

CAI - LI Chapter News

Serving Long Island, New York

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CAI CELEBRATES MILESTONE ANNIVERSARY

From Backyard Planning Sessions to 40 Years of Growth & Success

By FRANK RATHBUN, VICE PRESIDENT, COMMUNICATIONS AND MARKETING

In 1964, the Urban Land Institute (ULI) published Technical Bulletin No. 50, a document that called for the creation of a national organization to provide education and act as a clearinghouse of information and best practices for the growing community association housing market.

The principal author was Byron Hanke, one of CAI's eventual founders along with Lincoln Cummings, then president of Whetstone Homes Corp. and vice president of Montgomery Village Foundation in Maryland; Dave Rhame, a developer and chair of the National Association of Housing Cooperatives; and David Stahl, former public official and ULI executive vice president. Cummings and Rhame would eventually lead the fledgling organization.

But there was a lot of work to be done before leaders would be selected. It took nine years and an abundance of discussion, fortitude and planning—including backyard strategy sessions at Hanke's Calvert, Md., home. But good ideas persist, and this idea became Community Associations Institute.

The official date of birth was Sept. 20, 1973

— 40 years ago this year. The Long Island chapter was created in 2004.

There were fewer than 30,000 U.S. common-interest communities in 1973. Today, more than 64 million Americans live in an estimated 325,000 community associations, condominium communities and cooperatives. The first issue of CAI News, in 1974, was distributed to 200 members. Today, CAI's flagship national magazine, *Common Ground*, is distributed to more than 32,000 members — in both print and digital formats.

CAI's growth was slow but steady — at first. Membership surpassed 1,000 by the end of 1975. It took eight more years to reach the 5,000 mark. The organization we know today began to take shape during the late 1970s and 1980s.

1975: The first national conference takes place in New Orleans.

1977: Association Management, the first Guide for Association Practitioners, is published.

1978: CAI welcomes its 10th chapter.

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Community Associations Institute — Long Island Chapter

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Continued from Page 1

1980: The Professional Management Development Program is launched.

1982: The Professional Community Association Manager (PCAM) designation is introduced.

1984: The first issue of Common Ground is published.

1985: CAI welcomes its 30th chapter.

1986: California members form the first of CAI's 35 legislative action committees.

1988: Membership tops 10,000.

CAI continued to expand in the 1990s, creating www.caionline.org, the popular ABCs course (now "Essentials"), Community Associations Press (now CAI Press) and the College of Community Association Lawyers. Other milestones included publishing the first issue of *Community Management* (now *Community Manager*), topping 50 chapters and reaching 15,000 members in 1996.

CAI has been equally ambitious in the new century, expanding its website, offering webinars, developing Rights and Responsibilities for Better Communities, expanding its public policy initiatives, creating the Educated Business Partner distinction and offering its first online course, The Essentials of Community Association Management. Meanwhile, membership surpassed 25,000 in 2005 and topped 30,000 — in 60 chapters — in 2010.



Like every organization, CAI had to adapt to meet the challenges of a growing and changing industry. New and enhanced member benefits were developed. Governance overhauls were debated and implemented. The membership structure itself was reengineered, most recently in 2005 to encourage individual memberships for community managers and homeowner volunteer leaders.

"Our growth and achievements would have been impossible without the contributions of member leaders," says Tom Skiba, CAE, CAI's chief executive officer since 2002. "Sustained growth and success for an organization like CAI requires skilled, dedicated and selfless member volunteers. National and chapter board and committee members, our education faculty, legislative action committee members, authors, event speakers — they are the unsung heroes. They've made our accomplishments possible for 40 years."

Jerry Levin, CAI's president in the early 1990s said it best, "Without the total cooperation of leadership, chapters and individual members, there would be no CAI today."

Visit www.caionline.org/CAI40 to learn more. ■

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PRESIDENTIAL INTRODUCTION

By DOUGLAS WEIGLER., CAI-LI CHAPTER PRESIDENT FOR 2013

I am honored and humbled to have been asked to serve as the sixth President of the CAI - Long Island Chapter. The Chapter was formed almost ten years ago through the very strong effort and vision of Edward M. Taylor, Esq., our first President. We all owe Ed a lot of gratitude for his labors in getting CAI off the ground.

