

CAI - LI Chapter News

Serving Long Island, New York

Published by the Long Island Chapter of CAI

Issue No. 45 – Summer 2019

NO GOOD DEED GOES UNPUNISHED

By ANDREW NIGRI - SANCUS INSURANCE AGENCY, LTD.

Most of the boards I meet are surprised to learn that while they are volunteering their time to ensure their community is managed smoothly, their personal assets are exposed to 3rd party lawsuits seeking damages. Board members could be on the hook for both the defense costs and settlement award from a plaintiff alleging a wrongful act.

The only line of defense is the Directors & Officers Liability Insurance Policy. Due to the fact the premium line item is usually much smaller than the Property or General Liability Policies, the importance of D&O coverage is frequently overlooked.

Not to be confused with General Liability coverage which provides protection for 3rd party Bodily Injury and Property Damage claims, D&O is a type of Professional Liability which provides protection against 3rd party claims alleging financial damages. In fact, Professional Liability claims are specifically excluded under General Liability policies.

To state simply, a lawsuit arising from a trip and fall claim is a General Liability exposure. A lawsuit arising from mismanagement of a capital improvement project is a D&O exposure.

Most D&O applications pose the question of whether or not an assessment will be charged

to the community in the near future. The insurance company knows that in the event of an assessment, there is a higher probability of a D&O claim.

Below are some coverage exclusions and endorsements worth noting.

Definition of a Claim - Coverage provided should include monetary damages and non-monetary relief.

Defense Costs Outside the Limit - The limits of liability should be reserved for the settlement only. Defense costs, which can quickly grow to be more than the actual settlement, can and should be endorsed to provide an additional limit “outside” of the settlement limit.

Insured vs. Insured Exclusion - The exclusion should be removed from the policy. A great claim example is a prior board suing the current board over election results. If the policy contains an Insured vs. Insured Exclusion then coverage will not be provided under this scenario.

Employment Practices Liability Exclusion - The D&O Policy should be endorsed to add back in protection for claims arising out of Wrongful Termination, Discrimination, and Sexual Harassment.

Continued on Page 4

SAVE the DATE!
Trade Show
SATURDAY
OCTOBER 5, 2019
9:00 - 3:00PM

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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). 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. 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

AVOIDING “US V. THEM” — PART II - TRANSPARENCY

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

We are often contacted by condominium, co-op and homeowners association boards when a homeowner or shareholder has requested copies of community documents such as financial records, contracts, homeowner contact information, etc. The boards' initial inclination, and direction to our office, is often to do everything to prevent or limit such access. The homeowner may be a perpetual thorn in the side of the board – looking to criticize the board at every opportunity – and the instinctual approach is to “circle the wagons” and give the person as little ammunition as possible.

The problems with this approach are several. First, NYS courts have, in recent years, been issuing decisions that take an increasingly liberal approach to a homeowner's or shareholder's right to inspect the community association's books and records. While most community by-laws and several state statutes provide owners with a right to inspect specific books and records of the association, courts have ruled that the right to inspect actually includes most, if not all, of the community's records except for those that may be considered confidential or privileged. After all, judges have mused, the homeowners have a right to know what is going on in their own community.

Second, a board's resistance to a community member's request to review documents will often raise the suspicions of the petitioning homeowner as well as other community members. What, they may ask, is the board trying to hide? The more a board fights a request to review certain books and records, the more the homeowner may fight back, thinking he/she must be on the right path to discover improprieties.

We would like to suggest an alternative approach to this adversarial, and oftentimes bitter and expensive, resistance to disclosure, and that is to provide the homeowners with information they could want or need before they ask for it. In keeping with the theme that community residents – even the most cantankerous among them – are not your enemy but rather partners in a joint venture, boards should be taking great lengths to keep the populace informed as to what is happening.

If a new roof project is contemplated, a landscaping contract is to be renewed, or a foreclosure action is completed, why not communicate this information to homeowners in a timely manner? Whether the news is good or bad, controversial or even condemning, why not share it with the residents, who will ultimately be affected by it? Most “bad news,” such as an increase in insurance rates or a law suit against the association, is not necessarily the fault of the board, and even if so, in whole or in part, keeping the event under wraps will not help public relations when it is otherwise disclosed at a later date. Signing a contract that is not the cheapest one available is not something to be ashamed of, as long as the board has good reason for doing so.

