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COMMON INTERESTS

THE 2024 Finance ISSUE

Preparing to Borrow for Major Projects: What Association Management Companies Should Know

What Makes a Successful HOA Budget?

Community Messaging During Times of Financial Turmoil

ROCKY MOUNTAIN CHAPTER
community
ASSOCIATIONS INSTITUTE

COMMON INTERESTS

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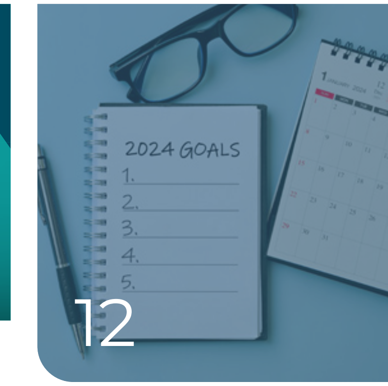


FEATURED

COLUMNS

President's LETTER

Justin Bayer
Chapter President, CAI-RMC

Hello again, CAI-RMC Membership!

Welcome to the 4th edition of Common Interests magazine for 2024! By now the kids are gearing up (or have already) gone back to school, the weather is hot and sunny, and you are sitting down to learn about HOA Financials from your fellow members of the RMC community!

So, finances. What can we learn about the importance of a healthy financial situation within an HOA? This issue promises to be chalked full of advice, from various folks across our different membership groups. Nobody is going to be surprised to learn the importance of financial health within an HOA, but I know you will learn something by reading this issue!

With proper financial planning and habits, our communities can effectively budget for operating expenses, we can create more transparency and accountability with our dues, we can bolster our reserve funds, enhance property values, and most importantly, we can avoid financial crisis. But hey, don't take it from me, turn the page and read for yourself what our experts on the subject have to say!

Our upcoming events, which are listed on the CAI RMC website, are stacked with educational opportunities, networking opportunities, and shooting at clay pigeon with shotguns opportunities. Talk about range!

A few events I would like to highlight:

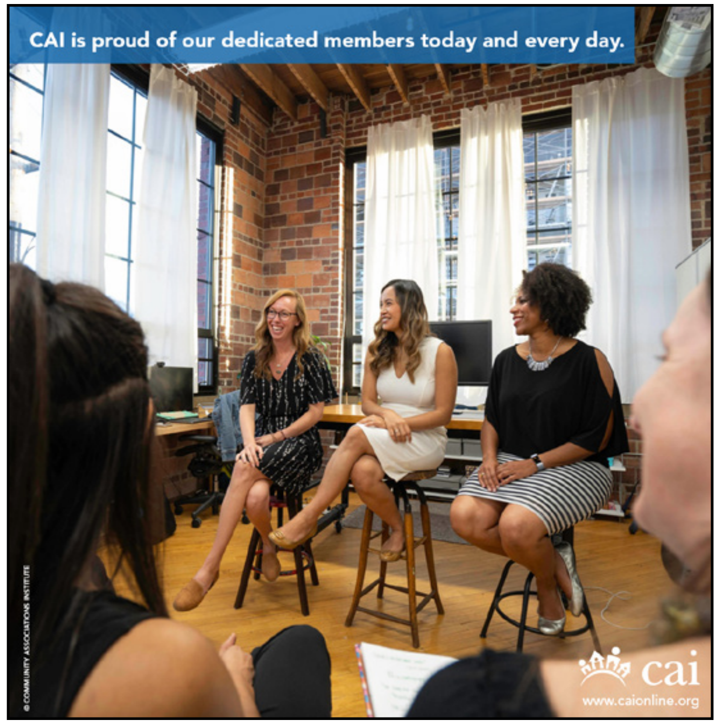
September 12 via Zoom – Homeowner Education Workshop – Legal Hot Topics

September 16 at 11:30am at Arrowhead Golf Course – 8th Annual CLACsic Golf Tournament
As we have already witnessed so clearly this year, CLAC does so much to protect the rights of our HOA's, Management Companies, Business Partners, and most importantly, our Homeowners and Homeowner Leaders. Please show your support for CLAC as they host another incredible tournament.

September 30 at 7:30am – CAM-RMC 2024 Mountain Conference in Vail
Such a fantastic event put on by our wonderful volunteers! Looking forward to seeing you all there.

October 25 at 10:00am at Colorado Clays Shooting Park – CAI-RMC 7th Annual Clay Shoot
(Bang, Bang)

Thank you all for being a part of our Chapter, in whatever capacity you participate. Thank you to our wonderful CAI-RMC volunteers who make all of these educational, networking, entertaining, and informational (this magazine) opportunities possible. And thank YOU, whoever you are, for turning the page and continuing to learn!



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Deadline: First of each month for the following month's issue.

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CAI Approves Significant Policy Changes to Board Member Education Public Policy

BY DAWN BAUMAN, CAE

The CAI Board of Trustees approved a significant update to its board member education public policy. This decision comes after a comprehensive vetting process that included numerous surveys and feedback from CAI members, homeowner leaders, chapters, member representation groups, and legislative action committees.

The updated public policy was approved by the CAI Government & Public Affairs Committee and presented to the CAI Board of Trustees in June.

The update comes in response to a marked increase in legislation nationwide addressing board member education following the 2021 tragic partial condominium collapse in Surfside, Fla. This incident highlighted the critical need for well-educated and competent board members who understand their roles and responsibilities.

Educated boards have the ability to implement best practices and ensure good governance in community associations.

CAI firmly believes board members should be knowledgeable and proficient in their governance duties. The updated policy emphasizes the importance of board member education in maintaining safe and well-managed community associations.

However, CAI ultimately concluded mandatory government-imposed training requirements could have unintended consequences.

Such mandates could deter volunteerism, a cornerstone of community associations, and potentially lead to costly education programs that are insufficient to cover the essential core competencies and best practices needed for effective governance.

A key aspect of the updated policy is its nuanced approach to legislative involvement.

The policy allows the committees to define the terms and support mandatory board member education requirements if other groups or the legislature are pursuing such legislation. CAI will not actively pursue mandatory training legislation.

