

CAI - LI Chapter News

Serving Long Island, New York

Published by the Long Island Chapter of CAI

Issue No. 53 – Summer 2021



MANAGING WHITE-TAILED DEER IN YOUR COMMUNITY

By R.J. CURCIO, GENERAL MANAGER - DEER GUYS



Why are there so many deer on Long Island?

Many Long Island communities are dealing with more pressure from white-tailed deer than ever before. This unnaturally high population

has made the roads dangerous for drivers, spread ticks throughout the island, and caused millions of dollars in agricultural and landscaping damage. It's hard to believe that a little over hundred years ago, white-tailed deer were over-hunted to the point of near extinction in the Northeast, including right here in New York. In an effort to bring them back, the state closed deer hunting allowing populations to recover. Deer were even brought here from other states to aid in the population recovery!

While all these efforts were going on to restore the population, their natural predators (gray wolves and mountain lions) were eliminated

from New York in the late 1800s and early 1900s. With no predators and limited hunting, deer populations began to expand throughout the mid 1900s. When food is available, white-tailed deer can repopulate incredibly fast. Each female can have 1, 2, and sometimes even 3 babies on a yearly basis.

As the deer populations were rapidly recovering, human development swept across the island as the wealthy class of New York City began to move to the suburbs. In the process, what was once inner forests containing limited food resources was converted into irrigated lawns with lush plantings such as tulips, hostas, and daylilies. These along with several other easily digestible, high nutrient plants provided an abundance of food for deer. With our forests becoming depleted and food more available in the suburbs than ever, many deer populations essentially "moved in" to our neighborhoods.

What can I do about the deer in my community?

There is no magic answer to this question.

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Many residents require an “integrated pest management plan,” utilizing several control methods to find what works best for their community and residents.

1. **Hunting & Population Control:** This option unfortunately makes some uncomfortable for both safety and ethical reasons. However, since we removed their major natural predators, something has to lower their population. Not hunting an overpopulated area isn't the best option for the deer themselves

either, as we see higher rates of disease and starvation. Lowering the population through hunting could be an option for you depending on your local hunting restrictions and the amount of open space you have. Consider checking out the NY DEC website. They have a page specifically for “Community Deer Management” which contains great resources for community leaders.

2. **Fencing & Exclusion:** Everyone knows a 10-foot fence will keep deer out. Obviously, this is not an option for everyone due to local regulations and high costs. There are ways to utilize lower fences strategically to deter deer. Being a prey species, there is a greater risk to jump into an area they are unsure of what is on the other side. If a 6-foot fence is as high as you can go, a fence they cannot see through is better than one they can. Another option is to use two lower fences a few feet apart. If you are looking to just design a small flower or vegetable garden, consider using a raised bed with a low fence on top. Plenty of online resources are available for dimensions and styles of deer fencing, you just have to get creative and think like a deer in designing one for your community.

3. **Resistance and Repellents:** Though planting resistant plants and using repellents won't be a guarantee in keeping deer out of a community, you can drastically reduce the cost of their damage. I am asked for deer-proof plants on a daily basis. Although some plants are more preferred than others, there really are not any deer-PROOF plants. Some more resistant plants include fragrant flowers like lavender and catmint. There are also plants that are actually toxic for deer to consume, like daffodils and milkweeds. There are even plants deer don't like to eat because of their texture, such as lamb's ear. Planting these over preferred plants like tulips and hostas gives you a better chance in preventing deer damage. Deer are adapted to sift through plants they don't like to find their preferred food, so planting resistant plants around vulnerable ones is NOT an effective way of deterring deer. If you



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have plant material already established in your community you would like to protect, repellents could be an option for you. There are products you can buy at your local garden center that are designed to make plants smell bad to deer. These have varying degrees of success, and sometimes you have to try several different products to find what works best for your local deer population. There are also professional services that have their own products and apply them for you. Consult professionals in the industry whether it be your landscaper or local garden center to determine what works best in your area.

Final Thought

Love them or hate them, white-tailed deer are a natural part of our ecosystem and do in fact belong here. Your community is an ecosystem, and understanding that ecosystem will make it that much easier to manage the wildlife that shares the same land. ■

R.J. Curcio is a Certified Associate Ecologist of the Ecological Society of America and General Manager at Deer Guys®. R.J. can be reached directly at longisland@deerguysusa.com for questions about deer biology, deer-resistant plants, or deer repellents.

