

# CAI - LI Chapter News

Serving Long Island, New York

Published by the Long Island Chapter of CAI

Issue No. 33 – Summer 2016

## HAVE YOU VISITED THE CHAPTER'S NEWLY ENHANCED FACEBOOK PAGE?

By CHRISTINE M. MAJID, EXECUTIVE DIRECTOR OF CAI LONG ISLAND



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Similar to the newly enhanced Long Island Chapter website ([www.cai-li.org](http://www.cai-li.org)), our Facebook Page is focused on providing our members with valuable, easy-to-understand information, news, and numerous educational resources related to community association living.

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And when you visit us on Facebook, please be sure to "Like" the page, thank you! ■

**SAVE THE DATE**  
**TRADE SHOW**  
SATURDAY – OCTOBER 22, 2016  
9:00AM - 3:00PM  
Hilton Long Island, Melville  
*Breakfast & Lunch will be served.*  
Educational Classes, Chapter Awards, & Raffles

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*The CAI Long Island Newsletter is published quarterly by the Long Island Chapter of Community Associations Institute (CAI-LI) and is distributed to its members and is available on the Chapter website ([cai-li.org](http://cai-li.org)). This publication provides members of CAI with letters from the Chapter President, informative articles written by industry professionals and service providers, updates on current legislation, and business advertising. The Chapter strives to provide our members with timely information and tools needed to keep them informed on community association issues.*

*The Newsletter Committee is always looking for new articles to publish. Articles should be educational and non-promotional in nature and have a suggested word count between 500 and 1,500 words. CAI-LI retains the right to edit articles to conform to content and space requirements. If you are interested in submitting an article for possible inclusion, please contact Christine M. Majid, Chapter Executive Director, at [info@cai-li.org](mailto:info@cai-li.org). Are you interested in advertising with us? Let us know!*

### Quarterly Deadlines

Winter Issue - January 31

Summer Issue - July 31

Spring Issue - April 30

Autumn Issue - October 31

## ACCEPTING CONDOMINIUM FEES WHEN LEGAL FEES ARE UNPAID

By BRUCE J. BERGMAN OF BERKMAN, HENOCH, PETERSON, PEDDY & FENCHEL, P.C.



What should a board do if, during a period of default by a unit owner - or during a condo lien foreclosure action - the unit owner pays everything except the legal fees?

It is no revelation that borrowers (in the case of mortgages) and unit owners (in the instance of condo common charge liens) are displeased with the obligation to pay the other

side's legal expense. But mortgages typically provide for such recompense, as do condo bylaws, so most often the only issue is the reasonableness of those legal fees.

What is not uncommon in the arena of both the mortgage foreclosure and condominium common charge lien foreclosure is remittance of the mortgage sums or the condo fees, as the case may be, but without the legal fee component. In the mortgage foreclosure realm, accepting post acceleration payments portends the possibility of waiver of acceleration of the debt. While it ought not to be so (a different subject), it creates unease. In turn, this

timorousness carries over into the condo department.

So, if a unit owner remits all sums due - except legal fees - should the board accept the money? Can it safely do so?

Because pursuit of a condo lien does not invoke acceleration, there is simply nothing to waive. What is due pursuant to the lien (a continuing lien) is a determinable sum and it does not dissipate. Nonetheless, accepting condo fees, leaving a presumably lesser or modest amount attributable to legal fees (with costs and disbursements likely as well) means that the condo lien foreclosure must now be pursued solely for the legal fee portion - psychologically not an ideal scenario.

There are then two choices for the board to consider. It can reject the check, returning it with the affirmative advice that anything less than full payment is unacceptable. This will encourage some, perhaps many, unit owners to realize they must pay all. For those situations, though, where the unit owner is intractable, the foreclosure can proceed for the likely more palatable full panoply of items due.

The next path is to keep the partial payment. From a cash flow basis, especially mindful that income shortages must be

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## SUSTAINABLE SOLUTIONS FOR LAKE AND POND MANAGEMENT

By SHANNON JUNIOR - AQUATIC ECOLOGIST/TERRITORY LEADER, SOLITUDE LAKE MANAGEMENT



As lakes and ponds age, they are continually impacted by sedimentation and nutrient enrichment. Eventually, sediment and nutrient overload can lead to poor water quality and increased algae and nuisance aquatic vegetation blooms. It is extremely important to establish maintenance programs for community lakes and ponds which also function as

stormwater management facilities. A key feature of these programs is the ongoing management of invasive vegetation and algal blooms.

