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Channels of Communication

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Cover Photo:
Stained Glass Art
Photo by William S. Dunlevy, Esq.

This publication attempts to provide CAI’s membership with information on Community Association issues. Authors are responsible for developing the logic of the expressed opinions and authenticity of all presented facts in the articles. CAI does not necessarily endorse or approve statements of fact or opinions made in these pages, and assumes no responsibility for these statements.

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From the President

Timothy Cline, CIRMS
Timothy Cline Insurance Agency, Inc.

I want to start off by saying that this Chapter has an abundance of helpful, hardworking and thoughtful people. In my opinion, however, no one more exemplifies the professionalism and goodwill within this Chapter than the four people who have been a part of our Executive Board this past year: My huge “thanks” to Judy Remley, Colleen Scott, Gordon Miller and Kirk Prouse. These folks have all been the best to work with and I’m so grateful to each one of them for making 2008 a positive year for me and, more importantly, for the Chapter.

And now, it is time for me to pack up my things and prepare to hand the reigns over to our new Chapter President, Kirk Prouse. Kirk will be sworn in early next year and I’m confident his enthusiasm for this Chapter, his new ideas and fresh approach will serve him and the Chapter well next year.

Certainly 2008 has been a challenging year for all Americans. A rough and tumble stock market, financial institutions teetering and a bitter U. S. presidential campaign have made for interesting times. Despite all this drama in the outside world, I’m happy to report that the state of the Chapter’s finances have gradually improved over the past twelve months thanks in large part to our Chapter Treasurer, Gordon Miller who has exhibited inspiring leadership during our turnaround period the last 18 months. He had plenty of assistance from Judy Remley and our incredible Executive Director, Leah Ross. The three of them have helped navigate us through the financial waters of 2008 and set us back on course for the upcoming year.

We have a whole lot to be thankful for, but especially Channels of Communications, our very own quarterly newsmagazine. In my opinion, it’s one of the best in all of CAI thanks, of course, to our exceptional editor, William S. Dunlevy, Esq. Bill freely contributes his time, energy, and editing skills to the Chapter. And, more often than not, it’s Bill’s own photographs that grace the cover of each issue.

The “Masquerade Ball” Awards Program is just around the corner (January 16th). If you attended last year’s “Cabaret” program, you know how much fun these events can be. The hardworking committee is destined to pull off another extraordinary event billed as a combination of “theater, magic, dance and music.” Hors d’oeuvres and a silent auction are at 6 PM with the Dinner and Dancing starting at 7:30 PM. Tickets are $100 each. Sponsorship opportunities are limited. If you have an interest in attending or sponsoring this event (who wouldn’t) call Leah Ross today at (805) 658-1438.

Warm wishes for a peaceful holiday season.

Timothy Cline
Timothy Cline, CIRMS
Timothy Cline Insurance Agency, Inc.
This chart summarizes final action on the major bills that the Community Associations Institute (CAI) monitored, lobbied, testified on, amended, and helped pass or defeat. As such, it reveals the many and various topics that effect community associations.

This year, CAI sponsored and secured the passage of Senate Bill 1511 (Ducheny) which is the “Association Solvency Act” and it becomes effective January 1, 2009.

The bills that we opposed are Assembly Bill 952 (Mullin) requiring personal payment plans for assessments, AB 567 (Saldana) establishing a CID Bureau/Ombudsman Pilot Program, and AB 2259 (Mullin) regarding renter restrictions. Our position on each of these measures was personally communicated to the Governor’s Legislative Staff. In addition, we launched a grassroots mobilization effort in opposition to AB 952 and AB 2259. (We were fairly confident that AB 567 would be vetoed as we had defeated the issue twice before.)

AB 1921, which proposed to re-write the entire Davis Stirling Act in Civil Code Section 1350, et seq, that governs all homeowners associations, was a huge effort in terms of analyzing it and suggesting amendments. In the end, it was too burdensome for the author and its sponsor, the CA Law Revision Commission, to keep it moving forward so it was dropped. However, a new version will appear in late 2009, or early 2010. CAI already has a task force working on the proposal.

California’s legislative sessions last two years. The 2009-2010 session begins December 1, 2008, right after the election. More than one third of all legislators will be brand new to the Legislature. (Get ready!)

This means that we will need to reach out to these new legislators, cultivate them, educate them, and offer to be their personal resource in their districts. CAI will be asking persons in key districts to identify a representative for our cause. These volunteers will be directly assisted by me when occasions warrant a personal constituent visit in the legislator’s home town.

Lastly, Governor Schwarzenegger vowed to veto all bills that reached him before the budget was agreed upon. Thus, 873 bills didn’t proceed until then. This generated pressure to resolve the State budget impasse.

If your homeowners association or its board members are not members of CAI, please visit this site: http://www.CAlonline.org and then click on “Chapters and Affiliates”, then “Find a Chapter”.

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<table>
<thead>
<tr>
<th>Bill / Author / Subject</th>
<th>CAI-CLAC Position</th>
<th>Issue</th>
<th>Result</th>
<th>Cost Savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB 567 Saldana Creates a New State CID Bureau</td>
<td>Oppose</td>
<td>Should the State create a new entity to oversee CIDs? Should the entity levy “fees” on associations to fund itself? Should the entity enforce all CID laws? HOAs must immediately begin budgeting for this “tax”.</td>
<td>Vetoed by Governor</td>
<td>Minimum $25 (and up to $50) over 5 years for every property owner. Minimum $107 million for all CID owners for a 5 year pilot program.</td>
</tr>
<tr>
<td>AB 952 Mullin Mandatory Payment Plans</td>
<td>Oppose</td>
<td>Should every owner be permitted to demand and receive separate payment plans of his or her HOA? Should HOA’s make interest free loans? Why shouldn’t the loans be paid in full upon sale? Should foreclosures be stalled by owners?</td>
<td>Vetoed by Governor</td>
<td>Untold millions of dollars could be delayed.</td>
</tr>
<tr>
<td>SB 1511 Ducheny</td>
<td>Sponsor/Support</td>
<td>Should HOA’s receive assessments from new owners of foreclosed properties at least 6 months sooner than today? Should HOA’s be given a right to provide notice to the public that new owners will pay HOA assessments on time?</td>
<td>Signed by Governor</td>
<td>HOA’s will learn new owner’s identity and address so they may immediately bill for assessments within 15 days of escrow closing, saving millions statewide and keeping associations solvent. Takes effect January 1, 2009. Known as “HOA Solvency Act”.</td>
</tr>
<tr>
<td>AB 2259 Mullin Renter Restrictions</td>
<td>Oppose</td>
<td>Should HOA’s be precluded from changing their renter restrictions to prohibit owners from renting their homes like motels?</td>
<td>Vetoed by Governor</td>
<td>Cost or Gain? Gain: If owners were forced to sell their home because the HOA could not help them by amending a renter restriction, owners would lose many thousands of dollars due to forced sale.</td>
</tr>
</tbody>
</table>

