

# *Channels of* Communication

*Serving Ventura, Santa Barbara, San Luis Obispo, and Kern Counties*

**THIRD QUARTER 2023**

The Official Publication of  
CHANNEL ISLANDS CHAPTER  
**community**  
ASSOCIATIONS INSTITUTE

A large background image showing the silhouettes of several people sitting around a long table in a meeting room. The sun is low on the horizon, creating a bright glow and long shadows. The silhouettes are reflected on the floor.

## Good Governance: Board Meetings & Best Practices

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**Board Meetings:  
Back To Basics**

**The Business  
Judgment Rule  
and You**

**Going Rogue: Avoiding  
& Successful Handling  
of Renegade Board  
Members**

**Association  
Financial Records:  
Review, Don't  
Rubber Stamp**

**Developing &  
Implementing  
Good Vendor  
Relationships**



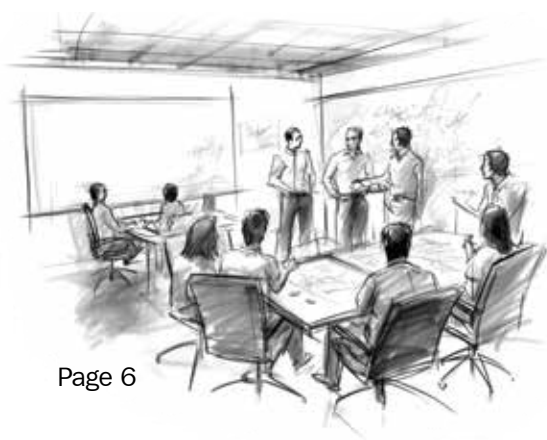
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Serving Ventura, Santa Barbara, San Luis Obispo and Kern Counties

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**Leah Ross - Executive Director**  
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# president's message



**Ryan Gesell, CIRMS, CMCA**  
Cline Agency Insurance Brokers, Inc.

Dear Members:

Happy Fall fellow CAI'ins! That's pronounced similarly to Iowans. I hope everyone is having

a lovely fall! Every year in the fall, I'm reminded of the Davis Stirling

Act, that portion of the CA Civil Code that addresses Common Interest Developments. I'm reminded of this every fall because that's when Louie Brown comes to town, and we get our annual Legislative Update. This year, we'll be hearing from Louie Brown and our CLAC Delegate James Perero, Esq. on Thursday, November 16 at Spanish Hills Club in Camarillo.

This update is one of the most important luncheons that we have all year, because it lets us know what's going on in Sacramento. What are the new laws that we need to be concerned about; what terrible laws was our California Legislative Action Committee (CLAC) able to alter or help get vetoed that would have had negative consequences for our industry? Some years, there's not much to get excited about. And maybe that's what we should all hope for. Because other years, there are significant changes that require boards and managers to change the way they do things and navigate a new legal minefield that didn't exist for the last 40 or 50 years that the community has been operating. But such is life.

We've chosen to work or live in an industry that is subject to great change on a yearly basis. And CLAC is our best defense and our best ally in these legislative battles. It may be the most important part of CAI. For while we do host educational luncheons where boards and managers can learn, and networking events where you can meet the experts that service our industry, the percentage of community associations in California that ever attend these programs...is very small indeed.

That's why CLAC may be the most important part of CAI. Because CLAC works on behalf of all Common Interest Developments (CIDs) in the state of California, regardless of their affiliation with CAI. CLAC is the unsung hero, sort of like the CID industry's "firewall", protecting us from known and unknown dangers. And sadly, the majority of the CIDs in California probably don't even know what CLAC is, or how it shaped their lives.

Your Board of Directors for the Channel Islands Chapter took this to heart, and at the beginning of this year we sought to find a way to increase awareness of the fine work that CLAC does, and a way to urge communities to commit to the "Buck-A-Door or more" program. To accomplish this, we created a short video that we hope you'll watch and share with anyone you know that lives in a community association. The more we can spread this video and the wonderful work that CLAC does, the more money we can raise to help support this most important part of our organization.