This balanced stance ensures that CAI acknowledges the importance of board member education, It also recognizes the potential downside of mandatory training requirements and seeks to support effective and practical solutions.

By advocating for accessible and comprehensive educational resources, CAI aims to empower board members to fulfill their roles effectively without the burden of mandatory training requirements. This approach ensures community associations continue to thrive under the leadership of well-informed and dedicated volunteer board members.

COMMON INTERESTS Editorial CALENDAR

Issue	Topic	Article Due Date	2024 Due Date
October	**Tech / Modernization**	**07/15/2024**	**09/01**
December	Planning Ahead / Goals / Community Vision	10/15/2024	11/01

Preparing to Borrow for

WHAT ASSOCIATION MANAGEMENT COMPANIES SHOULD KNOW

MATT HALL
Alliance Association Bank

In the rapidly growing community management space, association managers are responsible for a wide range of projects to maintain and improve the communities they serve. From routine maintenance to large-scale initiatives aimed at enhancing property values and resident satisfaction, each project needs a financial plan as well as a logistical one.

Budgeting for community associations requires a blend of day-to-day planning and long-term preparation. Regular homeowner fees typically cover routine maintenance and other essential operational costs, while reserves can be a healthy backstop for future project expenses. Larger-scale improvements, repairs, or capital maintenance may look daunting, and may or may not have been planned for or outlined in a capital maintenance plan or reserve study. When facing larger-ticket items (either expected or unexpected), financing may be an essential tool to keep the community on the right track.

How do you know what projects can be financed and what a bank wants to know before it extends a loan? Read on to find out.

What projects can a loan finance?

Examples of projects that can typically be financed with a loan include:

- Exterior repairs such as façade restoration, siding and masonry work
- Roof repair and replacement
- Risers and chillers
- Window replacements
- Balconies and decks
- Elevators
- Boilers
- Asphalt

What approval criteria does a bank consider?

Most banks evaluate several criteria when considering if an association loan is feasible for any given community. Some of these include:

1. Delinquencies. In a healthy community, homeowners are current on their HOA fees. To qualify for a loan, no more than 10% of the community's units can have delinquencies of assessments and any current special assessments older than 60 days. This does not include items like fees, fines, or other non-assessment related charges.
2. Balance sheet. The HOA will have a minimum of 20% of its regular annual assessments on its balance sheet as cash. This includes operating, reserves, time deposits, and any other ancillary cash funds.
3. Community size. It can be trickier for small communities to repay loans. Typically, lenders require a minimum of 25 units for project financing.
4. Loan amount. Most lenders will enforce a minimum loan amount of $100,000 or more.
5. Owner mix. For a community to qualify for a loan, at least 60% of the units should be owner-occupied, with less than 10% owned by one entity or person. In newer communities, developers commonly still own units. In these cases, there are ways to carve out developer units so that an association can still qualify for financing.
6. Capital planning. It's important to demonstrate to the financial institution your community's long-term plan to cover future expenses for other projects throughout the duration of the loan. A reserve study can serve as a critical tool to showcase the HOA's future projects and projected expenses.

Prepare before applying

The loan application process truly begins with laying the groundwork for healthy borrowing and repayment. Before applying for a loan, community associations can put their best foot forward by reviewing their financial affairs and putting them in order.

- Review and, if necessary, amend governing documents to ensure the feasibility of borrowing and to ensure your documents include specific language allowing for securitizing future income/assessments.
- Reduce HOA fee delinquencies to meet lender requirements (no more than 10% delinquency).
- Build liquidity in reserves to show financial health.
- Consider necessary assessment increases to cover loan repayments.
- Update the reserve study for accurate financial and maintenance assessments.
- Resolve any outstanding legal issues to demonstrate stable management.
- Generate community support and clearly communicate with homeowners. Proactively review documents and bank requirements to determine if a homeowner vote is required to move forward with lending.

Understanding the loan application process

When applying for a loan, remember that while your association is seeking financing, you are also looking for the most suitable banking partner for your needs. To find that partner, you may wish to obtain several competitive bids.

The loan application process then involves six key steps:

1. Prepare and submit a Request for Proposal (RFP) and current financial statements to potential lenders.
2. Review and receive term sheets and proposals from the lenders.
3. Evaluate each proposal's terms, rates and repayment process to identify the best option.
4. Sign the selected term sheet, pay the commitment fee and complete the underwriting process.
5. Receive loan approval and necessary documentation from the lender.
6. Obtain loan proceeds upon closure and funding by the bank.

***Matt Hall** serves as vice president of HOA lending for Alliance Association Bank and focuses on clients' needs in the Central Region. Through years of working with countless community associations, combined with an extensive banking career, Mr. Hall provides supportive loan structures and tailors loan products to meet a community's unique needs.*

MAXIMIZE

Your Return On Reserve Interest

BRYAN FARLEY
Association Reserves, CO

Over the last three years, inflation has reached 40-year highs. As a result, board members of homeowners associations have been put in a difficult position when trying to optimize their community's expenses. Inflation was resulted in the expenses incurred by your property increasing in addition to more expense rates when it is necessary for the community to borrow money from banks.

So, what is the good news?

As of May 2024, the Federal Reserve has set the Federal Fund rate at ~ 5.33% which means a board will finally see some return on interest on their Reserve account. As of May, we are seeing FDIC high yield accounts and 12-Month CDs at over 5%.

What does this mean for your HOA dues?

If your Reserves are sitting in account earning less than 1%, then now is the time to talk to your investment professional and move your monies to an investment vehicle that can help your owners save money.

Based on recent analysis, Association Reserves found that for every point of interest increased, there is an almost 7% decrease, averaged, in the fully funding reserve contribution recommendation.