CAI - LONG ISLAND NEWSLETTER

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 (www.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, 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.

Quarterly Deadlines

Winter Issue - January 31

Summer Issue - July 31

Spring Issue - April 30

Autumn Issue - October 31

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PRESIDENT'S MESSAGE

By NANCY FOX, DIRECTOR of OPERATIONS - CAMCO SERVICES OF NY, INC. AND CAI - LI CHAPTER PRESIDENT 2021



Summer...

To quote Olaf, the loveable inanimate snowman created by Anna and Elsa of the Disney blockbuster hit Frozen: "I don't know why, but I've always loved the idea of Summer, and sun, and all things hot!" "Really?" says Kristoff, "I guess you don't have too much experience with heat?" "Nope!" Olaf replies, "But sometimes, I like to close my eyes, and imagine what it would be like when Summer does come!"

So, close your eyes and imagine a beautiful summer evening at a waterfront restaurant filled with great friends, food, drinks, music and prizes! Guess what – it's finally summer! And the *CAI Long Island Chapter's Sponsors' Summer Social and Night of Gratitude* is all that you could imagine and more! For only \$10.00 per person, Community Board Members & Residents are welcome to join us and reconnect with all of your CAI friends. Don't miss this event of the year! Contact Christine

to make your reservation by August 20th!

Also this summer, your CAI Long Island Chapter Board has decided to do an educational series in response to the tragic Surfside Condo collapse. There is just too much heartache and loss that could have been avoided and it has deeply affected every one of the executive board members for your Long Island Chapter.

Among other matters, we will be discussing: Building Inspections and Maintenance, Reserve Study Planning and Funding and Insurance and Risk Management. This is one educational series that you don't want to miss. And we are pushing to make it an "in person" event sometime in September, rather than an educational webinar.

I know I told you in the Spring Newsletter's President's Message that we were going to do a Virtual Trade Show, but from overwhelming feedback from our members we decided to postpone the Trade Show until early next year when we can hopefully hold it in person again. I'll keep you posted.

We are always looking to spread the news about this great resource of support and education for volunteer board

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Long Island Chapter Calendar of Events

In light of the continued health crisis, the Board is continuing to roll out a series of dates, however, some events may convert to a webinar platform. As the schedule is formalized, we will send out updates via email so you may mark your calendar and register.

Wednesday, August 25th - 6:00 p.m. to 9:00 p.m.

*Sponsors' Summertime Social
Land's End Waterfront Catering
80 Brown's River Road, Sayville*

*September/October - Venue and Time TBD
From Our Board to Yours – Lessons on Avoiding
Community Asset Mismanagement
Program will address: Property Management,
Austerity Budgets, Construction Costs, How to
Pay for It, and What Insurance Covers.*

*Saturday, November 6th - 8:00 a.m. to 2:00 p.m.
Board Leadership Development Workshop
for Community Association Board Members
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*To REGISTER or to READ MORE,
visit our EVENT PAGE by clicking below —*

<https://cai-li.org/events/>

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members. If you have friends living in other communities, please tell them about CAI and invite them to join us. Or you can drag them along with you to our Summer Social, because once they meet us, they will be hooked! LOL! But seriously, feel free to point them to Christine Majid, our Executive Director, or myself to find out more about how to become members.

We love to hear from our members. Please send us your ideas, success stories, or just learning opportunities created by a silly mistake. Everyone has something to give, so may I encourage you to get involved? Please feel free to contact me directly with ANY questions, concerns, and/or suggestions you may have at #631.484.3066 or nancyf@camcoservicesny.com.

Thank you, Nancy ■



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WARNING!

By ERIC CLEMENTE, DIRECTOR OF SALES OPERATIONS - ALURE HOME IMPROVEMENTS

WARNING! If you believe because your community is NOT a high-rise, that what occurred in Miami doesn't affect you, **YOU ARE WRONG!**

On June 24, 2021, a horrible tragedy occurred in Miami, FL. Those who perished have left behind family and friends who will never be the same. Those part of the rescue will endure memories that will haunt them for the rest of their lives, and YOU reading this... you are only ONE decision away from a totally different life.

Say this out loud: "I don't ever want to be the suspect."