Communicating with homeowners is relatively easy nowadays, with e-mail blasts, websites, electronic newsletters and messaging all readily available to most boards at little or no cost. Information can also be dispensed at annual and periodic information meetings of the community, allowing residents to ask questions and to weigh in on important topics. Instead of waiting for the next request to review the books and records by a frustrated or agitated owner, boards should consider regularly sharing information about the community, including financial reports, with all homeowners as it becomes available. You may not avoid every request to review your books and records, but you may avoid some of them by conveying the message that “we are all in this together” and “we have nothing to hide” as opposed to an “Us v. Them” mentality. ■

Comments or questions? Feel free to reach Ed Taylor, from Taylor, Eldridge & Endres, P.C., at his office #631.265.5550 or via email at edtaylor@taylor-eldridge.com.

SAVE THE DATE

TRADE SHOW

SATURDAY

OCTOBER 5, 2019

9:00AM - 3:00PM

Hilton Long Island, Melville

Free Breakfast & Lunch

Educational Classes

Chapter Awards & Raffles

*Free Admission for
Community Board Members*

Continued from Page 1

Failure to Maintain Adequate Insurance Exclusion -

A great example of this type of claim involves the above exclusion. If there is an uncovered Employment Practices Liability claim then a subsequent lawsuit from members of the community could result in an uncovered claim for the failure to procure an adequate insurance policy.

Defense & Settlement - Unlike General Liability policies, D&O policies have a "consent to settle provision" which requires the insured (you) to agree to the settlement terms. If the board feels that the lawsuit is worth fighting and does not want to give up so easily, then consent to settle may be refused. If the board is correct and the lawsuit is frivolous, then there is money to be saved. However, if the board is wrong, then there is a price to pay for losing that battle. How much? We can do the math using, for example, a proposed original settlement of \$100,000, plus an extra \$50,000 in defense costs, resulting in an eventual \$200,000 settlement.

It could be the prior proposed settlement + defense costs + **75%** of the loss in excess of the proposed settlement. The insurance company pays \$100,000 + \$50,000 + \$75,000 and the board is on the hook for \$25,000.

Or it could be the prior proposed settlement + defense costs + **80%** of the loss in excess of the proposed settlement. Here the insurance company pays \$100,000 + \$50,000 + \$80,000 and the board is only responsible for \$20,000.

It could also be the prior proposed settlement + defense costs + **50%** of the loss in excess of the proposed settlement. The insurance company pays \$100,000 + \$50,000 + \$50,000 and the board is only responsible for \$50,000.

There are many more Endorsements and Exclusions to cover, but for now I'll leave you by stating, don't forget to bind Cyber! ■

If you would like to learn more, contact Andrew Nigri, of Sancus Insurance Agency, at his office #516.433.3749 or via email at andrew@thesancusgroup.com.

Long Island Chapter Calendar of Events

Thursday, September 12th - 6:00 to 8:00 p.m.

*Chapter Membership Meeting with
"Rentals in the Community" Educational Seminar
Capital One Bank
1307 Walt Whitman Road, Melville*

Saturday, October 5th - 9:00 a.m. to 3:00 p.m.

*13th Annual Trade Show
Hilton Long Island, Melville
Free Admission for Community Board Members*

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

*Board Leadership Development Workshop
for Community Association Board Members*

REGISTRATION REQUIRED

*Belfor Property Restoration
60 Raynor Avenue, Ronkonkoma*

Thursday, November 14th - 6:00 to 8:00 p.m.

*Chapter Membership Meeting with
"Engineering" Educational Seminar
Capital One Bank
1307 Walt Whitman Road, Melville*

Thursday, December 12th - 6:00 to 9:00 p.m.

*Holiday Chapter Party
Sangria 71 Restaurant
1095 Jericho Turnpike, Commack*

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NEW INNOVATIVE SOLUTIONS IN YOUR LAKE MANAGER’S TOOLBOX

By SHANNON JUNIOR, AQUATIC ECOLOGIST - SOLITUDE LAKE MANAGEMENT



Herbicides and algaecides have traditionally been used to maintain balanced ecosystems in lakes and ponds — but wouldn’t it be exciting if there was a new technology or process that could totally revolutionize the way we approach environmental problems in our communities? Industry leaders have long understood that proactive, holistic management

strategies are the key to achieve long-term balance in our aquatic environments; however, our toolbox of sustainable solutions has not always grown at the same pace as our knowledge. That’s why we are so excited about recent advances in aquatic habitat restoration.

EPA-registered herbicides and algaecides are generally only used as a last resort solution—but sometimes they are necessary and valuable tools. Just as you might take an antibiotic to recover from an infection, pesticides help your waterbody recover from nuisance and sometimes harmful aquatic weed infestations. Now, new herbicide technologies are optimizing the safe eradication of undesirable plant species with very limited impact on native

vegetation, wildlife or recreational activity. These highly-targeted herbicides combine the best features of traditional options to target the unique growth processes in undesirable aquatic weeds and achieve more selective and long-lasting vegetation control. Thanks to their favorable environmental profile, they require 100-1000x lower use rates than traditional herbicides and have been designated by the EPA as a “Reduced Risk” solution that is virtually non-toxic to humans, pets and wildlife.