Effects of Interest on Reserve Funding Plan

	Original						
	Starting Balance	Interest	Contribution Rate	Contribution Rate (+1% int)	Total Rate (+2% int)	Difference	% Reduction
1	$ 383,234	1.00%	$ 13,950	$13,150	$ 12,430	$ 1,520	5.45%
2	$ 81,183	1.00%	$ 3,080	$2,930	$ 2,780	$ 300	4.87%
3	$ 676,609	1.00%	$ 9,300	$8,600	$ 7,940	$ 1,360	7.31%
4	$ 535,940	1.00%	$ 7,905	$7,220	$ 6,270	$ 1,635	10.34%
5	$ 144,766	1.00%	$ 6,260	$5,750	$ 5,270	$ 990	7.91%
6	$ 857,026	1.00%	$ 15,000	$13,920	$ 12,970	$ 2,030	6.77%
7	$ 495,744	1.00%	$ 11,450	$10,520	$ 9,660	$ 1,790	7.82%
8	$ 215,778	1.00%	$ 7,960	$7,600	$ 7,240	$ 720	4.52%
9	$ 638,638	1.00%	$ 6,400	$5,840	$ 5,320	$ 1,080	8.44%
10	$ 268,740	1.00%	$ 8,850	$8,250	$ 7,720	$ 1,130	6.38%
11	$ 142,148	1.00%	$ 11,100	$10,480	$ 9,870	$ 1,230	5.54%
12	$ 441,975	1.00%	$ 10,350	$9,810	$ 9,290	$ 1,060	5.12%
13	$ 378,254	1.00%	$ 18,500	$17,270	$ 16,020	$ 2,480	6.70%
14	$ 61,740	1.00%	$ 6,850	$6,350	$ 5,875	$ 975	7.12%
15	$ 935,942	1.00%	$ 21,320	$19,900	$ 18,565	$ 2,755	6.46%
16	$ 322,440	1.00%	$ 6,100	$5,745	$ 5,415	$ 685	5.61%
17	$ 169,392	1.00%	$ 8,300	$7,785	$ 7,295	$ 1,005	6.05%
18	$ 23,900	1.00%	$ 15,600	$14,620	$ 13,740	$ 1,860	5.96%
19	$ 484,139	1.00%	$ 15,015	$13,870	$ 12,770	$ 2,245	7.48%
20	$ 172,738	1.00%	$ 8,575	$8,100	$ 7,640	$ 935	5.45%
Average							6.57%

For example, let's assume a Reserve Account currently has $1,000,000 sitting in a 1% interest bearing account, and $20,000 is contributed monthly into the Reserve Account. By moving the monies over to an account that returns 3%, the association may be able to reduce their contribution rate from $20,000 to ~ $17,298!

Why is that? The reason is that the reserve account now earning an additional $20,000 each year (or $1,666 each month) in interest. Remember, as mentioned in the beginning of the article, inflation is still going, so the reserve contributions will still need to be increased each year. Inflation is expected to exceed interest earnings. Boards need to understand that interest earned will not offset inflation.

The best way to plan for higher costs in the future due to inflation is to:

1. Create a multi-year Reserve Funding Plan (one of the three results of every Reserve Study) that provides for the anticipated needs of the association, including the very real effects of interest and inflation.
2. Regularly update that Reserve Study.

Boards need to be proactive and talk with their investment professional to take advantage of the current rates.

Investment professionals are available to help associations manage their Reserve funds, keeping those funds safe and insured while maximizing interest earnings.

Reserve investment counselors serve as agents of the association, expertly managing and placing the higher returns of commercially available investment vehicles, serving the needs of smaller investors (HOAs are usually too small for the "big institutions" to handle themselves).

In return, those large financial institutions provide an underwriting fee to those investment agents for placing their commercial investment vehicles in the hands of smaller clients the large financial institutions are not equipped to serve. This allows these "niche" investment agents to serve the needs of their client associations at no charge to the association. For the association, the owners receive expert counsel and management plus higher returns, at no cost.

__Bryan Farley__ is the President of Association Reserves, CO and has completed over 3,000 Reserve Studies and earned the Community Associations Institute (CAI) designation of Reserve Specialist (RS #260). His 12+ years of experience includes all types of condominium and homeowners' associations throughout the United States, ranging from international high-rises to historical monuments.

what makes a SUCCESSFUL HOA BUDGET?

ELIZABETH CASWELL DYER
Sopra Communities, Inc.

To begin, a budget's purpose is to plan out what is needed for cash flow for a period of time. It can also function as a planning tool, depending on the template used. Some associations function on a calendar year (January-December), and some function on a fiscal year, which is any twelve month period, such as June 1st to May 31st. Every budget should have these components to it: Income (Assessments), Expenses, Savings (Capital Reserve Transfers), and Debt Service (if applicable).

There are four main methods or philosophies that inform budgets:

Incremental

Incremental budgeting takes the previous years' numbers and adds a set percentage increase or decrease across the all line items to arrive at the new numbers. It's the most simple format, but is really only appropriate if what are called "cost drivers" don't change. The cons are noteworthy, in that this type of budgeting encourages inefficiencies, overstatements of needs, and ignores variables such as inflation.

Activity Based

This is a top-down approach that begins with revenue projections and then looks at expenses through the lens of achieving the revenue goal set by the projections. This is a common approach in other multi-family situations, such as apartments. As HOAs are generally expected to budget to get to zero as of midnight on the final day of the budgeting period, this approach is backwards of what is needed, as expenses tend to drive an HOA budget and assessments are calculated based on what is needed to properly run the association.

Value Proposition

This method is more a philosophy, and it's all about value—anything included in the budget must deliver value to the corporation. It's a lens of justification and looks to eliminate anything unnecessary.

Zero Based

This is a very common approach and starts from scratch each year, with all line items beginning at zero. There is a value proposition component, where every expense must be justified. This is often referred to in the common slang as a "tight" budget with only what is actually needed included. It's also an expense driven viewpoint, which is the opposite of the Activity Based approach.

Over the years, I have found it to be beneficial to take a blended approach. For example, if the equipment that drives the utility numbers has not dramatically changed, it is very accurate to get a sense of what percentage increase to expect from the various utility providers for your association, and then overlay that percentage on top of the previous years' actual numbers. Our team does this by month, and it has resulted in variances being minimal as long as the expected percentage we've been given ends up being the actual increase.