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Charles I (Spain, 1516-1556), House of Habsburg/ House of Austria
Mary, Queen of Scots (Scotland, 1542-1567), House of Stuart
Mary I “Bloody Mary” (England, 1553-1558), House of Tudor
Jane “The Nine Days Queen” (England, 10 July – 19 July, 1553), House of Tudor
Elizabeth I “The Virgin Queen” (England, 1558-1603), House of Tudor
James I (England, 1603-1625), House of Stuart
Philip IV (Spain, 1621-1665), House of Habsburg/ House of Austria
Oliver Cromwell “Old Ironsides” (England, 1653-1658), Commonwealth
Anne (Great Britain, 1707-1714), House of Stuart
George I-IV (Great Britain, 1714-1830), House of Hanover
Louis XIV “The Sun King” (France, 1643-1715), House of Bourbon
Ferdinand VI (Spain, 1746-1759), House of Bourbon
Napoleon Bonaparte (France, 1804-1814, 20 March – 22 June, 1815), Commonwealth
William IV (Great Britain, 1830-1837), House of Hanover
Louis-Philippe I “The Citizen King” (France, 1830-1848), House of Bourbon-Orleans
Isabella II (Spain, 1833-1868), House of Bourbon
Victoria (Great Britain, 1837-1901), House of Hanover
Frederick III (Germany, 8 March – 15 June, 1888), House of Hohenzollern
Edward VII (Great Britain, 1901-1910), House of Saxe-Coburg-Gotha
Elizabeth II (Great Britain, 1952-present), House of Windsor

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---January 17, 2009---

The opulent and elegant Westlake Hyatt played host this year for what will undoubtedly be referred to as the Greatest CAI-Channel Islands Event in recent memory, or as the pundits will term it, “The Masquerade Ball to end all balls.”

For those of you abjectly unfortunate enough to not attend this year’s social zenith, it was an unqualified smash hit. The best and most prescient property management firms, Homeowner Associations, and service providers wasted no time lining up to be the first sponsors. In fact, so many disparate organizations signed on to donate money to this event that there was literally a bidding war of who could out-spend the other. What a lucky occurrence that so many companies had the foresight to generously donate their resources early on to make this year’s Masquerade Ball so wildly successful!

This year’s attendance was off-the-charts. After more than a staggering 2,000 people turned up to imbibe fine glasses of wine, nosh gourmet entrees, and dance to a selection of crowd-pleasing hits, former Beatle, Sir Paul McCartney had this to say, “You know I used to joke and suggest that The Beatles were bigger than Jesus. I realize now that I was wrong. The CAI Channel Islands Masquerade Ball is the true celebrity phenomenon.”

McCartney later fired his own publicist when he learned he missed out on an unforgettable evening of spectacle that included a tearful awards ceremony to rival the Oscars. This was followed up by jaw-dropping entertainment selections, including a live magician and numerous comedic set-pieces interspersed throughout the lively program.

The generosity of the service providers and individuals that helped make this event possible took their duties a step further by concocting goodie bags that were out of this world. Attendee and party girl, Brittany Spears was quoted afterwards, “After Hollywood banned SWAG I was so bummed because I loved getting presents after parties. Thank God for CAI-Channel Islands and their to-die-for-goodie-bags!”

The Awards Committee (Jose H. Glez, CIRMS chairman and Ryan Gesell, CIRMS co-chair, with members: Krisi Davis, Melissa Hoff, Michael Beaumont, Carol Stephenson, Linda White, Teresa Agnew, Lisa Ann Rea and Leah Ross) take full credit for the scope of the unforgettable evening with their idea to return to the glamour and charm of the romantic era with a good old fashioned ball. Their imaginations spilled over into elaborate theatricals numbers with a “Phantom of the Opera” sensibility. All of which was presided over by the venerable British MC Dianna Stiller.

“Look. I’ve been to a lot of top-shelf events, I’ve partied with VIPs, I even had one of my weddings in space,” said New York real estate mogul Donald Trump, “But I’d have given these all up for one more night like January 16 at the CAI Channel Islands Masquerade Ball.”

All these favorable reports and reviews beg the important question: “WHAT WOULD YOU DO IF ONLY YOU COULD GO BACK IN TIME TO THE CAI CHANNEL ISLANDS MASQUERADE BALL ON JANUARY 16, 2009?” Why... it could change your life!

- Michael Ashley, A. P.
Understanding the Virginia Graeme Baker Pool and Spa Safety Act

By Jeffrey A. Beaumont, Esq. and Jasmine M. Termain, Esq. of Rapkin, Gitlin & Beaumont

There has been much discussion as of late regarding the Virginia Graeme Baker Pool and Spa Safety Act (“Act”). Many questions have been raised as to its content and applicability to California and associations. This article seeks to eliminate some of the confusion related to the Act, and answers the many questions we’ve seen regarding how the Act will impact associations.

The Act is a federal law that takes effect December 20, 2008. It requires owners of “public” pools (also refers to spas throughout the entire article) with submerged suction drains to retrofit the drains in order to limit and prevent drowning deaths caused by people becoming ensnared in a pool’s drain.

Significantly, the Act defines “public” to include multi-family residential dwelling common areas and their associations. Therefore, the Act applies to associations.