Ed was followed by Jim Sutton, Peter Dumelle, Claudia Tracy and Frank Socci, each in their own right helped build the chapter to the point where we are now a Certified Medium Size Chapter of CAI National. Our membership is now over 260 members representing over 60 residential communities and with over 75 business partners.

We are also most fortunate to have the skills and dedication of our Chapter Executive Director, Christine M. Majid. Through her hard work, devotion and enthusiasm, she makes all of us look good and advances the chapter to new heights each and every year. I thank Christine, my predecessors and current



After serving on CAI-Long Island's Board of Directors, as President Elect, Mr. Weigler will be serving as the Long Island Chapter President for 2013. He is currently Director of Property Management at Total Community Management, with his office located in Bellmore, New York.

Board Members for their knowledge, direction, and continued support.

My aim, with your help, is to have over 300 members with 75 communities by year end. We cannot do it alone. We need everyone's help. Below this article you will find a list of chapter committees; please sign up for one of them by contacting Christine via email at info@cai-li.org or call us at #631.882.8683, and help us grow.

If you would like to communicate with me directly, I may be reached at dweigler@totalmgmt.com. I look forward to seeing all of you at our upcoming events throughout the year. Please review the chapter's annual calendar on page 13 and make plans to attend. Whether you are a Community Volunteer or a Business Partner, there is much that you can share with the CAI - Long Island Chapter and so much that the organization can give back to you through information, advise, and networking opportunities. ■

CAI - Long Island Chapter Committee List

1. **Education**: Provide specific education sessions, recruit speakers and sponsors, secure venues.
2. **Legislation Action (LAC)**: Participate in state-wide committee to monitor NYS legislation.
3. **Membership**: Maintain and increase chapter membership.
4. **Newsletter**: Recruit, edit and select articles, solicit advertising for quarterly newsletter.
5. **Programs**: Recommend seminar topics, recruit speakers and sponsors, and secure venues.
6. **Publicity**: Publicize the chapter and its activities through placements in various multimedia.
7. **Trade Show**: Recruit speakers, exhibitors and attendees, select venue and track expenses.
8. **Website**: Contribute to and update chapter website and solicit advertising.

WHEN TO REPLACE YOUR AIR CONDITIONING AND HEATING SYSTEM

By ROBERT CARTELLI, OUTSTANDING PLUMBING

To repair or replace, that is the question that likely comes to mind whenever your heating or cooling system stops working like it should. Although repairing may be the most affordable solution now, it might not be the best choice over the long run. Factors to consider include:

Fifty Percent Rule — When the cost of repairs approaches 50% of the value of your heating or cooling system, it's generally time to replace the system.

Other Rules of Thumb — Even if needed repair costs aren't quite as daunting as 50%, you might want to replace your system if it's more than 12 years old or you've had a history of problems with it. Also, it might be worthwhile to take advantage of one of several opportunities:

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CONGRATULATIONS!



During the 2012 Holiday Chapter Party at Grill 454, Augie Cocuzza a Board Member from Fairfield at St. James Community Association (shown center) with Michael Schroder, Esq. and Karen Strom, Esq., won the Grand Raffle Prize of a Samsung flat screen television which was courtesy of the law firm of Schroder & Strom, LLP.

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LET'S MAKE A (LOAN) DEAL

By BROOK A. SILVESTRI, CMCA®, LENDING MANAGER SMARTSTREET, A DIVISION OF UNION BANK N.A.

As community association professionals, you're probably aware that associations pledge assets to secure loans for common element repairs. The question remains *how* do they actually go about doing this? What information do lenders require to review a credit request? This article prepares you to make the deal by outlining that information.

While approaches to credit quality evaluation differ among experienced lenders, their philosophy is fairly consistent. Since most associations do not have ample hard assets to secure financing, lenders look for a solid cash flow stream as collateral. They then seek to gain control of that stream by filing a Uniform Commercial Code (UCC) financial statement on the assessments with the Secretary of State. This becomes one of the loan documents.

Most lenders don't play well in the same "sandbox" though, so only one lender can have a priority lien on those assessments. Therefore, in the vast majority of cases, an association can only borrow from one lender at a time. If there is an existing loan on the balance sheet and the association is looking to take on more debt, it needs to discuss this with the current lender or be prepared to refinance the existing debt as part of the new loan deal.