Let's first review some facts:

Year Built – 1981

Stories – 13

Units – 136

Engineering Report Ordered – 2016

Engineering Report Delivered – 2017

Cost for Repairs in 2018 – \$9mm

Cost for Repairs in 2021 \$16.2mm

Board Members resigned due to INACTIVITY of report findings – 2018

Board President resigned due to Board's lack of action of report's findings – 2019

Five (5) additional Board Members resigned due to inactivity of report findings – 2019

Personal liability of Board Members collectively and/or as individuals – ***TBD***

This isn't uncommon. Yes, that means that YOU and/or your community have very similar histories to what has transpired in Miami.

FACT: Many of you haven't had reserve studies or engineer reports - EVER.

FACT: Many of you haven't even raised your HOA fees to account for necessary replacement projects for the near future.

FACT: Lawsuits against boards will become **VERY** common regarding negligence.

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FACT: Board owners will no longer be as protected from liability suits following the results of this case reference.

FACT: Many of you have homeowners who are dealing with internal inconvenient repairs (time and money) to their units because you have hired inferior work (lowest bidder) and/or have delayed replacement/repair because you're not "ready" to spend the money, don't want to touch reserve funds, don't want to secure financing through a bank (pay interest) OR don't want to contract until the assessment is complete and funds are in hand. **RED ALERT!!!**

FACT: Regardless of individual or personal liability if sued by a homeowner(s), the negative impacts of losing a case, include, but are not limited to:

- Ability to refinance or for new owners to get loans/mortgages
- Increased dues to cover attorney fees
- Increased bills (utilities) due to bank factors for increased dues (bank factors take dues into account)
- Decreased credit rating = Increased insurance rates
- Possible inability to obtain insurance

FACT: Postponing decisions on critical repair and/or replacement work because of board disagreements or push-back from residents or other board members is negligence. Board members have a legal obligation to maintain their community.

How do we prevent problems? Easy... through communication and education!

I, along with the entire Board of Directors of CAI-Long Island, am dedicated to helping you and your community be the **BEST COMMUNITY** you can possibly be. We are also dedicated to providing you and your community with all the necessary tools to avoid tragedies. We are proud to announce our NEWEST Education Series titled **"From Our Board to Yours – Lessons on Avoiding Community Asset Mismanagement"** to kick off in September. If you are interested in attending, please register by contacting Christine via email at info@cai-li.org. ■

Feel free to contact Eric directly with any questions, concerns, or suggestions you may have at #516.396.9023 or via email at eclemente@alure.com.



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HOW CONSISTENT LAKE MANAGEMENT HELPS CREATE HAPPIER, HEALTHIER COMMUNITIES

By Noel Browning, Aquatic Biologist - SOLitude Lake Management



Lakes, rivers, beaches, and even swimming pools have beneficial effects on the well-being of visitors that are hard to define. Water is not only essential for our survival, it has a profoundly relaxing and refreshing impact on people's mental health and happiness. Human beings will always be inextricably connected to water physically, mentally, and spiritually. This helps explain why

communities near large water systems are common vacation destinations and highly desirable places for residential communities. It also underscores the importance of preserving our precious aquatic resources.

Maintaining balanced aquatic ecosystems is more important than ever as water scarcity, eutrophication, drought, and increasing demand continue to cause depletion and degradation of water quality worldwide. Water pollution can lead to Harmful Algal Blooms, toxicity, nuisance and invasive aquatic weed growth, bad odors, and taste issues in drinking water reservoirs - among many other issues. These types of water quality challenges can lead to diminished property values and will undoubtedly have a negative effect on swimming, boating, fishing, wildlife watching, and overall enjoyment of nature.

In many areas, it's common for water quality problems to shut down lakes and beaches throughout the summer, but few people are cognizant of why these problems occur and how significantly they can threaten our innate connection with the water. Assessing and addressing issues with water quality takes the experience and knowledge of experts who focus on optimizing all the benefits that balanced water can provide.

Preserving and enhancing water quality requires successful proactive management with long-term results in mind. Lake and pond management is a science and taking all variables into account is the only way to address water quality issues at their root causes. Aquatic biologists pay close attention to detail and consider the entire aquatic ecosystem when collecting sound physical, chemical, and biological data.

Water quality assessments are a common starting point to uncover this important information and identify potential nutrient imbalances, pollutants, watershed inputs, algal populations, or other problems. With every visit to your waterbody, aquatic biologists can learn more from each new



water sample. This data creates a basis for management recommendations and informs the use of eco-friendly tools and advanced technologies.