The Act further applies to fully submerged pool drains. If an association has a surface skimming pool or spa drain, or a pool with certain types of multiple submerged drains, the pool or spa is likely in compliance with the Act. All associations with common area pools and spas are strongly encouraged to thoroughly investigate their drainage systems to evaluate whether they are in compliance. Federal enforcement of the Act falls under the United States Consumer Product Safety Commission (“CPSC”).

Many state agencies and pool vendors have expressed serious confusion as to whether or not the Act applies in California. Some claim the Act does not apply because parts of the Act indicate it is “elective” or because it is a federal law and does not specifically state it will preempt state laws. Associations should take careful note that the CPSC and California Department of Public Health have both published their official positions and have both unequivocally and uniformly stated that the Act does apply in California. We confirmed this position in a phone call to Glenn Takeoka, REHS Chief of the Environmental Health Services Section.

The California Department of Public Health, Environmental Health Services Section is the state agency responsible for pool safety oversight throughout California. As such, its official position that the Act applies should be treated as the correct and final interpretation that the Act applies to California. Furthermore, the CPSC’s own interpretation memorandum (dated June 18, 2008), which responded to public comment on whether or not the Act applies to states, notes that the Act establishes a “minimum” safety standard. In discussing the Act with a local pool safety expert, he indicated the current California requirements are not as strict as the Act and, therefore, all applicable pools...
within California will need to be properly retrofitted in order to be in compliance.

Having clearly established the Act applies within California, the next question becomes what should an association do next? We strongly recommend that boards retain a licensed and insured pool contractor to evaluate the need to repair drains and otherwise comply with the Act. Should an association not be able to properly retrofit its pool drain, it is required to permanently disable the pool until the drain can become properly retrofitted. The Act contains very specific technical specifications and requirements. Accordingly, associations are strongly encouraged to contact their pool professional as soon as possible to allow enough time to adequately comply with the Act. What happens if an association violates the Act? The Act provides that both civil and criminal penalties can be imposed for violations (see, 15 U.S.C. 2070(a)). While an association in violation of the Act can be subject to penalties, the actual potential penalties for failing to comply are not yet firmly established. Currently, people who knowingly commit a violation of the Consumer Product Safety Act are faced with up to a $1.85 million penalty per violation (see, 15 U.S.C. 2069(a)(1)). Clearly, the potential for civil and criminal penalties evidences the legislature’s strong commitment to seeing to it the Act is complied with. Nevertheless, like complying with all laws, it is imperative that associations comply with the Act to avoid exposure to significant civil and criminal liability.

What can an association do if it does not have enough money in its budget for the repairs? Many associations will find themselves having to pay for these unexpected, and unbudgeted costs to bring their pools and spas into conformance with the Act. In this instance, an association without adequate reserves can consider levying an emergency special assessment in order to pay for the repair costs. Prior to passing an emergency special assessment, the board must first obtain an estimate for the repair costs. Pursuant to Civil Code Section 1366, subsection (b), boards may levy an emergency special assessment, without the members’ approval, if necessary to address a threat to personal safety or if necessary to pay an extraordinary expense that could not have reasonably been anticipated at the time the board prepared and distributed the budget. Boards are encouraged to review their CC&Rs and seek legal counsel to determine the viability and procedure for levying an emergency special assessment.

This bill is codified in Title XIV, Section 1404, of the United States Code, and is commonly known as the Virginia Graeme Baker Pool and Spa Safety Act. The text of the Act can be viewed online at: http://www cpsc.gov/pssa.pdf.
Irrigation controllers that set and adjust water application in response to changes in the weather or soil moisture content are now available at competitive prices for residential and large-scale landscape use. These devices are commonly termed “smart”, “ET”, “weather-sensing”, or “weather-based” irrigation controllers, and the technology is collectively referred to by the irrigation industry as Smart Water Application Technology, or SWAT. They offer some potential benefits to a site’s owner and its landscape manager.

**How They Work**

While any standard automatic irrigation controller can be set and adjusted so its irrigation schedules reflect changes in plant water needs in response to weather changes, many of the new smart controllers allow input of plant material type, precipitation rate of the irrigation system, and/or climatic data correlated with plant water use. They automatically determine and adjust irrigation schedules through proprietary algorithms that incorporate this input data. In this way, a smart controller can reduce or eliminate the laborious and sometimes complicated irrigation runtime and frequency calculations required to set and adjust a controller to implement irrigation budgets and schedules in line with local site conditions and seasonal weather changes.

Devices vary in whether they use historical climatic data stored within the controller, current weather data from on-site sensor readings, or weather data downloaded periodically from a support service via a telephone or pager system. Some of the controllers also adjust irrigation frequency and cycling based on user inputs that describe the soil type and slope of the site. A few products offer a Web-based interface to set up and manage the controller. New smart controller products are being introduced regularly, and it is possible that the best technology or product has yet to emerge.

**How Well They Function**

In theory, the use of a smart
controller simplifies and improves accuracy of landscape irrigation scheduling which results in measurable water conservation. Manufacturers often claim documented water "savings" of 20% or more after one of their devices is installed and set up. Potentially, the use of a “smart” device automatically and accurately schedules weather-based irrigation to various landscape plantings thereby taking irrigation management decisions out of inexperienced peoples’ hands, reducing human errors in making irrigation schedule calculations, reducing visits to update controller programs with weather changes, and automate irrigation cycling as a tool for preventing runoff from the site. In practice, users report variable experiences in how well they achieve the goals of improved water management and conservation and how easy these devices are to set up.

The accuracy and performance of a smart controller are dependent on the quality and precision of the user-supplied set up information about the site, irrigation system, plant material in each valve station, and other required information. After a smart controller is initially setup, the irrigation schedules it produces must be carefully evaluated to determine if the correct amount of water is applied at the correct interval for the plants in each valve station. It requires someone with technical knowledge in horticulture and water management to verify that the irrigation schedules match plant’s water needs.