The repetitive application of pesticides as the primary strategy for vegetation control is not environmentally sustainable, and the management focus is shifting towards non-chemical methods. In addition, due to tightened regulations and general public wariness regarding the use of algaecides and herbicides, it is becoming increasingly important to find alternatives for our aquatic vegetation treatment programs.

### INTEGRATED PEST MANAGEMENT PLAN

Integrated Pest Management (IPM) is a comprehensive approach to pest management that includes many non-chemical strategies before or along with the use of pesticides. The implementation of a long-term, proactive IPM Plan for algae and aquatic weed management helps to reduce the quantity of chemical products used, while still providing for a healthy and aesthetically pleasing waterbody.

There are many different potential components to an IPM Plan, including prevention, mechanical and physical practices, cultural controls, and biological solutions. However, not all of the strategies are practical or cost-effective for every waterbody. A critical phase in the development of a comprehensive IPM Plan is to evaluate which strategies will be appropriate for a specific site. However, many IPM practices are simple and inexpensive, and can be broadly applied for almost every waterbody.

### PREVENTION STRATEGIES

Preventing the introduction of sediment and nutrients into the water, in the first place, can provide long-term benefits

*Continued on Page 5*



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for water quality. Many times, it can be achieved by very simple and inexpensive cultural practices. Establishing healthy communities of shoreline aquatic vegetation or allowing natural grasses to grow around the edges of a lake or pond will provide a filter for runoff, thus minimizing the sediment and nutrients entering into the pond. In addition, the vegetation will serve to stabilize the shoreline and prevent erosion and the introduction of more sediment into the water.

A buffer of grasses surrounding a lake or pond also makes a waterbody less attractive to Canada geese because they will not walk through vegetation over their heads. Since their bodily waste is an additional source of nutrients to a waterbody, preventing the presence of geese around the pond has its own benefits. Buffers surrounding the pond should be trimmed at least once per year and should be selectively managed throughout the growing season, removing any woody vegetation or non-native, invasive plants.

#### RESTORATION STRATEGIES

Other IPM strategies are geared towards remedying the impacts that have already occurred, and focus on the root causes of the problems rather than just the symptoms. For a lake or pond with severe algae issues, strategies that improve water quality can make a big difference in the overall health and appearance

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## Long Island Chapter Calendar of Events

*Thursday, September 22nd - 6:00 p.m.*  
*Membership Meeting and Seminar*  
*"Fannie Mae & FHA Compliance"*  
*Capital One Bank*  
*275 Broad Hollow Road, Melville*

*Saturday, October 22nd - 9:00 a.m. to 3:00 p.m.*  
*10th Annual Trade Show*  
*Hilton Long Island, Melville*  
*Free Admission for Community Board Members*

*Saturday, November 5th - 8:00 a.m.*  
*Basic Essentials Class*  
*for Community Association Board Members*  
*Belfor Property Restoration*  
*60 Raynor Avenue, Ronkonkoma*

*Thursday, November 10th*  
*Membership Meeting and Seminar*  
*Bretton Woods HOA Clubhouse*  
*Bretton Woods Drive, Coram*

*December - Chapter Holiday Party*



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funded by other unit owners, this has its appeal. As noted, though, it necessitates continuing the foreclosure exclusively for the legal fee aspect of the debt. While queasiness in that regard cannot be entirely banished, at least case law very affirmatively supports its viability.

That was precisely an issue in a case where the unit owner paid all the outstanding common charges just before the court ruled on the plaintiff board's summary judgment motion – but neglected to include legal fees. [See Board of Managers of One Strivers Row Condominium v. GIWA, 134 A.D.3d 514, 22 N.Y.S.3d 176 (1st Dept. 2015.)]

An appeal level court ruled that plaintiff (the condo) was still authorized to seek reasonable attorneys fees (and its late charges) in prosecuting the action. Interestingly, the court also held that the unit owner's payment in full of the open common charges, while summary judgment was pending, served, in essence, as an admission that the amounts sought were owed.

So there are indeed ways to handle what could otherwise be a thorny situation. ■

*Bruce J. Bergman is the author of the four volume treatise, Bergman on New York Mortgage Foreclosures, LexisNexis Matthew Bender (2015). He may be reached at b.bergman@bhpp.com.*



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of the waterbody.

Nutrient mitigation is a widely used practice that directly targets and inactivates the phosphorus in the water and bottom sediments of a waterbody. This technique can literally reverse the aging process and associated effects of nutrient loading. Phoslock® and alum are the two most commonly used products for this purpose. Product selection and program development would be based on site-specific conditions and the general budget for the project.