For contracts, these are also constant expenses where the expected increase either due to union rates changing or increases noted within the contract can be added to the previous years' actual numbers and reasonably entered into the budgeting template.

Other items, such as landscaping, are informed by the goals of the Board of Directors in terms of long-term planning (and sometimes hopeful thinking).

There are line items nobody really wants to spend money on, but it has to be done. These are your mechanical components, such as HVAC, Plumbing, Electrical, and Roof. These are best budgeted by looking back in those line items in financial reports over a series of a few years, if possible, to see an average of the association's needs in these areas. Contingency planning in these line items can also be an approach to saving, because funds not needed for contingencies during the budget year can be transferred to reserves at the end of the year if the association comes in under budget.

Getting Started

If an association has been with you for a year, pulling a report called a 12 Month Trend or a General Ledger for the previous twelve months is an excellent place to start and to see how the actuals line up to the current budget in place. You may find you don't need any funds in some line items, and you need quite a bit more in others than planned in the previous year.

Put everything in that you want AND need, and see what that expense total does to calculate the association's dues. At that point, our team usually gives it to our CFO and then myself to look over and tweak before sending to the Board of Directors as a draft. The time to back things out is in a working session with the Board to reach "what the market will bear" in terms of the dues increase. Involving the Board in the editing process not only gives them the opportunity to exercise its fiduciary duty, it allows for buy-in from the directors that will be presenting to their neighbors, and many board members bring excellent insights and creativity to helping their association get where they want it to go for the next budgeting timeframe.

Elizabeth Caswell Dyer *is the CEO of Sopra Communities, Inc. She's passionate about Board and Manager education, especially good budgets.*

PCAM Q&A

Michelle Peck

CMCA®, AMS®, PCAM®

WHAT LED YOU TO COMMUNITY MANAGEMENT?

Like many others, my entry into community management wasn't planned. It all started with me handling bookkeeping for a community on a part-time basis. When the person I was assisting decided to step back from management, my husband and I viewed it as an opportunity. We made the bold decision to leave our jobs and take over the company, despite having no prior experience in the field. We believed in our strong work ethic and ability to adapt and learn quickly. This was back in 1998, and today, we take great pride in the thriving business we've built. Before venturing into community management, my background was with the FBI, where I served in various roles including part of the inspections team, victim witness coordinator, and community outreach coordinator. This transition underscores the importance of resilience, continuous learning, and leveraging diverse experiences to succeed in new endeavors.

WHAT IS YOUR FAVORITE PART OF THE JOB?

One of the most rewarding aspects of my role is the opportunity to educate and enlighten both boards and homeowners on the vital importance of Homeowners Associations (HOAs). Delving into the intricacies of HOAs, I find immense satisfaction in dismantling misconceptions and cultivating a deep understanding of the pivotal role these associations play in fostering thriving communities.

Empowering boards with knowledge not only equips them with the tools to make informed decisions but also inspires a sense of collective ownership and responsibility. By shedding light on the core values and benefits of HOAs, I witness a transformation in perspectives and a renewed appreciation for the communal fabric that binds neighborhoods together.

Similarly, engaging with homeowners to impart a clearer understanding of why HOAs matter serves as a catalyst for building stronger, more harmonious communities. Through education, I spark conversations, nurture empathy, and instill a sense of pride in being part of a shared governance structure that upholds standards, promotes unity, and safeguards the beauty and values of our neighborhoods.

In the journey of educating on HOA importance, I find myself not only fostering awareness but also fostering a sense of belonging, purpose, and connection among community members. It is a privilege to witness the seeds of understanding take root, blooming into a culture of collaboration, respect, and mutual appreciation for the significance of HOAs in shaping the collective well-being of our residential spaces.

WHAT MADE YOU DECIDE TO PURSUE YOUR PCAM?

The decision to pursue my Professional Community Association Manager (PCAM) certification stemmed from a deep-rooted desire to challenge myself, elevate the level of service and education provided to clients, and redefine the traditional approach to community management. Embarking on this journey was not just about acquiring a title but about pushing my own boundaries, striving for excellence, and reshaping the way we view and engage with community associations.

By pursuing PCAM certification, I sought to offer a higher standard of expertise, insight, and guidance to my clients. Through continuous learning and development, I am equipped to unravel complex issues at their core, identify innovative solutions, and act as a trusted advisor guiding communities towards sustainable growth and success.

The pursuit of PCAM certification symbolizes my commitment to excellence, my dedication to redefining the role of a community manager, and my passion for effecting positive change within the communities I serve. By embracing this journey, I not only augment my professional capabilities but also set a precedent for a new era of community management—one characterized by strategic vision, proactive problem-solving, and unwavering dedication to the well-being and prosperity of the neighborhoods in my care.

As I continue to navigate the path towards PCAM certification, I am fueled by a sense of purpose, a thirst for knowledge, and a steadfast commitment to shaping a future where communities thrive, residents flourish, and the essence of unity and collaboration reigns supreme.

WHAT WAS YOUR BIGGEST TAKEAWAY FROM THE PROGRAM?

My takeaways from the PCAM program are centered around higher-level thinking, out-of-the-box problem-solving, personal challenge, elevating service and education for clients, pushing boundaries, redefining community management approaches, seeing core issues, and acting as an advisor. These key aspects signify a dedication to continuous improvement, a commitment to providing exceptional service, and a desire to innovate and excel in the field of community management. The PCAM program allows community managers to enhance their effectiveness as a community manager, offer valuable insights and solutions, and lead with a strategic, forward-thinking approach. These lessons learned from the PCAM program can serve as a solid foundation for growth, development, and impact within the realm of community management.

WHAT IS SOMETHING YOU WOULD LIKE SOMEONE WORKING ON THEIR PCAM TO KNOW?