Use the camera on your smartphone to scan the QR Code on this page and it will take you to our new CLAC video. Please share the video, "like" it, "smash" it, and all those other terms that involve spreading the Gospel of CLAC throughout the interwebs and social media. Our chapter has a long and distinguished involvement in CLAC. We have motivated members with the greatest number of community association members in California. There's no reason we can't become the greatest contributor to CLAC in the state. Let's show the rest of the chapters how this chapter does things and let's support CLAC's advocacy efforts! Together, we can make a significant impact!

Sincerely,

Ryan Gesell  
CAI-Channel Islands Chapter President



# BOARD MEETINGS BACK TO BASICS

*By Devin Langley, CCAM-PM  
The Management Trust*

**B**oard meetings are defined by the Davis-Stirling Act as a gathering of a quorum of directors at the same time and place to hear, discuss, or deliberate upon any item of business that is within the authority of the board. Board meetings serve as a platform for directors to come together and collectively conduct the essential business of the association. These meetings are designed to facilitate open and productive discussions, thus allowing the board to make informed decisions.

There are several types of board meetings that an association may conduct, depending on the specific circumstances. Let's take a closer look at some of these types:

**Regular Board Meetings:** Regular board meetings are typically scheduled at predetermined intervals, such as monthly, quarterly, or annually. These meetings serve as a platform for board members to review financial reports, monitor performance, and discuss any matters that require attention. Regular board meetings provide stability and consistency for the decision-making process. Regular board meetings require four days' notice to the membership.

**Special Board Meetings:** Special board meetings are called to address specific issues that require prompt attention. These meetings are convened outside of the regular schedule and focus on a particular agenda item. Special board meetings are often held to make time-sensitive decisions or address urgent matters that cannot wait for the next regularly scheduled board meeting. Special board meetings also require four days' notice to the membership.

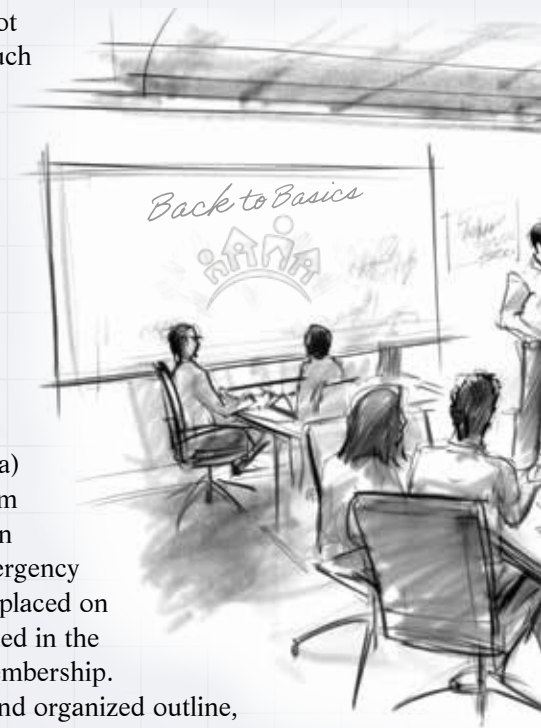
**Executive Sessions:** Executive Sessions of the Board of Directors are held for confidential and sensitive matters that are not appropriate for open session. Allowable topics are limited to legal matters, contract matters, personnel and member discipline. Executive Sessions require two days' notice to the membership; however, members may not attend.

**Emergency Meetings:** Emergency meetings are held for decisions requiring immediate attention that could not have been foreseen, such as life safety issues.

Due to the nature of an emergency which requires immediate attention, notification to the membership is not required.

In setting the agenda and notice for the meeting be mindful that Civil Code 4930(a) restricts the board from discussing or acting on any item at a non-emergency meeting unless it was placed on the agenda and included in the notice given to the membership. By providing a clear and organized outline, the agenda helps the board members stay focused and on track, ensuring that all important matters are addressed. The agenda is drafted by management in partnership with the board or board president.