Reduced Risk herbicides can be highly successful for the management of many species and may provide exceptional multi-season control when applied by specially certified professionals at the appropriate growth stage and dosing rate. Properties suffering from chronic milfoil species, hydrilla, crested floating heart, watershield, parrotfeather, creeping primrose, slender spike rush, yellow floating heart and similar species are excellent candidates for management with these highly-selective, low-impact herbicides.

For any new technology, it is important to evaluate its niche within our “toolbox” and to understand the best fit among the available water quality management strategies. There are many factors to consider when developing a comprehensive aquatic

Continued on Page 6

A HELPING HAND WHEN NEEDED MOST

- FIRE/SMOKE DAMAGE
- STORM DAMAGE RESTORATION
- WATER DAMAGE RESTORATION
- FROZEN PIPE BURST
- MOLD REMEDIATION
- DEODORIZATION
- SEWAGE BACKUP
- CONTENTS RESTORATION/STORAGE
- EMERGENCY SERVICES
- RECONSTRUCTION



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PRESIDENT’S MESSAGE

By JOHN RYLEY - DRYER VENT WIZARD
AND CAI -LI CHAPTER PRESIDENT FOR 2019

Happy summer to all of our readers!

Most of us don’t want to see the summer end and many will chase the summer by going South this winter. While we don’t have an August meeting, there is much preparation for our October 5th Trade Show. A special thanks to Chris Byrnes and Eric Clemente who are rapidly filling booths and to Alyssa Solarsh and Melissa Schlactus for lining up the speakers for our educational seminars. A few sponsorships and booths are still available as I write this.

Next month we meet for the first time at the new Capital One Bank location. We thank them and all our sponsors for their support. Please don’t drive to the old location out of years of habit. Ten plus years of conditioning is hard to break! September’s educational subject is “Rentals in the Community.” The topic is very timely and will be a big help to boards who are considering restrictions on rentals.

Very best wishes for the rest of the summer to you and your family. We look forward to seeing you next month.

All the best! ■

JR

Continued from Page 6

water and enhance the effectiveness of this method. The number and size of the bags required is also site-specific, and their longevity could be several weeks up to an entire season, depending on the severity of water quality impairment.

The increasing problems of anthropogenic and climatological water quality degradation have brought us to a critical time in the aquatic management industry, but new technologies like these are making the management of water resources easier and more sustainable than ever. When implementing any sort of aquatic weed or water quality solution for your waterbody, it’s extremely valuable to consult with an aquatic biologist or ecologist who is on the leading edge for innovative solutions to age-old challenges. Your community members—and your long-term budget—will thank you! ■

Shannon Junior is an Aquatic Ecologist at SOLitude. Learn more at www.solitudelakemanagement.com/knowledge.



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PAWS FOR THOUGHT

By ALYSSA H. SOLARSH, ESQ. - TAYLOR, ELDRIDGE & ENDRES, P.C.

Community association Board members may squawk at the idea of allowing pets in their no-pet community, or at making communities more pet-friendly, but instituting such changes should not necessarily be a concern. Rather, Boards may want to consider implementing changes to their pet policies to accommodate the growing population of pet owners. In keeping with this trend, many community associations are creating amenities for pets, as well as imposing reasonable and workable restrictions on pets and their owners.

According to a study performed by American Pet Products Association for 2017-2018, the number of pet owners in the United States is increasing rapidly. It is estimated that 84.6 million people in this country currently own pets. Moreover, as millennials delay marriage and having children, they are instead adding pets to their family. It is significant to note that seventy-three percent (73%) of millennials currently own a pet, according to the American Pet Products Association. A Realtor.com survey showed that seventy-nine percent (79%) of the pet-owning millennial population that purchased a home in 2018 said they would pass up an otherwise perfect home if it didn't meet the needs of their pets. (<https://www.cnbc.com/2018/08/31/millennials-put-pets-first-when-buying-a-home.html>). Based on these statistics, it may benefit communities to embrace pets and their owners, rather than to fight against this tide.