Whether or not installing a smart controller will save water in a given site depends on multiple factors. Most important are the current amount of water being applied to the site, the effectiveness of the irrigation system in distributing water uniformly to plants, and how closely the irrigation schedule matches the plant’s minimum water needs. If the present irrigation scheduling closely matches plants’ minimum water needs or if the irrigation system distributes water so unevenly that some plants are always too wet while others are too dry, or the smart controller produces irrigation schedules that apply more water than the plants need, then installing a smart controller is unlikely to result in significant water savings. On the other hand, if the landscape is being over irrigated and the irrigation system uniformly distributes water, then installing a smart controller is likely to result in significant water savings. Keep in mind that over watering can be easily remedied using a traditional controller by simply reducing the valve runtime, irrigation frequency, or both. To realize the water conserving benefits from a smart controller or from simply reducing irrigation runtime and frequency in a standard controller, the irrigation system (filters, valves, water lines, sprinklers and other water emitting devices) must be well-designed and installed properly so that it applies water very uniformly and minimizes the occurrence of drier or wetter areas when the correct amount of water is delivered. The irrigation system must also be meticulously maintained.

Although there have been several studies on the performance of various smart controllers, few of them provide scientific analysis of a product’s performance or relate the amount of water used (or water saved) objectively to the performance of plants being irrigated. A controlled, scientifically designed study in 2003 by University of California Cooperative Extension involving three smart controllers using distinct technologies demonstrated wide variation in their abilities to irrigate accurately and effectively tall fescue (cool-season) turfgrass, trees/shrubs, and annual flowers. (continued on page 12)
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Overall findings and conclusions from the study were:

- Use of weather-sensing controllers does not assure landscape water conservation or acceptable landscape plant performance.
- Greater complexity and technicality of required setup information does not necessarily result in more accurate, water-conserving irrigation schedules.
- Adoption of a smart controller will not eliminate human interaction in landscape irrigation management.
- Weather-sensing controllers will require professional monitoring and follow-up adjustment of their initial irrigation schedules.

**Selecting A Smart Irrigation Controller**

Following are points to consider when deciding if a smart controller is right for you and when choosing which one might perform best in your situation.

*Installing a smart controller does not:*

- assure that plants receive the proper amount of water or that optimum irrigation schedules are provided.
- eliminate the need for human interaction in landscape irrigation management.
- guarantee less water will be applied to a landscape.
- automatically minimize runoff.

**Smart controllers require:**

- the input of accurate technical horticulture information and irrigation system performance parameters in order to be setup effectively.
- someone with technical knowledge and experience in determining landscape plant water needs, soils, and other parameters to set up the controller and evaluate its performance.
- tweaking of schedules and/or input data after the initial setup in order to produce water conserving schedules that meet the needs of plants being irrigated and the site’s water budget.
- an irrigation system with a high degree of uniformity in applying water.

A properly set up and adjusted smart controller can:

- save water if designed with algorithms and input parameters that accurately reflect plant water needs.
- reduce runoff if the impact of slope and irrigation precipitation rate are accounted for in its setup parameters and algorithms that calculate schedules.
- automatically and effectively modify irrigation schedules in tune with weather changes provided the initial schedules and input information are carefully evaluated and adjusted to assure that plant water needs are met.
- reduce on-site visits by landscape irrigation managers.

In addition to cost, consumers should consider the following before purchasing a smart irrigation controller product:

- What type and amount of technical information about the landscape and irrigation system to be managed are needed to set up this product? Am I qualified to develop and supply this data?
- How does the product use the set up information to calculate irrigation amounts and schedules? Does this approach make horticultural sense?
- How user friendly is the controller interface?
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Calendar of Events

For further information including topics and registration info, visit our website: www.cai-channelislands.org

January 16  Masquerade Ball at The Westlake Hyatt
January 27  Luncheon ‘Elections’ at The Westlake Hyatt
February 24  Luncheon at The Westlake Hyatt
March 7  Essentials Program at The Courtyard Marriott in Oxnard
March 13  CID Law Course in Northridge, CA
March 24  Luncheon at The Westlake Hyatt
March 31  Workshop at The Courtyard Marriott in Oxnard
April 3  Managers Forum at The Courtyard Marriott in Oxnard
April 22 – 25  CAI National Conference, New Orleans, LA
April 30  Mid-California Program in Santa Maria, CA
May 5  Ed Miller Golf Classic @ Moorpark Country Club
May 19  Luncheon at The Courtyard Marriott in Oxnard
June 23  Luncheon at The Courtyard Marriott in Oxnard
June 30  Workshop at The Courtyard Marriott in Oxnard
July 10  Managers Forum at The Courtyard Marriott in Oxnard
August 13 – 14  M-201 Course, The Courtyard Marriott in Oxnard
August 15  Casino Night
August 25  Luncheon at The Courtyard Marriott in Oxnard
September 12  Essentials Program (in Northridge, CA)
September 17  Mid-California Workshop in Pismo Beach, CA
September 22  Luncheon at The Westlake Hyatt
October 23  Expo & Manager’s Forum
October 27  Luncheon at The Westlake Hyatt & Annual Meeting
October 29  Workshop at The Courtyard Marriott in Oxnard
November 19  Strategic Planning Meeting at the Courtyard Marriott in Oxnard
( Strategic Planning is for 2010 Board of Directors & Committee Chairs)
December 8  Luncheon at The Westlake Hyatt
2008-2009 Annual Disclosure and Notice Checklist For Community Associations

Not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the fiscal year:

✔ Pro Forma Operating Budget
Civil Code §1365(a)
The association must distribute its operating “pro forma” budget within the “60-day window” to retain its ability to unilaterally increase assessments. If this requirement is not met, the members must approve any increase to the regular assessments. The budget must contain the following:
• An estimate of revenue and expenses on an accrual basis;
• A summary of the reserves printed in bold type, based on the most recent reserve study (required every three years with an annual update);
• With respect to construction or design defect cases, the summary must also include a separate line item for:
  (1) funds received from compensatory damage awards or settlements; and
  (2) expenditure or disposition of funds, including amounts for direct/indirect costs of repair of defects (If the association is required to have a CPA conduct a review of its financial statements, the above information may instead be contained in such review);
• A statement as to whether the board anticipates the levy of one or more special assessments; and
• A basic description of the procedures used to calculate the reserves. Suggestion: add line item for bad debt.