Now that we've established that cash flow is paramount for the

lender, how do they determine what good cash flow actually looks like? Typically, a series of **five underwriting ratios** are used to make this assessment:

1. First they will calculate a ratio using the association's delinquency report. Some lenders use the number of units past due and others base it on the dollar amount that is outstanding. Regardless of the method, they want to see a modest delinquency rate, usually not higher than five percent. This basically means that the association is collecting 95 cents on every dollar budgeted in assessment income. If the association is collecting less than that, it will be tough to arrange financing.

2. The second ratio used is an income diversity measurement so the lender can determine if there are enough owners in the association to diversify the cash flow stream. Obviously, the greater number of units, the more diverse that stream is. For example, if one owner in a 10-unit building loses his job, that represents roughly ten percent of cash flow. But if the same thing happens in a 100-unit building, the impact is only one percent. Generally, it is harder for associations with less than 30 to 50 units to get financing for this reason.

3. Next in the series is an overall proforma to calculate how

Continued on Page 9

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For 40 years, CAI members have touched the lives of millions by making community associations preferred places to call home.

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Meet CAI – Long Island’s Newest CMCA! Sharon Messier of NAI Long Island



Community Spotlight

Sharon Messier (pictured left), a Property Manager at NAI Long Island, has been named a Certified Manager of Community Associations® (CMCA®) by the National Board of Certification for Community Association Managers. On January 24, 2013, Sharon was presented with her certification at the Community Associations Institute (CAI) Long Island Chapter’s Annual Meeting which was held at Capital One Bank in Melville, NY.

Sharon, a current Long Island Chapter member, joined NAI Long Island in 2012 with over 20 years of professional property management experience as a Commercial/ Residential Property and Asset Manager in both Nassau and Suffolk County.

The CMCA® is the only national certification program designed exclusively for managers of homeowner and condominium associations and cooperatives. The CMCA® recognizes individuals who have demonstrated the fundamental knowledge required to manage community associations. ■

SharonAnn Messier, CMCA, a property manager at NAI Long Island may be reached by phone at (631) 270-3028 or by email at smessier@nailongisland.com.

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much assessments will increase to cover the payments on the proposed debt. This is especially important when statutes allow the general ownership to potentially veto an annual year-over-year increase greater than or equal to a certain amount. Lenders take into account the absolute dollar value of assessments when calculating this ratio and make reasonable conclusions as to its viability. For instance, if there is a 50 percent increase in assessments, but the dollars were only going from \$40 to \$60, then an extra \$20 is probably not a giant financial burden for any owner. However, a jump from \$400 to \$600 could clearly be a much bigger issue and will give the lender cause to pause.

4. Almost every lender will perform some level of reserve analysis in conjunction with cash flow evaluation. I hear all the time that if the association had the money in reserves, it would not need to borrow. But the lender's intent in measuring reserves is more to see how the association's board is addressing its fiduciary duties than in examining its net worth. Contributing funds to the reserve, year in and year out, is best practice and shows financial wisdom on the part of the board.

Lenders will likely ask for the association's reserve study (yes, you need to prepare one) and estimate how many dollars of repairs the association will face during the life of the proposed loan, and how those repairs can be paid. For example, if we are looking at a five-year loan and the study identifies that a) \$1,000,000 in repairs will be needed over that time; b) the association intends on financing \$700,000; and c) the association has \$100,000 in cash today, the question becomes: how will it pay for the remaining \$200,000? What the lender wants to see is that the \$200,000 balance can be funded from annual contributions made to the association's reserves. In this case, a \$40,000 a year contribution would total \$200,000 over the five-year timeframe. Any less will require an alternate plan and that will probably need to be documented for the lender. In fact, it wouldn't be surprising if that plan showed up as a financial covenant in the credit agreement.

5. Although not used by all lenders, the final common underwriting ratio is based on unit value. I call this "equity bleed." It measures the amount of proposed debt, on a per unit basis, compared to the average unit value, and tells the lender and owners how much home equity, on average, is being diluted by taking on the loan. Historically, when this ratio exceeds ten percent, owners often object to the proposed loan. Again, absolute dollars play a role and, in an area where values are artificially

“Contributing funds to the reserve, year in and year out, is a best practice and shows financial wisdom on the part of the board.”

low, one must examine the dollar change in addition to the ratio. As an example, let's say that units are worth \$250,000 in a 120-unit building and the association plans to take out a \$1,500,000 loan. The equity bleed ratio then is five percent ($\$1,500,000 / 120 \text{ units} / \$250,000$). As long as the unit value doesn't fall below \$125,000 on average, the lender and the owners will probably find this debt palatable.