Once a Board decides to allow pets, or to make the community more pet-friendly, it should consider providing facilities to accommodate pets and pet owners. Many community associations across the nation are installing dog parks or dog



runs. These amenities allow owners to mingle and connect with each other, while their dogs get exercise and socialization (all which make for happier, quieter dogs). When deciding whether to build a dog park, Boards have many decisions to make, including whether to separate big dogs from small dogs, or to create different time schedules for big and small dogs so that they can play safely; the placement of the park away from homes so that any noise will not disturb residents; durability and longevity of material used in the creation of the park; having a nearby water supply to provide drinks for the dogs, and to help with cleanup; waste management; and the comfort of dog owners.

Some community associations are also allowing pet daycare services to rent space in the community, which assists pet owners who work long hours in caring for their pet's needs. This service could help reduce the issues that arise with particularly chatty and disruptive pets as a result of them being cooped up inside all day.

Boards should consider implementing rules in the communities that balance pet owners' needs with the goal of maintaining a safe, clean and quiet environment for everyone. When implementing rules, community associations should focus on the pets' and owners' behavior, rather than on the size or specific breed of pet. Any dog, whether it is big, small, pit bull or toy poodle, can have undesirable or dangerous behavior. A Board may require that a homeowner take his or her misbehaving pet to complete a basic obedience training program. Boards may require pets to be supervised at all times when outside, and that they be kept on a leash in common areas. Boards may also require owners to comply with all state and local

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Continued from Page 8

vaccination/registration requirements, and to provide proof of the same.

Boards should also provide facilities that encourage compliance with the rules. For example, Boards should provide accessible disposable bag stations throughout the community with receptacles for the owners to use in cleaning up after their pets. Boards should clearly post signs indicating the places pets can be walked in the community. With regard to rule violations, Boards should have a conversation with the offenders, or write to them informally, before threatening to remove their pet, and should allow a reasonable timeframe for the owner to cure the pet's behavior. Involve the local authorities in the event that any pet poses a danger to anyone. Remember, people often consider pets to be part of the family, so the issue of rules and rule violations should be handled delicately whenever possible. ■

For more information, please contact Alyssa H. Solarsh, Esq., from Taylor, Eldridge & Endres, P.C., at #631.265.5550 or via email at alyssa@taylor-eldridge.com.

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NEW – CAI-LONG ISLAND DISPUTE RESOLUTION PROGRAM

The Board of Directors of the Long Island Chapter of Community Associations Institute (CAI) is excited to offer a **new service to its members**: mediation services to help resolve disputes in community associations. This service is available to help resolve disputes between two homeowners within a community, a Board and a homeowner, or a Board and a vendor. This program will begin in November 2019.

What is Mediation?

Mediation is an informal process where a trained neutral person, a mediator, assists the parties in reaching a mutually acceptable resolution to their dispute by facilitating negotiations. Mediation is voluntary and non-binding, meaning that the mediator has no ability to force a settlement or make any rulings that are binding on the parties. If a settlement cannot be reached, the parties do not lose the right to a trial on the merits of the case in a court of law.

Who is Eligible for this Program?

The CAI - Long Island Dispute Resolution Program is an exclusive benefit to communities that are members of CAI - Long Island. To be eligible for the program, your community's entire Board must be current CAI - Long Island members (the cost of registering your entire Board is currently \$250.00 per year).

What are the Advantages of Mediation?

Mediation is quicker and less expensive than resolving disputes through litigation. A lawsuit can take months or years to resolve, while a mediated dispute may be resolved in only one session. Mediation allows the parties to come to their own resolution of the dispute rather than leaving the decision to a judge. Mediation is a private and confidential process and what is said in mediation cannot be used in any subsequent litigation. Mediation is also less stressful and adversarial than litigation, thus allowing for a more community-oriented resolution.

What is the Cost of Mediation?

The fee for participation in the program is \$100 per party for two hours of mediation. This fee is non-refundable once a

mediator has been assigned.

How Do I Submit My Dispute for Mediation?

Each party must submit the Mediation Request Form with the \$100 per party fee to CAI - Long Island, P.O. Box 221, Commack, NY 11725. Checks should be made payable to CAI - Long Island. Once both parties' completed forms and payments have been received, your assigned mediator will contact you to schedule the mediation session. ■

To learn more about this program, or if you have additional questions, please contact Christine M. Majid, Chapter Executive Director of CAI-Long Island, at (631) 882-8683 or info@cai-li.org.

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STREAMLABS CONTROL WATER MONITORING

By HARVEY KOLIN - WATERHEATERS.COM

Water damage can be extremely costly to fix in your home and the StreamLabs Control water monitoring system is here to help you stay ahead of your water leaks with one easy to manage device. There is a “smart” version for seemingly everything in your home these days and now water heaters and water heater products are joining the ranks! You spend a lot of time and money keeping your home in the best shape possible but water leakage is one thing that falls by the wayside with many homeowners until it is too late.



