate in Marcus, Errico, Emmer & Brooks and chair of the Massachusetts Legislative Action Committee (LAC). Buildings that rank below the 75th percentile in energy usage will be required to undertake a more formal energy audit, he notes, but the ordinance doesn't require any additional action, such as updating existing systems, nor does it impose any penalties on buildings that fail to meet minimum standards. So it's not clear how much impact the measure will have, if any, on consumption patterns, Gaines says.

The impact on condominiums is even less clear. As originally proposed, the measure would have required all condominium owners to report their usage individually to the association, which in turn would have been required to collect and deliver that information to the city — an undertaking that Gaines says would have been both costly for communities (resulting in higher common area fees for owners) and virtually impossible for associations to implement. "It is hard enough to persuade owners to give you their mailing address, let

alone report their utility bills every month," Gaines notes.

At the LAC's urging, the bill was amended to make reporting voluntary for owners and to eliminate any penalty for failing to do so. Associations are still required to report whatever information they receive from owners to the city, which will estimate aggregate usage based on proxy data from other buildings, making the results inaccurate and incomplete, which, Gaines notes, "defeats the purpose" of collecting the data in the first place.

But the reporting requirements are taking effect, beginning in 2015 for condominium communities with 50 units or more or space totaling 50,000 square feet or more. Implementation is delayed until 2017 for small condominiums with between 35 and 49 units or between 35,000 and 50,000 square feet. An earlier draft included smaller communities with as few as 25 units or 25,000 square feet, but the LAC persuaded lawmakers to increase the threshold for the reporting requirement. "Ideally, we wanted them to exempt residential dwellings altogether," Gaines says, "but we at least won this small victory."

At the state level, the LAC is tracking 54 measures, 39 of which are re-files from last year. Many on that list are perennials, filed repeatedly and left to die without moving out of committee. "We're hoping they meet the same fate this year," Gaines says, the most likely prospect, he suggests, for most of them.

The legislative docket includes two new bills that have attracted the committee's attention. One promotes the use of electric vehicles, requiring

owners of any "improved or enclosed property" used as off-street parking, which would include condominium parking areas, to designate at least one space per hundred exclusively for electric vehicles. Although the law specifies that the spaces must be equipped with an electric charging station, it does not require associations to pay for the equipment. But the measure is still problematic for common interest ownership communities, Gaines says. "What happens in a community in which all 150 parking spaces are deeded to owners, [with no additional] guest parking? Does that association have to rip up a green area to comply?" And what happens, he asks, if two people have electric cars and want to use the one designated space?

The committee is opposing the measure, which Gaines likens to the "right-to-dry" statutes requiring associations to allow owners to install clotheslines on their property — "well-intended," but ill-suited for common interest ownership communities.

That description also applies to another bill filed for the first time this year requiring property owners to install window guards within units and "on all applicable windows" in the common areas of multi-family dwellings if residents who have children request them. As written, the measure would not only require condominium owners who rent their units to install guards if tenants request them, it would require the association to install window guards on all the landings leading up to that unit.

The committee hasn't opposed this measure, but "we are watching it closely," Gaines says, and if it seems to be

gaining traction, “we may seek a carve-out” for condominium common areas.

The committee is also watching two bills that gained traction in the last legislative session: One creates a commission to study the state condominium statute, which the LAC opposes only because they think the commission should include more industry professionals. The other specifies that if owners sue associations for improperly denying them access to records they are entitled to see and prevail in those actions, the association must pay their legal expenses. The committee thinks the legislation is “sensible,” but hasn’t taken a position on it. “We don’t favor it,” Gaines says, “but we aren’t storming the gates to oppose it either.”

Maine

A priority lien measure took center stage for Maine community associations during the current session, much to the surprise of the Maine Legislative Action Committee, which, after seeing the measure defeated last year, had decided to wait a while before trying again. The measure appeared on the docket by accident, according to Maine attorney Joe Carleton, chair of the Maine LAC, who provided this chronology of events.

A state lawmaker had filed a bill addressing foreclosures in timeshare communities. But somehow in the pre-filing deadline scramble, the drafting committee substituted the old superlien language and the legislator, who had actually opposed the superlien measure, signed it, thinking it was his timeshare bill. Instead of withdrawing the bill, the lawmaker added his timeshare language to give the Maine LAC another opportunity to try to win support for the priority lien, which puts community associations first in line, ahead of the mortgage lender, to collect unpaid common area fees from delinquent owners.