Depending on the challenges your waterbody faces, it may require a combination of solutions. Fountains and submersed aerators are excellent at increasing healthy dissolved oxygen levels in the water while circulating different areas of the water column. Likewise, new aeration solutions like Oxygen Saturation Technology are changing the game by making it possible to directly inject oxygen into the water to correct deficiencies, eliminate bottom muck, and potentially end reliance on herbicides.

In the event that herbicides are required to achieve lasting aquatic weed control, advanced drone technology is now available to efficiently and precisely target affected areas. Drones also aid in surveillance, making it easier than ever to identify problems such as eroded shorelines, which can be rebuilt with innovative mesh

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technologies that integrate seamlessly into the landscape for lasting stabilization. These efforts are often paired with sediment removal strategies like hydro-raking and the application of nutrient management products that prevent future algae and aquatic weed growth. These steps can be further supported with the introduction of deep-rooted native vegetation, which form beneficial shoreline buffers that prevent undesirable nutrients and pollutants from entering the water.

These solutions provide immediate benefits, but they are not permanent. Lakes and ponds require year-round care for long-term success. An annual management program comprehensively supports aquatic ecosystems with many of these solutions and others that nurture waterbody health and functionality. When an annual plan is uniquely tailored to the individual characteristics of your waterbody, you can maximize the many physical, mental, and spiritual benefits of time spent in and around the water. ■



Noel Browning is an Aquatic Biologist at SOLitude Lake Management, a leading environmental firm that specializes in sustainable lake, pond, wetland and fisheries management solutions. Learn more about this topic at www.solitudelakemanagement.com/knowledge.



WHAT'S IN YOUR POND WATER?

Most of the issues lake or pond owners and managers will face can be traced to an imbalance in the water quality. SOLitude begins with strategies to establish a baseline understanding of the current conditions to develop a water quality restoration program tailored to your specific needs and goals. This approach increases long-term success to achieve ecological balance and sustainability.

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THE ETHICAL DILEMMAS OF COMMUNITY ASSOCIATION INSURANCE

By Joel W. Meskin, Esq., CIRMS, CCAL Fellow, MLIS, EBP - McGowan Program Administrators

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The procurement and maintenance of insurance in the community association industry is shrouded in unique ethical considerations that do not apply to individual insurance consumers. Enter the Community Association Board's ("Board") "fiduciary duty." This process is imbued with inherent ethical considerations for not only Boards, but also Community

Association Managers ("CAMs"), Community Association Attorneys, Community Association Insurance Professionals and other business partners.

*A fiduciary duty is the legal responsibility to act solely in the best interest of another party (i.e. "the community association"). Fiduciary duties include duties of undivided loyalty, due diligence and reasonable care, full disclosure of any conflicts of interest, and confidentiality. **While a fiduciary duty may be violated accidentally, it is still a breach of ethics.** Emphasis added.*
[Ethics Unwrapped: *ethicsunwrapped.utexas.edu/glossary/fiduciary-duty*](https://ethicsunwrapped.utexas.edu/glossary/fiduciary-duty)

A Board's fiduciary duty in the insurance procurement process differs from an individual insurance consumer. For example, a board president may want to use his insurance agent brother-in-law who does not have experience in community associations, the board president may not fully disclose his potential conflict of interest here. Whether the president perceives this as a conflict or not, failure to disclose is a breach of fiduciary duty and therefore an ethical violation. On the other hand, if an individual insurance consumer selects his brother in law, it would not be a breach of a fiduciary duty or ethics, but it could be a bad decision. As Forrest Gump says, "**stupid is as stupid does.**"

A board's fiduciary duty requires the board to protect, preserve and enhance the assets of the association. These assets are the common elements of the association, both tangible and intangible. The keystone to this duty is that **the board members must put the interest of the association above his or her own personal interests.** This can be counterintuitive for many board members. In fact, many board members seek to join the board for the primary purpose of protecting their personal assets or pursuing their own agenda. As we know, perception is reality. The president above may see this as a no harm no foul situation. On the other hand, others may very well perceive the act as a breach of its fiduciary

duty. This misunderstanding by board members regarding their duty is directly or indirectly the genesis of many Director and Officer Liability Claims.

The duty to place the association's interests above the personal interests of each board member can be subtle, obvious, or anywhere in between. The key reason that unit owners elect multiple board members to manage the association, at least theoretically, is as a check and balance insuring the various interests of the membership have a voice.