✔ Summary of Pro Forma Operating Budget
Civil Code §1365(d)
(Alternative to Above) The association may distribute a summary of the operating budget in lieu of the pro forma budget.
The summary budget must give members notice that:
• The complete budget is available for review at the association’s business office or other suitable location within the development; and
• Copies of the complete budget will be provided upon request at no charge to a member within five (5) days of the request.
These notices must be printed in at least 10-point bold type on the front page of the summary.

✔ Assessment and Reserve Funding Disclosure Summary
Civil Code §§1365(a),(b),1365.2
The association must distribute an Assessment and Reserve Funding Disclosure Summary in the form prescribed by Civil Code Section 1365.2.5. This disclosure requires more than just a description of the amount of reserves and/or the association’s budget contributions. Disclosure of, among other things, the components being reserved for, their anticipated remaining life and how much money is currently in reserves allocated to that component must be disclosed. The summary must include notice to members that the full reserve study plan is available upon request, and the association must provide the full reserve plan to any member upon request.
Notice of Assessments, Foreclosures and Payment Plans

Civil Code §1365.1
The association must distribute the notice specified in Civil Code Section 1365.1 pertaining to assessments, the association's rights of foreclosure, payments of assessments and meetings and payment plans concerning delinquent assessments.

Assessment Collection Policy

Civil Code § 1365(e) and §1365.1(a)
Members must receive a description of the policies and practices which the association will apply to enforce payment of assessments within the “60-day window” above unless the association's governing documents require a narrower window. The failure to adopt and distribute this assessment collection policy may affect an association's ability to collect delinquent assessments.

This notice usually describes:
• How, when and under what conditions the association will record and foreclose upon assessment liens;
• The nature and amount of late charges, interest and collection costs; and
• Owners’ rights to demand Internal Dispute Resolution (“IDR”) and Alternative Dispute Resolution (“ADR”) at different times during the collection process.

Note: the many notices required as part of the non-judicial foreclosure process are not covered in this article.

Secondary Addresses Provided by Owners

Civil Code §1367.1(k)
The association shall notify owners of their right to submit secondary addresses to the association for purposes of collection notices within the sixty (60) day window. Upon receipt of a written request by an owner identifying a secondary address for purposes of collection notices, the association shall send additional copies of any notices required by Section 1367.1 of the California Civil Code to the secondary address provided. The owner's request shall be in writing and shall be mailed to the association in a manner that shall indicate that the association has received it. The owner may identify or change a secondary address at any time, provided that, if a secondary address is identified or changed during the collection process, the association shall only be required to send notices to the requested secondary address from the point that the association receives the request.

Insurance Coverages

Civil Code §1365(f)
Within the “60-day window” described above, unless the governing documents require a narrower window, the association must distribute to the members a summary of its property, general liability, earthquake, flood and fidelity insurance policies. The summary should also state:
• The name of the insurer and the type of insurance; and
• The policy limits and deductibles, if any.

To the extent the above information is contained on the policy's declaration page, that page can be distributed in lieu of the summary.

The summary or declaration page must include the statement provided in Civil Code Section 1365(e)(4). This statement must be in at least 10-point boldface type.

Notice of significant changes such as a lapse, decrease in coverage, cancellation or non-renewal shall be provided to the members by first-class mail as soon as reasonably practicable.

Note: In order to reduce document reproduction and mailing costs, the association may wish to include some of the items under “Miscellaneous Disclosures” listed below along with the above items in the samemailing, as long as the distribution timeframes for each disclosure are satisfied.

With the budget or budget summary, or in any general mailing during the year:

Notice of Right to Minutes of Board Meetings

Civil Code §1363.05(e)
On an annual basis, the association must notify members of their right to receive copies of the minutes from board of directors' meetings (which does not include executive session meeting min-
- General Counsel
- Enforcement of Governing Documents
- Construction Defect Claims/Contractor Liability
- Amend!(R) Document Revision
- Interpretation of Duties
- Assessment Collection by Association Lien Services

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✔ Review of Financial Statement
Civil Code §1365(c)
For any fiscal year in which the association’s gross income exceeds $75,000, a review of its financial statement must be prepared by a licensed California accountant and distributed to members within 120 days after the close of each fiscal year.

✔ Notice of Right to Receive Annual Report
Corporations Code §8321
For any fiscal year in which the association’s gross revenues are at least $10,000, it must prepare an annual report within 120 days after the end of the association’s fiscal year and notify members on an annual basis of their right to receive this report. The association must provide the report at its own expense to any member submitting a written request for a copy of the report.

The annual report must contain:
- A year-end financial statement;
- A notice stating where records of the association members’ names and addresses are stored; and
- Disclosure of transactions with interested parties and of indemnification agreements.

The association must attach either the accountant’s report, if an independent accountant has reviewed or audited the financial statement, or a certificate by an officer indicating that the statement was prepared without review or audit.

✔ Notice of Transaction with Officer or Director
Corporations Code §8322
If applicable, the association must provide notice to the membership of any transaction between the association and a director during the previous fiscal year involving more than $50,000. Most governing documents prohibit directors from being paid for their services as directors, but some will allow directors to be paid for services in other capacities.

(continued on page 20)
MISCELLANEOUS DISCLOSURES/NOTICES

✓ Schedule of Monetary Penalties
   Civil Code § 1363(g)
Associations which impose fines on members for violating governing documents or association rules must distribute a schedule of the monetary penalties via first-class mail or hand-delivery when the schedule is adopted or revised (recommended annually).

✓ Escrow/Sale of Unit
   Civil Code § 1368(a) and (b)
Within ten (10) days of written request from an owner, an association must provide the owner (or owner’s agent/escrow) with a copy of various documents and information so that the owner may satisfy certain disclosure obligations to a prospective buyer. Among the documents and information to be provided by the selling owner are the governing documents, the last financial records provided to members pursuant to Civil Code Section 1365, a statement of unpaid fines and other monetary penalties, as well as a copy or summary of any notices of alleged violations of the governing documents that remain unresolved at the time of making the disclosure to the prospective buyer.