The Judiciary Committee heard testimony on that measure and several others at a single hearing dominated by proposals to modify a controver-

sial measure, adopted two years ago, requiring mediation before mortgage lenders can initiate foreclosure proceedings. The superlien got little attention, Carleton says; most of the testimony lambasted banks for using mediation as a tool for delaying the foreclosure process.

The committee ultimately killed all of the foreclosure-related bills (including the priority lien) at the request of the state attorney general, who said she will form a working group to study the issues and “see what can be worked out.” Although the priority lien will be part of the agenda, the study group will focus primarily on mediation reform, Carleton said. While the LAC hasn’t taken a position on that issue, “we are obviously interested in it,” he noted, because community associations are affected by foreclosure delays. “We’ve used that in the past as an argument for the priority lien.”

Those arguments haven’t been successful thus far, largely because banking industry opposition has been so strong. But the “beating” banks took on the mediation issue may have weakened their position, Carleton said, and as a result, he thinks, “we may have a better shot” at getting the priority lien bill passed.

The LAC has asked to participate in the attorney general’s study committee, but hasn’t gotten a reply to that request.


The committee has also requested action on a housekeeping measure to clarify what appears to be an error in an existing statute governing condominiums established before 1983. That legislation includes a subchapter dealing with “membership camping.” In reviewing the law, Carleton noticed language in this subchapter saying that a violation of “the chapter” would also be a violation of the state’s Unfair and Deceptive Trade Practices Act. It should have said “a violation of the subchapter,” Carleton said, but as written, any violation of the chapter could trigger the other law, with a potentially “huge impact” on litigation involving condominiums

governed by this measure. Carleton said the Judiciary Committee is considering whether to include this error in the errors and omissions bill lawmakers enact every year to correct legislative drafting mistakes.

Rhode Island

The Rhode Island LAC hasn’t spotted many condominium concerns on its legislative radar screen this year, the committee’s chairman, Frank Lombardi, a partner in Goodman, Shapiro & Lombardi, LLC, reports. Of the bills filed thus far, only one seems to have any potential impact on condominiums, and the impact would be positive. The measure would prohibit a municipality from assessing newly constructed residential properties, including condominiums, at full cash value until they have been occupied. This approach would enable a condominium developer who completes construction of a property in a weak market to hold the units until conditions are more favorable and prices have improved. The tax relief “could encourage condominium construction,” Lombardi says.

The committee may propose legislation this year to clarify the authority of community associations to file consecutive six-month priority liens, establishing a new lien if payments become delinquent again after a foreclosing lender has cleared a previous lien.

This issue has also surfaced in Vermont, where the courts have split on whether sequential liens are allowed under that state’s priority lien statute, and in Massachusetts, where the LAC is supporting legislation specifying that “priority liens shall mean all six-month lien periods established in accordance with the statute and not limited to one six-month lien period, whether or not the lien periods are successive.” Matt Gaines, who chairs the Massachusetts LAC, has argued that this “common sense” clarification is consistent with the intent of the priority lien, which is to ensure the financial viability of community associations. 

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PERSPECTIVE

How do you Persuade Boards that Professional Management is Worth Paying For?

When searching for words to describe the community association manager's job, "thankless" will probably appear somewhere on the list, along with "challenging," "multi-faceted," "rewarding," and often (if we're being absolutely honest) "underpaid." There is nothing easy about what managers do, but few tasks are more difficult than persuading boards and owners that the services managers provide are worth the fees they charge and probably more.

The best-run communities operate like a pampered motor — quietly, efficiently, and usually problem-free. Skilled managers make what they do seem effortless, which is both a testament to their professionalism and a lousy marketing strategy. Boards see the results of good management in the tasks they don't have to perform and the problems they don't have to solve, but not the effort required to achieve them. So some board members question why they should pay so much for services that (they suspect) others could provide for less. It doesn't help that some managers — less experienced, less professional, and, perhaps, less reputable — will offer cut-rate fees,

leaving boards to discover too late that the services they are getting are cut-rate as well.

How do managers persuade boards preoccupied with costs that quality management is valuable and worth paying for? We asked two experienced managers how they handle this problem. Their responses confirm both that the problem is real and that it can be managed, if not solved.

**Ronan Ryan, president,
RGR Property Management**

Boards looking to replace a manager who has performed poorly and boards at self-managed communities considering professional management for the first time pose different challenges for a manager trying to "sell" the value of what they do, Ryan says. A board that has had a bad experience with one management company "will be wary" of hiring another, "and I don't blame them," Ryan says. He tells these boards that he will provide the services they should have been getting all along — services that any good management company should provide. For boards that haven't been getting regular financial reports, or haven't been getting them at all, this

can be something of a revelation. "I tell them, 'If I don't give you your monthly reports by the 20th of the month, you should call me to find out why; and if that happens more than once, you should fire me.'"