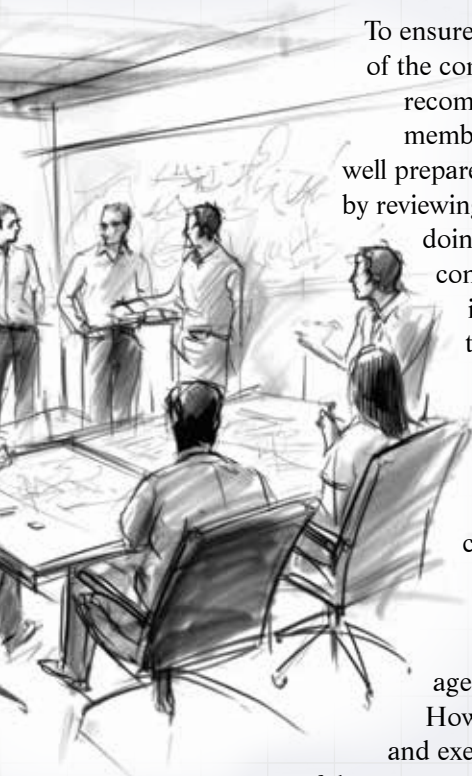
Start by identifying the key topics that need to be discussed during the board meeting. It is important to consider both ongoing matters and any new issues that have arisen since the last meeting. As a best practice, in preparing the agenda you should review past minutes, the annual maintenance calendar, and the reserve study for any areas needing attention. Take a quick look at correspondence received to see if that may require board action. In addition, be mindful of seasonal events that may require board action such as insurance renewal, weed abatement, or gutter cleaning.





A homeowner may request an item be placed on the agenda; however, the board is not required to entertain such requests. During the open forum, each owner will have the opportunity to speak for a reasonable amount of time. The board may consider placing items brought forth during the open forum on a future agenda for board action or deliberation.

One objective of a well-run meeting is efficiency. Once you have identified the key topics, prioritize them based on their urgency and importance. You may consider a timed agenda and set time limits for each agenda item to ensure that the meeting stays on track and all topics are covered. This allows for effective time management and prevents discussions from taking an excessive amount of time. You may consider allocating more time to critical matters and allowing sufficient time for discussion and decision-making.




To ensure the efficient governance of the community, it is highly recommended that board members arrive at board meetings well prepared. This can be achieved by reviewing materials in advance. By doing so, board members can contribute effectively and make informed decisions during the meeting.

Board decisions, once made, must be carried out. Here, the board's use of professionals and committees facilitates smooth on-going operations between meetings. The managing agent is certainly instrumental. However, volunteer committees and executive committees are also useful.

The role of the managing agent is fairly well known. The basis of the managing agent's authority comes from the management agreement.

An executive committee is composed of two or more directors, but less than a quorum of the board. One of the key advantages of the executive committee is that it is empowered with full authority to act on behalf of the board. The committee can make decisions and take actions, when necessary, without having to wait for the next board meeting. An executive committee can bridge the gap when an operating decision must be made that exceeds the scope allowed to the managing agent.

Volunteer committees are another useful tool. These committee have the authority given them in a committee charter. They serve at the pleasure of the board.

Efficient board meetings not only save time and resources but also create a positive and engaging atmosphere for everyone involved. So, embrace the basics, come prepared, and empower your team to take action. These practices help ensure that decisions are made in a thoughtful and informed manner, and addressed promptly. Together, you can make your board meetings a valuable and rewarding experience. 

*Devin Langley has been involved in all aspects of community association management for more than 16 years on the central coast. She is certified through the California Association of Community Managers as a CCAM with a specialty certification in portfolio management. Devin can be reached at [devin.langley@managementtrust.com](mailto:devin.langley@managementtrust.com).*



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# The Business Judgment Rule and You

*How to be an  
ordinarily  
prudent  
person*

**By Sandra L. Gottlieb, Esq., CCAL**  
*SwedelsonGottlieb*



The board is the governing body for a homeowners association, and California law recognizes that boards are made up of regular people who are volunteering their time (*i.e.*, working for free). For this reason, California law does not expect an association's board members to make perfect decisions, and when a board makes a decision that is less than perfect, the law provides a safety net in the form of the Business Judgment Rule, which shields directors from liability as long as certain minimum standards are met.