1. Utilize All Resources, Especially M-Level Books: Make the most of all available resources, with a specific emphasis on the M-level books, as they offer invaluable insights and knowledge necessary for success in your PCAM journey.
2. Attention to Detail in Case Studies: When working on case studies, pay careful attention to detail. Every fact matters, so ensure you document everything, no matter how minor it may seem. Thoroughness and precision are essential in analyzing and addressing case study scenarios effectively.
3. Ask Extensive Questions: Don't shy away from asking in-depth questions to both the board and vendors, even if they appear to be trivial or obvious. Comprehensive inquiry can reveal crucial information that may otherwise be overlooked, contributing to a more well-rounded understanding of the situation.
4. Seek External Review: After completing your paper or project, seek feedback from someone unfamiliar with community management. This fresh perspective can help identify areas that need further clarification or detail. Strive to ensure that your work is clear and comprehensive enough for someone new to the field to understand and follow easily.

By following these pieces of advice, individuals working towards their PCAM certification can enhance their preparation, analysis skills, and presentation quality, ultimately strengthening their competency and readiness for the challenges and responsibilities associated with professional community association management.

WHAT IS SOMETHING YOU WISH PEOPLE UNDERSTOOD ABOUT COMMUNITY MANAGERS OR HOMEOWNERS ASSOCIATIONS?

1. Necessity of HOAs and Infrastructure Maintenance: Acknowledging the importance of HOAs in maintaining infrastructure and preserving the quality of communities. HOAs play a crucial role in ensuring that neighborhoods are well-maintained and uphold standards that benefit all residents.
2. Depth of Knowledge and Value of Community Managers: Recognizing that community managers possess a wealth of knowledge and expertise that often goes underappreciated. They should be seen as valuable resources for guidance, best practices, and strategic planning within communities.
3. Undervaluation of Community Managers: Highlighting that community managers are not always adequately compensated for the significant level of service and responsibility they undertake. Their role involves diverse skills and demands a high level of professionalism, yet compensation may not always reflect this.
4. Shifting Priorities in Community Management: Advocating for a change in mindset towards community management, emphasizing the importance of prioritizing excellent service and expertise over simply seeking the cheapest option. Quality service and effective management are key to fostering thriving and sustainable communities.

By increasing awareness and understanding of these points, individuals can better appreciate the vital role of community managers and the necessity of strong, well-managed HOAs in creating vibrant and harmonious living environments. These insights can help reshape perceptions and pave the way for a more collaborative and supportive approach to community management.

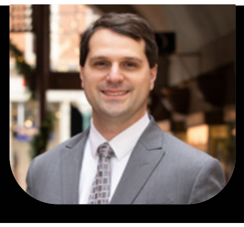
Five Steps to Protect a Community Against Fraud & Embezzlement

JOSEPH A. BUCCERI
Orten Cavanagh Holmes & Hunt, LLC

The Board of Directors of an owner's association wears many hats: decision maker, mediator, judge, and community organizer. Quite possibly the most important role a Board member serves is that of a fiduciary. A fiduciary is a person or entity put in a position of trust to protect the interests of a third party. While establishing and enforcing community design guidelines and use restrictions are essential actions for a Board of Directors, the primary need for a Board is to collect assessments from their members and spend that money for the benefit of the community. As with any situation where someone has access to other's money, it is important to take steps to protect the community from the misuse or misappropriation of the association's funds.

- The first, and simplest, step a Board can take to protect their community's funds is to be transparent with both income and spending by creating (and maintaining) a budget process. Transparency with your members about where association money is coming from and how it is to be spent protects against misappropriation of funds. For example, if $20,000.00 is budgeted for landscaping every year, it is easier to observe overspending than if no budget is set at all.
- Additionally, a Board should avoid hiring its own board members or their board members' companies for association business. This presents a conflict of interest and exposes the association to unnecessary risk of overcharging or self-dealing. While there may legally be no issue, assuming all necessary steps are taken, when a board member is in a position to benefit financially from the association it has a tendency to raise red flags that are best avoided.
- Another way to protect the association's funds is to properly supervise who the Board has selected to manage the funds (i.e. a property manager, accountant, or treasurer). As the fiduciary, it is not sufficient for the Board to merely hire an accountant or manager, and review summaries produced by the same. Instead, the Board should be active in managing their own affairs. They should review actual invoices, balance sheets, and bank statements. A summary can be falsified, but a bank statement will show every transaction that has occurred. There are few in this industry who haven't heard the horror stories of associations realizing too late that the bank account is empty and the reserves have been spent. If an association's Board reviews the above-mentioned documents regularly, it is much less likely for any funny business to slip through the cracks.
- Management or accounting contracts should always require that the Board of Directors sign off on all expenditures over a specified minimum amount. Requiring a manager to get the Board's sign-off on significant spending will help to prevent improper or unauthorized outlays. Whomever is hired to maintain the association's books should also be willing to provide statements and invoices with minimal notice and quick turnaround time. Stonewalling or delays in accessing the underlying financial data is a major red flag and should be grounds for seeking a new financial vendor.
- In addition to being proactive in reviewing documents to prevent the misuse of association funds, a Board should maintain proper insurance to protect the association in the event that the unthinkable should happen. Few embezzlers are caught at the first withdrawal. Proper fidelity and crime fraud insurance policies are necessary ways to protect the association if funds are misused. However, the Board must be sure that the policy is set at a level that will cover their actual risk exposure. A $50,000.00 policy may be cheap, but it won't refill $500,000.00 in reserves that are needed to replace the community roof. In addition to the association's policies, the Board of Directors must require that their accountant or management company also maintain proper insurance to cover misappropriation of funds by their employees.

Just as with personal finances, a Board of Directors must maintain VIGILANCE with the association's finances to protect the interests of their community and not place themselves in the untenable position of needing to explain to their neighbors that all the money is gone, but the costs are still there.



***Joseph A. Bucceri** is an attorney at Orten Cavanagh Holmes & Hunt, LLC. He provides covenant enforcement services to community associations throughout Colorado.*

TOUGH ENFORCEMENT & FORECLOSURE CASES

WHAT CAN BE DONE TO COLLECT OR RESOLVE?