Another commonly recommended IPM strategy for water quality restoration is the installation of an aeration or circulation system. Aeration improves the health of a waterbody by adding oxygen to the system. The circulating action converts phosphorus to forms that are not usable by algae as food. It also creates conditions that favor the growth of healthy green phytoplankton



*Shoreline beneficial emergent vegetation, along with properly sized aeration, either submersed or floating as shown here, are both strategies that can be employed in an Integrated Pest Management (IPM) plan for your stormwater pond.*

water quality improvement strategies, the long-term result will be a more balanced waterbody that requires fewer applications of herbicides and algaecides to maintain it in a healthy and aesthetically pleasing state. ■

Reach Shannon through the website [www.solitudelakemanagement.com](http://www.solitudelakemanagement.com).

rather than the potentially toxic cyanobacteria species. The end result is a healthier pond with fewer harmful algae blooms, and a reduction in the need for chemical treatments.

**CONCLUSION**

While there are numerous Integrated Pest Management strategies that can be applied as part of a long-term plan, it is important to consider all of the site-specific characteristics of your lake or pond in order to develop a successful and environmentally sustainable program. By implementing a comprehensive maintenance approach that employs a variety of

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## TENTH ANNUAL TRADE SHOW – OCTOBER 22, 2016

By CHRIS BYRNES, ESQ. AND WOODY GOLDSTEIN, CPA – TRADE SHOW CO-CHAIRS

We are very excited about the upcoming 10th Annual Trade Show, which is taking place on Saturday, October 22, 2016, from 9 AM through 3 PM. This year's show is once again being held at the Huntington Hilton, in Melville, New York. The show will offer board members the opportunity to meet over 60 vendors who regularly serve condominiums, co-ops and homeowner associations across Long Island, as well as attend various educational seminars. A continental breakfast and delicious buffet lunch will be provided.

The show floor and vendor booths are open throughout the trade show, and will include vendors from the following industries: accounting and auditing, banking, home improvement, insurance, legal, property management,

restoration and construction, property tax certiorari, security, landscaping, and more. Please visit the vendors and ask them questions; they look forward to meeting you.

We will also provide 6 informative seminars, which will be held at various times throughout the event. The seminars will consist of: Ask the Experts (due to popular demand, we will have two ATE panels this year i.e., one in the AM and one in the PM), Best Practices, Emergency Preparedness/Contingency Planning, How to Make Your Association a Community, and Zombie Houses. The speakers in the seminars will consist of highly experienced professionals in each category, who will answer your questions, both at the seminar and throughout the day. Ask questions - - you will find it very worthwhile.

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In addition, we will present a few “Infomercials” for prospective members that will highlight the benefits of belonging to the Long Island Chapter of CAI. These presentations will be brief and informative, and participants will receive a special gift just for listening!

Finally, we are very pleased to announce that this year's show will feature Julie Adamen as our Keynote Speaker. In addition to having many years experience as a property manager and advisor to the property management industry, Julie is renowned for her fun and engaging seminars. At our trade show, she will present a seminar entitled “The One-Hour Board Meeting.” While this may seem to be an impossible task for many of you, have faith. Julie will show you how it can be achieved. Her lighthearted presentation is filled with great information and suggestions, and will prove beneficial to all who attend.

We look forward to seeing you at this year's trade show, which we are confident will be our best yet. **To pre-register, you may obtain your ticket online through Eventbrite at <http://caili2016tradeshow-boardmbticket.eventbrite.com>, or email Christine directly at [info@cai-li.org](mailto:info@cai-li.org) or call #631.882.8683 and leave a detailed message including your name, phone number complete with area code, and the name of your community association. ■**

## HOW TO CHOOSE A NEW PROPERTY MANAGEMENT COMPANY

By EDWARD M. TAYLOR, ESQ. FROM TAYLOR, ELDRIDGE & ENDRES, P.C.

Management companies come in all sizes and shapes, as do community associations and their boards, and there is no clear answer to the question of how to choose the company best suited for your Board and your community. Like most things in life, there can be advantages and disadvantages to everything. A small company may be able to provide more personal attention, but are they small because the service they provide is not in demand? An established company may tout its years of experience, but will a newer company try harder to please? A less expensive company will be easier on your budget, but will their service be low in quality as well? A more expensive company may provide top quality service, but will you need to raise assessments to pay their fees – and is that necessarily a bad thing? A management company may want to take over responsibility for the day to day affairs in running your community - which may be a good thing - but is your Board too "hands on" to allow that to happen – which could result in endless conflict? All of these questions can only be answered by you and your Board as you interview different companies and survey their offers.