For the self-managed community, his emphasis is on explaining the real costs of self-management. What the owners are spending separately on legal fees (to have an attorney on retainer), accountants' fees (for bookkeeping services), and maintenance may far exceed what they would pay a manager to provide some of those services and "to tell them when they need specialized advice," Ryan says.

The industry's "bad actors" can make it difficult to convey the value message, Ryan agrees. "Although it's always easy to look good when the guy before you was an absolute disaster," he acknowledges, overcoming the bad taste left by a poor management company isn't easy. "We have to do some rebuilding of the industry" with those communities. That process requires setting reasonable expectations from the beginning "and then going above and beyond them," Ryan suggests. Constant communication is also important.

Ryan meets regularly with board members — at least quarterly, and more often if they are having acute problems “to make sure we are giving them what they should be getting from us.” He also knows management companies can’t expect boards to notice on their own what the company is doing. Board members will call when there are problems, but “no one will call and say, ‘Everything looks great; you guys are brilliant.’”

For that reason, Ryan makes sure monthly reports describe fully what the company is doing, detailing all the maintenance issues addressed, all the e-mails received, calls answered, and correspondence with owners. “We constantly remind boards of what we’re doing for them.”

When dealing with a board made gun-shy by a previous bad experience, Ryan also emphasizes that board members have more control than they often realize. “I tell them, ‘We will write a one- or two-year contract, but if you don’t like what we’re doing, you can give us 60 days’ notice and move on. You always have an out.’”

Ultimately, the best way to sell the value of quality management services is to provide them, Ryan believes. As he tells clients and prospective clients, “I live on my reputation. If I’m not performing, I don’t deserve your business.”

**Anita Chmilariski, CMCA, owner,
*Linear Property Management LLC***

Chmilariski finds that she has to approach the management value question differently with boards at self-managed associations that are considering professional management for the first time and with communities that have had disappointing management experiences in the past. The discussion with self-managed communities is a little easier, she says, because they start with a “clean slate,” without preconceived, negative assumptions about what management companies can or should do. Their primary concern is that their

fees will have to increase to cover the management fee. “That’s a big misconception,” Chmilariski says. She tells these boards, “If we do this correctly, we should be able to save you money.” Communities that have been struggling to do everything themselves “are always grateful for anything you’re able to do for them,” Chmilariski notes, especially “if you can reduce their costs.”

Ultimately, the best way to sell the value of quality management services is to provide them, Ronan Ryan believes. As he tells clients and prospective clients, “I live on my reputation. If I’m not performing, I don’t deserve your business.”

In approaching boards recovering from a bad management experience, the initial challenge is “to show them how we will be different, to explain how what we do will add value,” and to make this key point: “You get what you pay for.” Board members and owners who feel they have been poorly served by a previous management company will look at a new one “with a more critical eye,” Chmilariski says. There will be “more restraints until they get used to you.” But she doesn’t see that initial ultra-close scrutiny as a negative. “It keeps you on your toes,” she says.

With both self-managed and previously managed communities, Chmilariski focuses on “listening, listening, listening. I get rid of the sales pitch. I ask what they need from us rather than telling them what we will do for them.” And she focuses less on the “bells and whistles” of association management and more on personal service and professional performance. “It’s getting back to basics,” she explains. “Good service never goes out of style.”

The value of professional management can be difficult to convey, she agrees, because of the number of “nouveau” managers who were dislocated from real estate broker-

age, construction, and related fields during the downturn and have transplanted themselves in the association management industry, “but aren’t qualified to be here.” Lacking training and experience, they seek to establish a foothold by offering unrealistically low fees that experienced companies can’t match. Given the opportunity, Chmilariski says, she can usually explain the value added by

an experienced company, but many boards don’t go beyond the low-ball bids they receive and “we can’t get in the door” to make a pitch. She thinks a licensing requirement for association managers would go far toward addressing that problem. “It would raise the level and reputation of the entire profession.”

Chmilariski agrees with Ryan that managers must make the effort to ensure that the often hidden value of what they do is visible to boards. It isn’t enough just to report that the company has obtained insurance quotes or solicited bids from vendors or undertaken a risk management analysis, she says. “We have to educate boards” about all of those tasks. “We shouldn’t keep these things a big secret.”

She also thinks it is important to encourage boards to view their management companies not just as service providers but as a valuable resource — a source of information about what is happening in other communities and in the condominium industry generally. “That’s one way we add value to our services,” she says. “And it’s a way to solidify our relationship with our clients.” **CM**

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