✓ Reserve Fund Transfer
   Civil Code § 1365.5(d)
When an association uses or transfers any funds from its reserve account to fund litigation, it must notify the members of the transfer and of the availability of an accounting in the next available mailing to the membership.

✓ Litigation Expenses
   Civil Code § 1365.5(d)
Unless the association’s governing documents impose more stringent standards, the association shall prepare an accounting of the litigation expenses on at least a quarterly basis. The accounting shall be made available for inspection by members at the association’s office.

✓ Assessment Increases
   Civil Code § 1366(d)
Notice of an assessment increase or special assessment must be provided by first-class mail to members not less than thirty (30) nor more than sixty (60) days before the increase or assessment is due. Note: Even if the budget shows the increased assessments, prepare and distribute a general notice.

   Note: this is different from the sixty (60) day window based on the beginning of the fiscal year.

✓ Notice of Intent to Borrow from Reserves
   Civil Code § 1365.5(c)
The board may authorize the temporary transfer of moneys from a reserve fund to the association’s general operating fund to meet short-term cashflow requirements or other expenses, if the board has provided notice of the intent to consider the transfer in a notice of meeting. The notice shall include:
   • The reasons the transfer is needed
   • Some of the options for repayment, and
   • Whether a special assessment may be considered.

✓ Notice of Intent to Postpone Repayment of Borrowed Reserves
   Civil Code § 1365.5(d)
The board may, after giving the same notice required for considering a transfer, and, upon making a finding supported by documentation that a temporary delay would be in the best interests of the common interest development, temporarily delay the repayment of borrowed reserves within one (1) year of the board’s decision to borrow. The board must exercise prudent fiscal management in maintaining the integrity of the reserve account, and, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limit.

✓ Notice of Document Request Costs
   Civil Code § 1365.2(c)(4)
The association may bill the requesting member for the direct and actual cost of copying and mailing requested documents. The association must inform the member of the amount of the copying (continued on page 21)
and mailing costs, and the member must agree to pay those costs, before the association copies and sends the requested documents.

✔ Architectural Guidelines and Procedures
   Civil Code §1378(c)
An association must annually provide its members with notice of any requirements for association approval of physical changes to property. The notice must describe the types of changes that require association approval and must include a copy of the procedure used to review and approve or disapprove a proposed change.

✔ Statement of Officers’ Names, Addresses / Agent for Service of Process
   Corporation Code §8210
File with Secretary of State every other year, up to five months prior to anniversary date of initial filing.

✔ Registry / Statement of CID Association
   Civil Code §1363.6
File with Secretary of State every other year, either with above Statement of Officers’ Names or within 60 days of change in on-site or management address.

✔ Notice of Temporary Relocation for Pest Control
   Civil Code §1364(d)(2)
The association must give notice of the need to temporarily vacate a separate interest to the occupants and/or the owners not less than 15 days nor more than 30 days prior to the date of relocation. The notice must state the reason for the relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the relocation.

✔ Notice of Membership Meeting
   Corporations Code §7511
Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting must be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote.

✔ Committee Minutes
   Civil Code §1365.2(j)(5)
When a Board committee makes a decision, the committee minutes must be made available to members within 15 days following approval of the decision.

ELECTIONS

✔ Delivery of Election Ballots
   Civil Code §1363.03(e)
Ballots and two preaddressed envelopes with instructions on how to return ballots must be mailed by first-class mail or delivered by the association to every member not less than 30 days prior to the deadline for voting. If applicable, the notice of meeting at which the vote will be held may be sent along with the voting materials, provided that the window above for Notice of Membership Meeting is also satisfied.

✔ Publish Election Results
   Civil Code §1363.03(g)
The tabulated results of the election must be recorded in the minutes of the next Board meeting and must be available for review by the members. Within 15 days of the election, the Board must publicize the tabulated results of the election in a communication directed to all members.

BOARD MEETINGS

✔ Notice of Regular Board Meetings
   Civil Code §1363.05(f)
Four days before a Board meeting, the association must give notice of the time and place of a Board meeting and include the agenda for the meeting. The Board can only address the items set forth on the agenda, although there are exceptions for emergencies and other special cases.

✔ Board Minutes Available
   Civil Code §1363.05(d)
The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board, other than executive session, must be available to members within 30 days of the meeting. They must be distributed to any member of the association upon request and upon reimbursement of the association’s costs for distribution.

MEMBER DISCIPLINE

✓ Notification to Member
Civil Code §1363(h)
When the Board meets to consider or impose discipline upon a member, the Board must notify the member in writing, by either personal delivery or first-class mail, at least 10 days prior to the meeting. The member may attend the meeting, which must be held in executive session if requested by the member.

✓ Notification of Decision
Civil Code §1363(h)
If the Board imposes discipline on a member, the Board must provide the member a written notification of the disciplinary action, by either personal delivery or first-class mail, within 15 days following the action.

RULE ADOPTION, CHANGE AND REVERSAL

✓ Notice of Intention to Adopt or Change Rule
Civil Code §1357.130(a)
For certain kinds of operating rule changes set forth in Civil Code Section 1357.120, the Board must provide written notice of a proposed rule change to the members at least 30 days before making the rule change. The notice must include the text of the proposed rule change and a description of the purpose and effect of the proposed rule change. However, exceptions apply for emergencies. After 30 days, the Board must meet to actually adopt the rule change after consideration of any comments made by members.

✓ Notice of Rule Adoption or Rule Change
Civil Code §1357.130(c)
As soon as possible after making a rule change, but not more than 15 days after making the rule change, the Board must deliver notice of the rule change to every member.

✓ Request for Meeting to Consider Rule Reversal
Civil Code §1357.140(b)
Five percent of the membership may call a special meeting of the members to vote on reversal of a rule change within 30 days after notice of a rule adoption or change from the Board. The Board is obligated to provide notice of the special meeting to the members.

✓ Notice of Rule Reversal Vote
Civil Code §1357.140(g)
If the membership votes on rule reversal, the Board must provide notice of the results of the member vote within 15 days after the close of voting.