I would suggest, however, a few guidelines that I have come to recognize over the years as significant regarding the choice of a new management company:

1. The most important person in the relationship is the property manager you will be interacting with on a day to day basis. Oftentimes, the owner of the company or director of property management attends the interview, and while you may sign a contract based, at least in part, on that meeting, it may be the last time you see him/her. It is equally important to interview the person who will be your property manager to determine if that person is competent and compatible with your Board.

2. Possibly the second most important aspect of your relationship with the management company will be the "back office" personnel who do the record keeping, billing, etc. Pay a visit to the office of the management companies that you are considering so that you can see how they operate and meet the people behind the scenes who are so critical to the

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success of the relationship.

3. Ask for a one year contract to start. The management company should be amenable to this, even though they may prefer a multi-year deal. If you are satisfied with the management company's performance after year one, you can consider a multi-year contract at that time.

4. Look before you leap. Property management is a difficult job in the best of circumstances, and no management company can provide service that will satisfy all Board members and all residents all the time. The transition period in changing management companies is also not simple, even under ideal circumstances (and the circumstances are almost never ideal), and it inevitably causes substantial stress and chaos for the board and homeowners due to the need to transfer files and adapt to new staff and procedures. And there is never a guarantee that the new management company will be better in all respects than the old one. Every company has its strengths and weaknesses, as does every individual property manager. Have you tried your best to iron out differences with your current management company by communicating to them the sources of your dissatisfaction and allowing them a fair opportunity to resolve things? If so, and if the response has been less than satisfactory, then maybe it is indeed time to make a switch, but expect some rough spots, especially at the beginning.

5. Ask for names and contact information for Board members at other communities managed by the company you are considering. At least some of those communities should be similar in size and type to your own. Don't necessarily expect glowing recommendations from everyone. As I said, property management is a tough business. Look for comments that indicate whether the management company is providing a professional service and is responsive to Board requests.

6. Don't spend too little. Remember. Your job as a Board member is not to save money. Your job is to maintain and

manage your community in the best manner possible. Hiring a great management company may be the best decision you make. If it happens to cost a few extra dollars per unit per month, so be it.

I often compare a board's relationship with its management company to a marriage. No relationship is perfect and while keeping together requires work, understanding and patience from both sides, there are often benefits to be realized. Nonetheless, there are times when a divorce may indeed be the best solution. Learn from your past mistakes. Choosing a new company (akin to a second marriage!) first requires an introspective evaluation and reasonable expectation of what your community and your Board needs most from its manager, followed by a diligent search for the closest match out there. Then everyone has to get to work in trying to forge a successful relationship. ■

*If you have any comments or questions you may reach Ed at (631) 265-5550, or [info@taylor-eldridge.com](mailto:info@taylor-eldridge.com).*



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## PRESIDENT'S MESSAGE

By PATRICK J. MATHEIS - ASSISTANT VICE PRESIDENT, M&T BANK, CAI-LI CHAPTER PRESIDENT FOR 2016



Is it hot enough for you?! The summer certainly is flying by and it will soon be time for our Annual CAI Trade Show – which is a major highlight of the year for CAI Long Island. This year's Trade Show will be held on Saturday, October 22, from 9am to 3pm, at the Hilton Long Island in Melville. The hotel has been a perfect venue for this event for the last few years, is centrally located on

our island, and is well-suited for our needs.

Our Trade Show Co-Chairpersons, Chris Byrnes of Schroder & Strom, and Woody Goldstein of Prager Metis CPA, as well as the Trade Show Committee, are putting in a tremendous amount of work to ensure the success of this event. They are committed to making this our best trade show to date and, from what I am hearing, they will not disappoint! The focus this year will be on reinforcing best practices (which has been presented before and is always well-received), as well as introducing some new content aimed at helping board

members prepare for the wide variety of issues they may encounter while leading a community association.

It would be remiss of me to not mention the contributions of Eric Clemente of Alure Home Improvements, Inc. He has been a wonderfully creative force within our organization and has given generously of his time and knowledge to make CAI the best it can possibly be. Thank you, Eric – we are lucky to have you!