GABRIEL STEFU
WesternLaw Group LLC

Covenant enforcement and foreclosures have become harder in the last few years due to legislative and economic changes. As such, certain covenant enforcement and foreclosure cases can become extremely difficult to resolve due to Owners who may attempt to delay the process or due to not following the proper processes and procedures both in the Association's policies or in legal proceedings.

The following are recommendations to ensure that these cases can be successfully brought to a resolution:

COVENANT ENFORCEMENT

Associations need to follow the steps below to ensure that covenant enforcement matters are resolved and funds are collected from the Owners:

1. Adopt a Covenant Enforcement Policy pursuant to CCIOA that is clear and concise, that can be enforced evenly, and that is fair to all Owners.
2. Ensure that all communications with the Owner regarding the covenant enforcement matter provides as much information as possible: include pictures, clear processes for hearings, disclosure of the fine amounts, consequences of not curing the covenant violation, etc.
3. Ensure that all deadlines are adhered to and that the next steps in the compliance process are followed timely. If needed, enlist the Board of Directors, the Architectural Committee or another committee created for this purpose to perform inspections of the property to determine the state of the violation, document the violation with pictures, etc.
4. Offer hearings in every communication with the Owner even though only one opportunity for a hearing is required. This way, the Owner cannot claim that they had no knowledge of a hearing opportunity.
5. Apply the fines as soon as legally allowed. Many Boards of Directors are hesitant to apply fines but considering that fines are now limited or capped, applying the fines when allowed may help the Association resolve the matter with the Owner who may not be willing to pay fines and may be open to negotiation and resolution of the matter.
6. If the compliance is not cured, transfer the matter to legal counsel for a Covenant Enforcement legal matter. The actions taken by legal counsel could include filing a covenant lien and filing an injunction with the appropriate Court. If the injunction is obtained, the Owner will be ordered by the Court to address the covenant violation, or the Association would have the right to cure the violation and recover the expenses based on the Court Order. While this step may seem aggressive, again, considering how the current legislation has made the covenant enforcement process arduous and difficult, this may be the only option available to the Association to ensure that the covenant issue is resolved and fines and legal fees are awarded to the Association.

JUDICIAL FORECLOSURES

Foreclosures by Homeowner Associations are a last resort in collecting assessments when an Owner refuses to pay delinquent assessments. This is never an easy process and as Owners are becoming savvier, the Association must ensure to follow all steps necessary for successful foreclosures. *PLEASE NOTE THAT A FORECLOSURE IS ONLY POSSIBLE IF ASSESSMENTS ARE DELINQUENT AND CANNOT BE PERFORMED IF ONLY FINES, INTEREST AND LATE FEES MAKE UP THE DELINQUENT BALANCE.*

The steps involved are as follows:

1. Adopt a Collections Policy that complies with current statutes.
2. Ensure that the Collections Policy is followed religiously. One incorrect notice or process can derail the entire foreclosure process later.
3. Transfer the file to the Association's attorney as soon as the law allows. Delays and failure in transferring the file will result in hardship in trying to foreclose, especially provided the cumbersome processes required by law.
4. Pursue a County Court judgment to obtain a money judgment prior to the foreclosure action. A money judgment against the Owner on the balance owed is helpful in proving the delinquency in a foreclosure action.
5. Properly identify and serve the first mortgage holder with the foreclosure action so that the statutory six (6) month superlien is collected from that entity timely.
6. If the Association's attorney is asking for information, corrections to ledgers, Board decisions, signing documents, etc., ensure that these are provided to the attorney timely. Again, the process is cumbersome as is, and delays will only make it harder for the Association's attorney to complete the foreclosure process.
7. Beware of any potential challenges that an Owner may bring. These may include, but are not limited to, pointing out procedural errors in the delinquency process, challenging the Association's right to foreclose and citing violations of state and federal laws.
8. Be prepared for a possible bankruptcy by the Owner. This is often filed to Stay the foreclosure and to provide the Owner more time with which to deal with the situation. If this occurs, ensure to file the proper Entries of Appearance, as well as the Proof of Claim to provide the Bankruptcy Court with notice of the Owner's debt to the Association.
9. If a bankruptcy is filed, check the Owner's account monthly to see if post-bankruptcy payments are being made as required under the bankruptcy filing. If they are not, the Association's attorney may possibly take steps to dismiss the Owner's bankruptcy and immediately continue the foreclosure process.

In the end, covenant violations and foreclosure actions require a great deal of attention. The Board of Directors, manager, management company and Association's attorney must work closely together to resolve these types of issues successfully, following the proper steps and procedures outlined in policies and the law.

Gabriel Stefu *is the managing partner of WesternLaw Group LLC, a law firm dedicated exclusively to Homeowner Associations in Colorado and Wyoming. WesternLaw Group has been in existence for over 16 years and proudly serves many Colorado HOAs.*

The *Strategic* Allocation of Reserve Funds

AMY BAZINET CMCA, AMS, PCAM
Aspen Alps Condominium Association

Setting Communities up for **Success**

Associations are responsible for the upkeep of common elements, and this can include everything from roofing and roads to landscaping and swimming pools. To manage these responsibilities effectively, strategic allocation of your Association's reserve funds is essential for maintaining the financial health and longevity of the community. This process involves planning, communication, and regular review, ultimately protecting the community's financial stability and property values.

Get a Reserve Study

The first step on the strategic allocation path is getting a comprehensive reserve study completed by a reserve analyst. This study will outline all the components the Association is responsible for, evaluate their current condition and remaining useful life, and determine the cost to replace or repair those items. This study provides a roadmap for the community that can assist in preparing a plan to save the money needed to cover the future expenses as outlined in the study. Regular reserve studies typically conducted every three to five years, help ensure that the reserve fund plan remains accurate and reflects any changes in the condition of community assets or economic conditions.

Set A Funding Plan

So, you have a reserve study in hand, the next step is to develop your funding plan. This plan should outline how the community will gain the necessary funds over time. There are three types of funding that can be used – Full, Baseline, and Threshold.

- Full funding is a commitment to accumulate 100% of the estimated future costs as outlined in the reserve study.
- Baseline funding focuses on what is needed to cover immediate foreseeable expenses.
- Threshold funding focuses on setting a minimum balance that will cover expenses and when that balance dips below the set amount, additional assessment will need to be applied.