The StreamLabs Control is a smart water monitor that can help detect water leakage and protect your home from future water damage by tracking water consumption and usage and sending you real-time alerts on any possible leaks. Once the StreamLabs Control is connected to your home wi-fi network you can receive updates directly to your smartphone.

The StreamLabs Control features:

Enhanced Leak Detection – The device monitors your water usage patterns and creates customized Smart Alerts to identify any leakage problems.

Remote Shut Off – Leaks will not have the chance to get out of control due to the remote shut off feature in the StreamLabs Control.

Real-time Insights – You will receive instant notification of any abnormal water usage alongside comparative and historical data for your water usage.

Home and Away – StreamLabs Control has both a Home and Away setting.

Continued on Page 12



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Smart Home Compatible – The StreamLabs Control integrates with Nest and Amazon Alexa. API access is also available for more customized integrations and data reporting.

The StreamLabs Control device helps you stay one step ahead of water leaks and water damage to your home. StreamLabs Control uses patented ultrasonic technology to monitor water distribution and usage in real-time, detect leaks, and shut off the water source automatically if a leak is detected. Just one StreamLabs Control device installed in your home can protect your home from water damage and allow you complete control of your water system through a free app. The StreamLabs Control water monitoring systems “Keeps Leaks on Lockdown” 24/7. It can detect abnormal water usage from burst pipes, running toilets, appliance water line failures, running outdoor hoses, and freeze conditions. The StreamLabs Control offers connection types in SharkBite (3/4”, 1”, and 1-1/4”) or FNPT (3/4”, 1”, and 1-1/4”). The StreamLabs Control can also help your household to become more water conscious and help you find areas and times of day where you can cut your water usage.

The StreamLabs Control features a quick 5-minute Do It Yourself installation process guided through the StreamLabs app. Installation does not require specialized tools or pipe cutting and only requires three quick steps. To install the

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StreamLabs Control system you need:

- Access to your main water supply line
- A standard 110/220 VAC power outlet
- An IOS or Android compatible smartphone or tablet
- A wi-fi connection
- The StreamLabs app

The StreamLabs Control is a device meant to revolutionize the plumbing industry. As our homes get smarter and smarter, plumbing has remained stagnant. StreamLabs has set out to change the way consumers use water with the StreamLabs Control. StreamLabs belongs to a powerful family of innovative brands that create Solutions to Shape the World™. This innovation transforms productivity and efficiency for customers in plumbing and heating, water and air, smart home technology, and specialist industries around the world. ■

If you would like to learn more about the StreamLabs Control, please contact Harvey Kolin, Director of Sales for Waterheaters.com, at his office #800.940.6559 or via email at harvey@hkolin.com.


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is pleased to announce the following meetings for Condominium,
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LAST FRIDAY BOARD MEMBER DISCUSSIONS

Our open discussion sessions are available for Community Association Board Members to discuss any issues that are of concern to you — and to others as well. It will be an opportunity for you to meet with other condominium, co-op and HOA board members who are dealing with – or have dealt with – common problems and challenges. All discussion sessions are held in our office.

Bagels and coffee will be served.

Last Friday of the Month

Sept. 27 • 9:30 - 11:00 a.m.

Oct. 25 • 9:30 - 11:00 a.m.

For additional information, please visit us at taylor-eldridge.com
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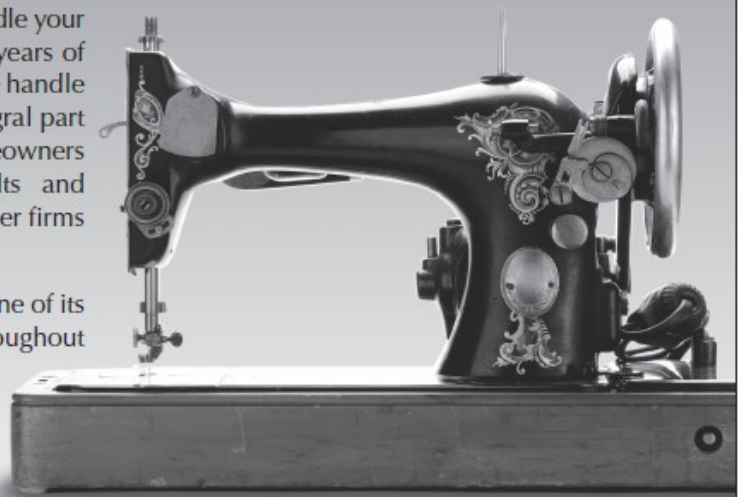
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