On the day of the Trade Show, please stop by to see me, or any of the CAI Board members, and provide your constructive feedback on the event. We value your opinions greatly and welcome the opportunity to incorporate your ideas into future CAI events and trade shows. Continuous improvement is a shared passion of all of us on the Board of Directors. We look forward to seeing you at the Trade Show in October – in the meantime, I hope you stay cool and enjoy the summer! ■

All the best,

Patrick Matheis - Assistant Vice President, M&T Bank  
President CAI Long Island

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## THE PAINFUL DEATH OF VOLUNTEERISM

By JULIE ADAMEN, PRESIDENT, ADAMEN, INC. AND THE KEYNOTE SPEAKER AT THE 2016 TRADE SHOW



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.

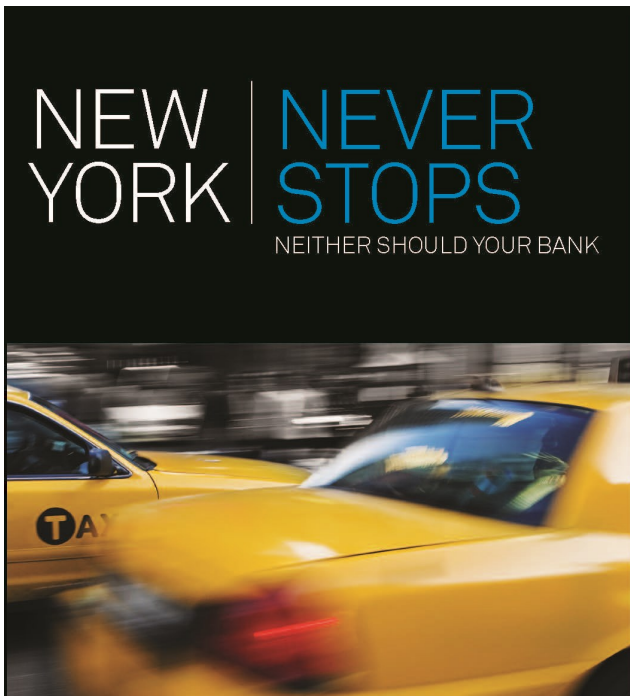
Why are we so often unable to procure new volunteers, or fail to retain the ones we have? Unfortunately, lost volunteerism can almost always be traced back to the Board of Directors that does not endeavor to nurture the volunteer, place them in the right position, listen to their

contribution 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 further from the truth.

**Micromanaging.** Often at a loss on how to operate within the community association structure, Boards 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

*Continued on Page 16*



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*Continued from Page 15*

feed an ego - micro managers will stop volunteerism in its tracks every time.

**Lack of follow up.** When you become a Board member, you must answer email, 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.

**Appointing people to positions that ill-suit them.** Anytime it's possible, Boards and their management staff should try to match the volunteer's strengths with position best suited for them. By taking into account whether or not that person has the required skill, 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 ten minutes? Way, way too many. Endless debate over meaningless minutia or non-agenda items, ad nauseam. In short, make your meetings productive: 1) Speak only to those items on the agenda, 2) Know that if a decision can't be made in 5 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 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 Roberts 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, 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!" because good news means good morale. Good morale means more volunteers.

Most of the tips on developing and retaining volunteers and satisfaction of process participation 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 supported and a welcomed and appreciated part of the process. ■

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*You may reach Julie directly at [Info@Adamen-Inc.com](mailto:Info@Adamen-Inc.com) or call her toll free at (877)368-1509. Better yet... come to the Trade Show and hear her speak on the topic of time management with a session on "The One-Hour Board Meeting." This is a must attend event for those serving on community association boards!*



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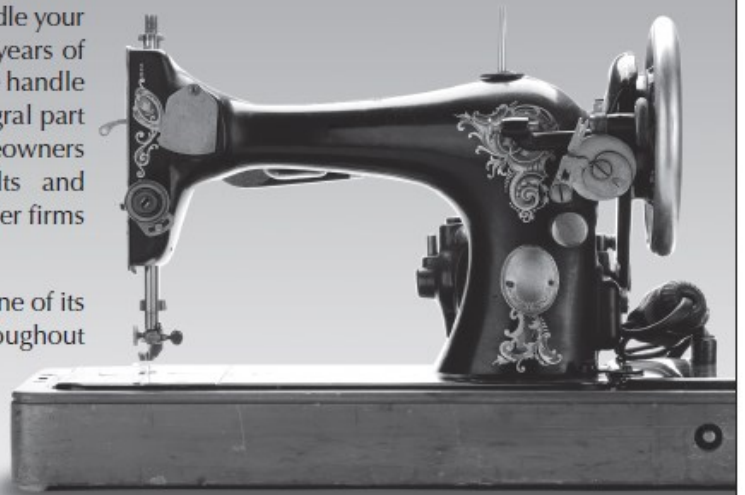
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