Whichever funding plan you choose depends on the needs and the financial health of the community.

Assess your Risks

Your decision making on reserve allocation must focus on risks: what risks might the community face that will put demands on financial resources with not enough cash on hand to address? Make a list of possibilities: a recession, a major system repair, a flood, a wildfire, a significant increase in material costs. As you develop your list, attach a probability score to each risk. Healthy reserves must be risk discipline first, and that means flagging the items on your master list of reserves that should be funded first. You need to be mindful of the fact that the major expense that hits your community before you get your reserves built up must be considered your major expense at that point in time. So, find ways to slow down and spread-out payments for your rungs, paying more cash to your first few projects than to the final few. That's how reserves become a crystallizing tool for your community.

Communicate Your Plan

Transparency and communication to homeowners are necessary for effective reserve fund management. Keeping homeowners informed of upcoming projects, reporting the financial status of reserve funds and notifying homeowners if there are going to be any changes to their assessments, all work to build trust and "buy in" on how their contributions are being used.

Take Time for Review and Adjustment

Reserve fund allocation is not a one-time process and should be periodically reviewed and adjusted if necessary. These reviews can come in the form of a reserve study review every 3-5 years, as well as noting any changes in the financial landscape of the community at any time. This review ensures that the Association's financial planning remains relevant and accurate. There may need to be adjustments made due to changes in inflation rates, unexpected wear and tear on assets or new community developments. Staying proactive and adaptable is key. This will ensure a healthy reserve fund that meets the community's needs.

Decide How you Want to Invest

Your investment strategy is an important consideration when allocating reserve funds. You will need to balance the need for cash, for immediate expenses, with the goal of earning returns on funds that are meant to help offset future costs. Investment options should be outlined in the Investment of Reserves Policy. Options that are commonly included are money market accounts, certificates of deposit (CDs) and low-risk bond funds. Each of these involves some degree of risk and a return. It's always advisable to find yourself a Financial Analyst who will help you walk through the options. Your strategy should align with the Association's risk tolerance, financial goals, and timeline for major expenses.

The benefits from choosing to strategically allocate your reserve funds are plentiful. If your reserves are properly managed, you will ensure that repairs and maintenance will be done timely, and you will preserve the property values and overall quality of the community.

***Amy Bazinet CMCA,AMS,PCAM** has dedicated over 15 years to serving communities across the Denver Front Range. She currently holds the position of General Manager for the Aspen Alps Condominium Association in beautiful Aspen, CO, where she embraces the many wonders of mountain life.*

WHAT TO KNOW

Obtaining an HOA Loan

ANGELA HOPKINS ESQ.
Altitude Community Law

There are times when a community association may need to explore its funding options, such as if it is considering a large construction or renovation project for the community. A loan may be an attractive option to avoid relying on increased assessments, special assessments, or reserves alone to fund the project. Ultimately, whether a loan is a good option for your community is up to the association to decide. However, an association must review their governing documents to determine: (1) if the association has the authority to borrow funds; and (2) whether there are any conditions related to the association taking out a loan.

AUTHORITY TO BORROW FUNDS

Usually the association's declaration includes language regarding the board's authority to borrow funds or use the common elements as security. However, for older associations, sometimes this language can be found in the articles of incorporation or bylaws. The governing documents may grant your association the express authority to borrow, impose conditions on the association's authority to borrow, or prohibit borrowing altogether. If none of the documents address whether your association can take out a loan, then you can rely on the Colorado Revised Nonprofit Corporation Act ("CRNCA"), which grants nonprofit corporations the general authority to borrow funds.

POSSIBLE CONDITIONS TO BORROW FUNDS

The most common condition we see on an association's authority to borrow is the requirement to obtain owner approval; however, the declaration could also impose limitations on the amount that can be borrowed, the amount that can be borrowed without owner approval, or what collateral requires owner approval. Lenders will ask whether or not the community association has obtained all requisite approval to take out the loan; therefore, it is important that the board know from the beginning whether or not an owner vote will be required as this adds an extra step to the process.

If you have a digital, searchable version of your governing documents, you can search for such terms as "borrow," "collateral," and "encumber." The language you are looking for may be in its own titled section, or it may be in a list of the association's powers and rights. Once you find the language regarding the association's authority to borrow funds, you should verify whether there are any other conditions that must be met to obtain the loan. There are many types of restrictions that may be apply to loans, including, but not limited to:

1. A restriction which only allows the association to borrow money for specific purposes;

2. A restriction that requires a certain percentage of owner approval before the loan can be obtained;

3. A restriction which requires owner approval under specific circumstances, such as the type of collateral the association intends to use.

It is very important to verify your governing document language relating to the association's authority to borrow funds to make sure you are aware of such conditions.

COLLATERAL

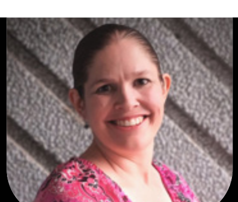
Most lenders require a community association to pledge or assign its right to future income as collateral (i.e., the lender wants to be able to collect homeowners' assessments directly in the event of default). If your community association was created on or after July 1, 1992 then Section 302(n) of the Colorado Common Interest Ownership Act ("CCIOA") allows your association to assign its right to future income only if the declaration expressly allows such assignment. As such, the declaration must contain language allowing the association to assign its right to future income. If the declaration is silent then the association does not have this authority and should consider amending its declaration.

If your community association was created before July 1, 1992 and your declaration is silent then your community may be able to rely on the CRNCA for authority to pledge its income without having to amend your documents.

Additionally, ownership approval might be required if the association uses the common elements as collateral. The governing documents may place this restriction if the board intends to mortgage, pledge, deed in trust, hypothecate or otherwise encumber the common elements as security for the loan. Therefore, the board may need to consider what kind of collateral it will use for the loan.