I have been involved in financing common-interest communities for a long time and would highly recommend to any association considering financing a project that it computes these ratios early in the process. It will certainly help the discussion with a lender later and can identify issues that require attention before actually shopping for a loan. The better armed the board is, the better the deal – and the easier to make that deal. ■

The foregoing article is intended to provide general information about financing common-interest communities and is not considered financial or tax advice from Smartstreet or Union Bank. Please consult your financial or tax advisor.

Brook Silvestri, CMCA, has been involved in financing common-interest communities since 2002. You can reach him at (224) 587-3438 or brook.silvestri@smartstreet.com.

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RESTRICTIONS ON LEASING IN YOUR COMMUNITY

By EDWARD M. TAYLOR, ESQ., TAYLOR-ELDRIDGE, P.C.

Governing boards of condominiums and homeowner associations often have concerns about the number of rental units within their communities. Tenants are perceived to be less concerned about the community, less likely to observe the community's rules and regulations and less concerned about the preservation of the community's common elements than unit owners who reside within the community.

Furthermore, the more rented units there are in a community, the more chance there is that banks will be reluctant to provide mortgages to prospective purchasers of units. The Federal Housing Administration (FHA) will not insure mortgages in a community association where more than 50% of the units are rented. Some banks may have even tighter restrictions.

Often, the governing documents of condominiums and homeowner associations state that unit owners may lease their units "without restriction" as long as the owner is up-to-date in his/her financial obligations. Occasionally, the governing documents will include certain pre-conditions for renting, such as a requirement that a copy of the lease be submitted to the Board, or that the lease term be no less than a year. Rarely do governing documents restrict the number of rentals allowed in the community.

Should a governing board desire to restrict the number of rented units in the community, an amendment to the relevant section(s) of the By-Laws and Declaration will usually be required. The amendment process usually requires obtaining approval of the proposed amendment from two-thirds of the unit owners. If the community is a condominium, approval of two-thirds of the unit owners – both in number and in percentage of common interest – may be required. It should be anticipated that most, if not all, unit owners who are renting their units will oppose any amendment restricting rentals in the community. Thus, it would be wise for a community to consider restricting rentals before the number of rented units in the community makes an amendment mathematically unlikely, if not impossible.

When considering a rent limitation policy, some thought should be given to the types of lessors in the community and their different motivations. Some unit owners are akin to investors – they buy units with no intention of residing in the units, but rather with the sole intention of renting the units to third party tenants. Other unit owners may purchase units as their primary residence but, due to a change in circumstances, may later become interested in renting out their units either on a short or long term basis.

There are several options for restricting the number of rental units in a community association. New York State Courts have upheld a community's authority to completely prohibit the leasing of units. The prohibition must be either in the original

governing documents or pursuant to a properly adopted amendment. Short of a complete ban, a community may choose to restrict the number of leased units or the number of years that a particular unit may be leased.

An absolute ban on leasing is clearly the most direct way to eliminate the perceived problems caused by having tenants in the community. Note that banning rentals completely may run afoul of FHA guidelines and may either prevent a community from becoming approved for FHA loans or may result in loss of FHA-approval. In addition, a complete ban is often deemed too harsh and inflexible a remedy by Boards and unit owners. For instance, some people may claim that in a downturn in the real estate market, units with relatively high mortgages can be impossible to sell. Leasing the unit then becomes the only alternative to surrendering the unit to the bank in a foreclosure action. The Board might consider including a "hardship" provision in the proposed amendment that would give the Board discretion to allow short-term rentals of up to one year at a time based on financial or other exceptional circumstances. Lease prohibitions are also often deemed to be unfair to those homeowners who are currently leasing their units and who "bought with the expectation" that they would be able to rent out their unit. While the answer to this claim of entitlement is that they also bought into a community where the rules can be changed, it is sometimes more politically expedient to consider a "grandfather" provision in the proposed amendment, whereby any owners currently renting out their units may continue to do so until the current lease expires, the tenant vacates, the unit is sold, or some other limitation.