CONSTRUCTION DEFECTS

✓ Disclosure of Construction Defect Issues Before Suit
Civil Code §§1368.5, 1375(k)(1)(D)
Thirty (30) days before an association files a lawsuit for construction defects, it must provide notice to all owners of the defect issues, schedule a members meeting to discuss the claims and the available options (with notice of meeting provided at least 15 days in advance), including any settlement offer from the builder. If the Board rejects a settlement offer from the developer, the Board must hold a member meeting to discuss same no less than 15 days before the association commences an action for damages against the respondent.

✓ Disclosure of Construction Defect Settlement
Civil Code §1375.1
Upon settling a construction defect claim with the builder, the association must so inform the members as soon as reasonably practicable, of the following:
Disclose what will be repaired;
Estimate when the defects will be repaired; and
Disclose any defects that may not be repaired.
The Casino Night and Mock Presidential Debate held on Friday, October 17, 2008 at the Residence Inn by Marriot was a HUGE SUCCESS. The night began with Tom Brokaw (aka Ryan Gesell of Timothy Cline Insurance Agency, Inc.) mediating the “fourth” Presidential Debate between Senator John McCain and the now President Elect Barrack Obama. (No, they were not really there – just two really good actors) The debate, written by Ryan Gesell and Michael Ashley (also of the Timothy Cline Insurance Agency) had the audience in stitches for length of the debate, with timely references and spot on characterizations of each of the candidates. At such a tense and apprehensive moment in our nation’s economic history, it was a wonderful sight to see Chapter members able to relax and laugh, regardless of their political leanings.

Add to the entertainment, a delicious dinner, followed by dancing, karaoke, and plenty of casino gaming and you had a night that was both unforgettable and successful for the chapter.
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Gordon Miller, General Pavement Management
Kris Davis, Paradigm Management Group
Jill Van Zeebroeck, Paramount Management Group
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Holiday Fire Safety Tips

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Dry Tree vs. High Moisture Tree Fire
With the onset of the holiday season, it is important to focus on fire safety and prevention. The celebration of the season brings with it increased usage of electric lights, decorations, candles, and the ever popular Christmas tree, all of which can be potential fire hazards. Additionally, cooking fires increase during the holidays as families and friends gather to celebrate. By following general fire safety precautions, potential holiday fires, deaths, and injuries remain preventable.

Christmas Trees
What’s a traditional Christmas morning scene without a beautifully decorated tree? If your household includes a natural tree in its festivities, take to heart the sales person’s suggestion - “Keep the tree watered.”

Christmas trees account for hundreds of fires annually. Typically, shorts in electrical lights or open flames from candles, lighters or matches start tree fires. Well-watered trees are not a problem. A dry and neglected tree can be.

Selecting a Tree for the Holidays
Needles on fresh trees should be green and hard to pull back from the branches, and the needles should not break if the tree has been freshly cut. The trunk should be sticky to the touch. Old trees can be identified by bouncing the tree trunk on the ground. If many needles fall off, the tree has been cut too long and, has probably dried out, and is a fire hazard.

Caring for Your Tree
Do not place your tree close to a heat source, including a fireplace or heat vent. The heat will dry out the tree, causing it to be more easily ignited by heat, flame or sparks. Be careful not to drop or flick cigarette ashes near a tree. Do not put your live tree up too early or leave it up for longer than two weeks. Keep the tree stand filled with water at all times.

Disposing of Your Tree
Never put tree branches or needles in a fireplace or wood-burning stove. When the tree becomes dry, discard it promptly. The best way to dispose of your tree is by taking it to a recycling center or having it hauled away by a community pick-up service.

For other helpful fire safety tips for this holiday season, go to www.usfa.dhs.gov/citizens/focus.

Editor’s Note: Reprinted from the CAI-Illinois Chapter’s E Newsletter
Although there is no simple answer to the question above, some simple explanations of rain and slope behavior may lead to a better understanding of the problems as well as what measures can be taken to reduce your risk.

Despite the dry winters of the last few years, southern California is also subject to abnormally wet years. Most often there is no corresponding commentary as to what is considered normal. It has been pretty well recognized that southern California receives on average about 15 inches of rainfall per year. Possibly more important is an understanding of the overall variation in rainfall that we naturally receive in southern California. California rainfall over the past century has varied from about 5 inches of rainfall in the driest years to about 40 inches of rainfall in the wettest. With this in mind, 20 inches of rainfall is not particularly outstanding. 20 inch or more rainfall years have occurred fairly regularly in the past century. Nonetheless, in years where 20 more inches of rainfall do occur, our southern California slopes get tested, and many failures do occur. It must also be recognized that although the numbers discussed above represent regional data, actual
rainfall in the foothills tends to be much greater than the regional numbers.

In over 30 years of studying the performance of slopes throughout southern California, I have concluded, with relatively few exceptions, that slope failures occur where inherent but undetected weaknesses exist. In the 1998 catastrophic landslide in Laguna Niguel, which destroyed many upscale homes and virtually wiped out a townhome project below, an unidentified, pre-existing landslide surface below a mass-graded project was at the base of the instability. In past heavy rain years, wherein the outer one to four feet of compacted fill slope surfaces have peeled off in a fashion commonly referred to as slumping, investigations have indicated that the strength of the compacted clay in a saturated condition was found to be far less than originally estimated. As such, where failures occur, there is most often an inherent weakness, a fragile condition that probably went undetected.

Considering the relatively fragile nature of many slopes, the application of heavy rainfall serves to further weaken the slope by the softening effect of the saturation and the lowering of the slopes resistance to failure throughout the buoyant effect created by the groundwater build-up. Simply stated, the addition of water can further weaken slopes and in essence, surcharge slopes, thereby bringing them to their eventual breaking point. Water can be introduced to a slope through rainfall, drainage systems, and other public utilities. Determining whether a slope has failed as a result of an inherent weakness or because of the introduction of water is frequently the subject of fairly intense investigation and analysis. Commonly, we conclude the actual failure has been substantially contributed to by both factors.

As a practical matter, little can be done about the inherent weak nature of the slopes. A question often asked is, “What can I do to reduce the risk of slope failures occurring?” The simple answer is to carefully design, construct, and maintain those systems which would tend to introduce water into the slope environment.