CONCLUSION

It is not an absolute right of all community associations to obtain loans. As such, it is very important to review your governing documents to determine if there are any prohibitions or conditions for the association to seek a loan before starting the loan process. If membership approval is needed, that should be obtained so that the lender/bank can be provided evidence that all of the governing documents' requirements have been met. If you review your governing documents and still are not sure whether your association can obtain a loan, it is recommended that you seek legal guidance.



__Angela__ has been practicing community association law since 2017 and has represented common interest communities in transactional, collection, foreclosure, and covenant enforcement matters. As such, she has interpreted, drafted, and amended community association governing documents; addressed covenant enforcement violations and assessment delinquencies; and represented community associations in contract disputes, land use issues, and Owner bankruptcy matters. She has represented community associations of various sizes, from a 6-unit condominium, to a master community association with over 1,100 units. In 2022, Angela joined Altitude Community Law and is now focusing her representation of common interest communities in transactional matters.

Community Messaging
DURING TIMES OF FINANCIAL TURMOIL

KEVIN LUCAS CPA
RealManage

Nobody LIKES to have those hard discussions with board members and homeowners on the reality of the Association's financial health, but it is increasingly becoming a necessity within the HOA industry. Over the past 10 years, we have endured dramatic price increases across the board, including basic labor rates, material price increases in some industries of more than 100%, and insurance premiums that have skyrocketed. It is a rarity for an HOA board to adjust assessments in a timely manner when these increases occur, as most often the increase is realized after an annual budget has already been ratified. So, each year the board is faced with not only planning for another unknown increase, but also trying to make up for previous increases that were realized after the last budget ratification process. In most instances, a board is stuck playing catch-up when it comes to financial health.

It is imperative that CAMS and boards have those hard discussions on the reality of the financial impact of previous increases and potential future increases, when preparing for the upcoming budget process and ongoing conversations with homeowners. Simply stated, within an HOA, there are two ways to balance a budget – 1) Reduce costs incurred to reduce the cash outflows of the association; and/or 2) Increase inflows of cash through the increase of assessments.

Most associations have already been working on reducing costs, and as a result, most associations are at the BARE MINIMUM of services being provided. This "tightening of the belt" by most boards has worked in reducing the overall assessment increase, but many homeowners are now noticing the reduction in the services performed by the HOA.

The only other way of balancing a budget is to increase the cash inflow, by increasing assessments, to cover the additional costs and recoup the previous unbudgeted increased costs that most associations have already incurred. The conversation of increasing assessments always comes with negative connotations, as nobody likes to pay more for the same services (or even reduced services), but just as homeowners are now paying much higher prices for gasoline, bread, and beer, the vendors that perform the services are all paying for higher priced gasoline, labor, and insurance.

When CAMS and boards sit down to discuss the upcoming budget, a discussion based in reality is required. Review the costs incurred that were higher than the budget, to determine the total amount of previous year's shortfall that needs to be recouped, have a legitimate discussion on anticipated costs for the upcoming year on those items that historically have been higher than anticipated, and then also have a conversation regarding service level changes that have occurred (or are still on the table to occur in the future), before any budget discussions are held. By documenting the shortfalls realized, service level reductions instituted, and cost increases anticipated, the board can then list out the necessity of an assessment increase in black and white when presenting a proposed budget to homeowners. There is nothing wrong in being cordial when having those discussions, but laying out the facts of the association's current financial position is necessary to avoid rumors, differences of opinion, and assumptions.

The discussions are never easy when it comes to the financial impact of increased assessments on individual homeowners, as it will have a very personal impact on each individual differently. It is important to remind homeowners that the HOA is a business that is in charge of running a community, versus a community trying to run a business. Hard decisions are the responsibility of the elected board members to move the organization in a positive direction to help the overall health of the community. By presenting the FACTS in a very concise and easy to understand presentation, it is easier to educate the homeowners on the reasoning behind the proposed assessment increase, along with the alternatives of not making the hard decisions. Showing compassion of the impact these decisions have on individuals is a necessity, but it is important to stay focused on the overall impact on the community, as opposed to the individual.

This can be considered a harsh approach, but the presentation of FACTS, ALTERNATIVES CONSIDERED, and the ANTICIPATED IMPACTS of those decisions can be considered a "TOUGH LOVE" approach when presenting information to homeowners.

When decisions can be boiled down to basic math – more funds need to come into the HOA to pay for the higher costs incurred to avoid the reduction in the level of services – homeowners may not LIKE the results, but they can understand why decisions were made as they were.

__Kevin Lucas CPA__ is a Financial Manager for RealManage and has been in the industry as a Management Company Owner for 20+ years, before joining the RealManage team. Financial Stewardship has always been my priority, with individual compassion sprinkled in, but I feel that Association Financial Health is our industry's top responsibility.

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NAME	ORGANIZATION	DESIGNATION	AWARD DATE
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Austin Kirby	SummitCove Property Management	CMCA	06/07/2024
Calyn Rieger	Mountain Valley Property Management	CMCA	07/03/2024
Clayton Russell	KC & Associates, LLC	CMCA	05/17/2024
Deanna Mathey	Vacasa Community Association Management	CMCA	07/08/2024
Debbie Trevino	Summit 2nd Homes, LLC	AMS	05/30/2024
Heather Brown	East West Urban Management, LLC	CMCA	06/07/2024
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Silvia Gregory	Westwind Management Group, LLC	PCAM	05/28/2024
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If you are a manager, insurance and risk management consultant, reserve provider, or business partner wishing to enhance your career, the information at www.caionline.org can help you. CAI awards qualified professionals and companies with credentials to improve the quality and effectiveness of community management.

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

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Ken Whitney - Windsor Gardens Association
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CAI-RMC Events CALENDAR

2024

AUGUST

27	Community Association Workshop (Virtual)

SEPTEMBER

12	Homeowner Education Workshop (Virtual)
30	Mountain Conference & Annual Meeting

OCTOBER

25	Annual Clay Shoot
29	CEO Forum
31	Community Association Workshop (Virtual)

NOVEMBER

05	Peak 3 - Insurance (Virtual)

DECEMBER

06	Annual Celebration & Board Installation

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