The By-Laws (the association's operating manual) and other applicable laws are in place to facilitate board fiduciary duties and ethical considerations. This is why it is generally required that board business be conducted during a properly noticed board meeting. Furthermore, most states, including Colorado, have Open Meeting Laws. This is a check and balance on the board's fiduciary duty avoiding decisions being made in smoky back rooms.

So what do fiduciary duties and ethics have to do with community association insurance? The board is the association's

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When you look at a field of dandelions,
you can choose to see a million weeds
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Risk Manager elected to protect, preserve and enhance the assets of the association. The fiduciary duty does not require that the board make the best decisions, or even a good decision. Rather, the board members are required to act with a duty of loyalty by putting the association's interest above their own, act with due diligence and reasonable care, and to fully disclose any conflicts of interest.

The board is not expected to be professionals or experts that require special training. For these matters, the board is authorized to seek professionals and experts. Keep in mind that a directors and officers liability policy only provides coverage for board members in their capacity as "board members" and not as professionals or experts.

For over 20 years, I have asked Boards, CAMs and Insurance professionals what is the first question board members ask



when considering insurance options? Without exception they all ask "how much?" The only time this is an acceptable as the first question is if all insurance, insurance companies and insurance professionals were the same. It never is! I have never seen any governing documents that requires a board save money when procuring insurance, yet that would appear to be the case based

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on decision makers' conduct. Yes, a board must be vigilant. The fiduciary duty, however, is to purchase the best insurance to protect the assets. Once the board has done its due diligence by listening to Community Association Insurance Professional presentations, then a cost benefit analysis can be done. Knowledge of price up front will influence your decision process and be a distraction.

Boards must understand that the association is fully insured for every risk! The question is: **is the association covered by an insurance policy, or will it be self-insured having to look to association assets, a special assessment or a bank loan to fund a claim or loss. At the end of the day, someone must pay.**

Another problematic practice by many boards is to defer their due diligence to their independent CAM to procure and maintain insurance. This practice is inherently a breach of the fiduciary duty by the board as well as an unwitting professional error or omission by the CAM. What boards must understand is that no matter the CAM's insurance acumen, she or he is not covered for that E&O under their E&O as it is excluded and not under the D&O as they are not covered when the association sues the CAM.

The board must also keep in mind that if the board sues the CAM, the D&O policy will not defend or indemnify the CAM.

To make this an even greater breach of fiduciary duty and an ethical dilemma, is that the management agreement more likely than not includes an indemnification provision that would require the association to defend the CAM when the association sues the CAM for not procuring or maintaining the proper and sufficient insurance. Therefore, not covered under the policy, but for all intents and purposes, covered pursuant to the indemnification agreement. This latter consequence is another reason the CAM should bring in the insurance professional.

Tip: Insurance professionals do not charge the association for his or her time to present a proposal and answer all questions the board may have. I am also often baffled why a CAM would not mandate that the insurance professional present the proposal(s) and answer all board questions. This is a win-win for a CAM's insurance dread and transfers the CAMs risk of E&O to the insurance professional. ■

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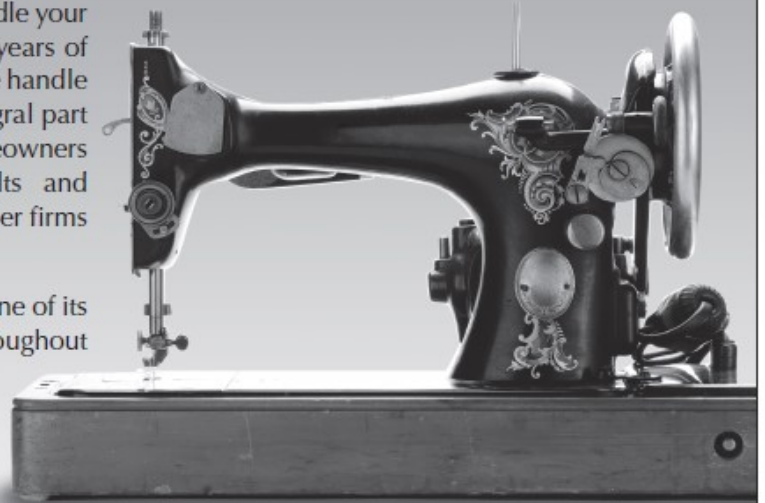
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