Surface Drainage

On any property, surface drainage is usually contributed to by a combination of roof areas, paved areas, and landscaped areas. Good construction practice dictates that drainage be directed away from slopes in a positive manner. Frequently, drainage on projects throughout southern California is designed at a surface gradient of 1%, 1 foot of fall over 100 feet horizontally. This gradient is simply not adequate to efficiently drain water from a soil area. At least 2% should be maintained and locally 4 to 5% into approved drainage facilities is more desirable. Approved drainage facilities are usually paved drainage swales and/or inlet and pipe systems. Paved drainage swales can be designed as flat as about 1%, but 2 to 4% is better where possible.

Surface drainage systems should be inspected periodically and patched where cracking can contribute to water penetration. Care should also be taken in the design, construction, and maintenance of pipe drain systems. Drain systems can also be designed as flat as 1%, but 2 to 4% is preferred. Typically, yard drain systems are installed with drainage directed to curb outlets. Yard drainage systems should be carefully designed and constructed to efficiently collect and direct water to the appropriate disposal area, usually the street. Yard drain systems should be inspected at

(continued on page 30)
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least semi-annually and flushed as needed to maintain their function. When expansive soil action, settlement, or disruption from tree roots damages these systems, appropriate repair action should be taken as soon as such problems are identified.

**Storm Drains & Water Mains**

Storm drains, water mains, and other water-related plumbing require careful design and construction consideration when such facilities are placed in proximity to slopes. Except for relatively hard rock slopes, most slopes will tend to creep to some degree. Placing water-related facilities in proximity to creep influence will result in stresses and separations at joints which contributes to leaking, which in turn, contributes to slope instability. Storm drains passing along the top of slopes or downslopes should be provided with special water-tight connections. Water mains in similar locations should be constructed with flanged and bolted joints rather than slip connections. Other facilities such as irrigation pressure lines in slope areas should be designed in such a way that accommodates slope creep. The facilities described herein should at least be inspected following construction on a semi-annual basis.

The foregoing paragraphs describe procedures for constructing and maintaining various water-related facilities. With or without proper design, construction, and/or maintenance circumstances arise where cracks, separations, or other features indicate slope instability might be imminent. When asked, “What can anyone do when it appears that a slope might fail?”

First and foremost, it is important to understand the possible relationship between the types of facilities described above and the slope in question. If water pressure pipes exist within the slope or near the top of the slope, those systems should be inspected immediately and shut off if at all practical. Where storm drains, sewage, or yard drains exist within or near the top of the slope, those systems should be inspected immediately. Frequently plumbing services are available to camera monitor the condition of the pipes. In the event that a problem is detected such as a pipe separation, every effort should be made to redirect the flow away from the affected area. Absent a plumbing or drainage-related contributor, limited protection is available by thoroughly covering the slope area with plastic. To the extent that further moisture introduction can be reduced by properly covering the slope with plastic sheeting, the risk of further instability is also reduced.

If one is considering slopes which have had a history of problems during the rainy season, it is important to have contractors capable of placement of plastic sheeting qualified in advance of the rainy season. Commonly, landscape companies are capable of adequately protecting slopes with plastic. If a problem is apparent early in the rainy season, have the contractor place carbon-treated black plastic instead of clear plastic. Carbon-treated black plastic will last approximately as long as one year, whereas clear unprotected plastic deteriorates within a few months. At the close of the rainy season, the plastic should be removed to allow the slope to dry out and to be examined by a geotechnical consultant for the purpose of assessing the conditions and making recommendations for treatment. Preferably, the geotechnical professional should be called as soon as a potential problem becomes apparent. ■
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2008 ADVERTISING

CAI is an independent, national, non-profit research and educational organization dealing with issues concerning condominiums, cooperatives, planned unit developments, and homeowners associations. Members include: associations, homeowners, managers, lenders, insurance and real estate agents, developers, attorneys, public officials, accountants and other providers of services.

Policies: Ads must be prepaid and in black-and-white/grayscale. Ads may be postponed due to lack of space, but will have first priority in the next issue of Channels of Communication. Acceptance of advertising in this newsletter will not constitute an endorsement of product services.

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Mail order form and check to: CAI, P.O. Box 3575, Ventura, CA 93006

CHANGE OF ADDRESS OR BOARD MEMBERS

Homeowner Associations members are entitled to three names on our mailing list. Please fill out this form and return it to the Channel Islands Chapter so we can keep the CAI mailing list current.

Association: ____________________________________________
Name: _________________________________________________
Address: ______________________________________________
City/State/Zip: _________________________________________
Additional info: ________________________________________

Return to Channel Islands Chapter-CAI
P. O. Box 3575, Ventura, CA 93006
or call us at 805/668-1438
Ultra Low-Maintenance
Reduce your Reserves!!!

20 years HOA experience
Miles of Fence in Stock
Largest Showroom in Ventura County

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Painting
& Restored Estimates with Specifications
& Consultation with Board Members
& Decorator Assistance
& Fully Insured

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Large Commercial Buildings

If you want the very best in quality and service for a very reasonable cost,
we're proud certified paint experts since

The chapter and the Expo
commitee would like to thank the
Marriott at River Ridge
and hardworking individuals with
At-Your-Service Catering and
Event Rents
for the amazing job they did at
this year’s Expo.

Hats off to
A Miracle Florist
for the beautiful arrangements
they provided at the Expo,
CLAC Casino Night and
Managers Forum. The time and
effort put forth by the individuals
that worked on both events
ensured their success!

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The nation’s leading
provider of association
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questionnaires and
resale certificates for all
types of associations.
Schedule of Events

1/16 Masquerade Ball at The Westlake Hyatt
1/27 Luncheon ‘Elections’ at The Westlake Hyatt
2/24 Luncheon at The Westlake Hyatt
3/7 Essentials Program at The Courtyard Marriot in Oxnard
3/13 CID Law Course in Northridge, CA
3/24 Luncheon at The Westlake Hyatt
3/31 Workshop at The Courtyard Marriott in Oxnard

For more information or to register, visit www.caic-channelislands.org or call the chapter office at 805.658.1438.