One alternative to a complete prohibition of leasing is a prohibition on the number of units in the community that may be leased at any one time. For example, a community may restrict the number of leased units to 10% of the total units in the community. If a community had 100 units, only 10 units could be rented at any time. A waiting list may be required to insure order and fairness in the distribution of rental permits as spaces become available.

This approach tends to favor a small number of unit owners at the expense of most others. If the quota for leased units has been met, any additional unit owner who wants to rent must wait for one of the rented spots to become available. Thus, certain unit owners may be able to rent their units for ever more, while those who are not within the group of allowed rentals could be forced to wait indefinitely for an opportunity to rent out their unit. This policy tends to favor the investor who is interested in the long-term rental of a unit (or units). If a community has a small number of investor-owned units and a small number of other

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owners interested in renting, this option may be viable.

Another alternative is a prohibition on the number of years that a unit may be leased. For instance, a unit may be leased for only two years within any three year period, or three years out of any five year period. Such policies allow any unit owner to rent out his/her unit but for only a limited period of time. These policies will tend to discourage investors but will accommodate unit owners whose interest in renting is on a short-term basis.

These several alternatives discussed above may be mixed and matched to accommodate the needs and interests of a particular community. Other options may also be considered. The challenge is to find a policy that will satisfy the needs and goals of the governing board and the community and that will also receive the required super-majority support for passage of the proposed amendment. Hardship cases and a grandfather provision, both mentioned above, may be used in any leasing restriction amendment – where appropriate – to make the restrictions more flexible and palatable to the electorate. However, these provisions should not be allowed to render the lease restrictions meaningless or ineffective.

Some thought should be given to the enforcement of any proposed leasing restrictions. The governing documents will almost always provide that an action may be commenced to compel an owner in violation of the governing documents to comply with the rules. However, this avenue can be expensive, and the governing documents usually do not require the violating unit owner to be responsible for attorney’s fees incurred by the Board in enforcing the rules. The Board may also issue fines against an owner in violation of the rules, but only if the governing documents so provide. Depending on the general enforcement provisions already in the governing documents, the Board may want to consider adding language to the proposed leasing restriction amendment that would allow for the collection of legal fees by the Board and the ability to assess fines in the event that the lease restrictions are violated.

A final thought – Since support of two-thirds of the community will likely be necessary to pass an amendment on leasing restrictions, and since there are a variety of lease restrictions available, it might be a good idea for the board to seek involvement of the community in the decision-making process through the use of a leasing committee, community information meetings, a newsletter, etc. Such involvement may not only lead to a fair and appropriate policy for your community, it may also go a long way toward building support for the proposed amendment.

Take-away points:

- If your community is contemplating a restriction on leasing, commence the amendment process before there are too many leased units so that sufficient support for

passage of an amendment can still be garnered.

- An absolute ban on rentals is possible, although it may be politically untenable.
- There are a variety of ways to restrict leasing in your community.
- Make sure you have a feasible method for enforcing the new rules.
- Support of the community is essential to the amendment process. ■

ⁱ Four Brothers Homes at Heartland Condominium II v. Gerbino, 262 A.D.2d 279, 691 N.Y.S.2d 114 (2d Dept., 1999).

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2013 Events**

Thursday, March 21st - 6:00 p.m.

"How to Write a Good RFP"

Capital One Bank

275 Broadhollow Road, Melville

Thursday, May 16th - 6:00 p.m.

"Tools for Board Members"

Fairfield at St. James Community Clubhouse

1 Fairfield Drive, St. James

Wednesday, June 5th - 3:00 p.m.

"Nine & Dine" Golf Outing

Sandpiper Nine at Spring Lake Golf Course

30 East Bartlett Road, Middle Island

July

"Chapter Social"

Date and Location to be Announced

Thursday, September 19th - 6:00 p.m.

"Friends & Family" CPR

Capital One Bank

275 Broadhollow Road, Melville

Saturday, October 12th - 9:00 a.m. to 3:00 p.m.

2013 Trade Show

Huntington Hilton

598 Broadhollow Road, Melville

Thursday thru Saturday - November 7, 8 & 9th

M-100 Class: The Essentials of Community

Association Management

Belfor Property Restoration

60 Raynor Avenue, Ronkonkoma

Saturday, November 9th - 8:00 a.m. to 2:00 p.m.

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