Imagine a homeowners association as a bus, the board of directors as the bus driver, and the homeowners as the passengers. The passengers may have their own ideas on where the bus should go, but ultimately it is the board's responsibility to pick a destination and get the passengers there safely. If the homeowners do not like the direction the association is going or the way it is being run, they can install a new board through the electoral process or challenge the legality of a board's decisions. If the owners do not challenge the board's decisions, the bus will continue on the board's selected path until the destination is reached.

At one point or another, almost every board will face a challenging decision. When this happens, it is important to remember that **doing nothing is not an option**. An informed decision to take no action on a particular matter, after performing an investigation of the circumstances and soliciting the advice of association experts, is vastly different than ignoring an issue without investigation and hoping it will go away. From a legal standpoint, the decision to take no action would, at a minimum, be reflected in the board's agenda and meeting minutes, which would include a board resolution to either take or not take action. This means there would be documented evidence that the board was actively engaged in managing the situation, as opposed to neglecting its duties to oversee the association's affairs, which could result in legal or financial consequences.

The law recognizes that volunteer directors will be faced with difficult decisions that cannot be ignored, so the law does not require perfect decision-making. Rather, a board is expected to make decisions in accordance with the Business Judgment Rule, which provides as follows:

A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the



corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. (Corp. Code § 7231(a)).

Where this standard is satisfied, a board and its directors will be shielded from legal liability. In the context of a homeowners association, the seminal case on this issue comes from a California Supreme Court decision in *Lamden v. La Jolla Shores Clubdominium Homeowners Association* ((1999) 21 Cal.4th 249). In *Lamden*, the court held that it would defer to a board's authority and presumed expertise in discretionary decisions regarding the maintenance and repair of a common interest development, provided the board's

(Continued on page 10)

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decisions were (1) based upon reasonable investigation, (2) made in good faith and with regard to the best interests of the association and its members, and (3) within the scope of the board's authority as provided by the association's governing documents and applicable law. Let's delve a little more deeply into how a board can meet this standard.

“

***Board decisions are based upon reasonable investigation where that board investigates and evaluates the facts relevant to a situation before making a conscious decision to act (or not to act).***

The law allows directors to rely on information, opinions, reports and statements that are prepared by experts and consultants within the realm of their expertise (Corp. Code § 7231(b)). So, when in doubt, a board should solicit the advice of the association's experts and consultants (e.g. legal counsel, financial manager, insurance broker, reserve study provider, managing agent).

A board acts in good faith and with regard to the best interests of the association and its members where that board's decisions are intended to benefit the association as a whole. This means that a director's decision should not be intended to benefit his/her/their own self-interests, adversely affect the association's legal or financial interest, or benefit a particular group within the association at the expense of the entire community. These issues can appear under seemingly innocuous circumstances. For example, an association needs to repair the community's driveways, but the cost is so high that it must do the work in phases, with certain driveways being repaired before others. A director's driveway is repaired during the first phase and another homeowner's driveway is not. Was this decision made in good faith? Perhaps, depending on why the board selected that driveway for repair first (e.g., whether that driveway needed repair more urgently or was recommended for earlier repair by the association's contractor). That said, if this were one of our clients, we would advise this particular director to recuse himself/herself/them from the vote on which driveway to repair first, to help protect the board's decision against legal challenge and preserve the director's protection under the Business Judgment Rule.

Generally, a board's duties and obligations require it to manage the association's affairs. Oftentimes, an association's

governing documents provide specific limitations on the board's authority. Further, California law requires directors to act in a manner consistent with that of an ordinarily prudent person in a similar position. This means acting with the level of ordinary cautiousness that another person, facing the same situation, would use to minimize risks that can reasonably be avoided or minimized, as well as avoid injury to themselves or others. This generally entails a conservative approach to management, with benchmarks set at basic common sense, practical wisdom and informed judgment.

A board's failure to abide by its obligations and duties can lead to a possible lawsuit under a breach of fiduciary duty claim. Some specific duties include the following:

- **The Duty of Knowledge** – The board has a duty to enforce the association's governing documents. This means each director should know the contents and requirements of those governing documents (e.g. CC&Rs, Bylaws, Articles of Incorporation, operating rules, and architectural guidelines). Additionally, the board should be aware of the information in the association's business records, as this information is vital to discharging the obligation to manage the association's daily affairs.
- **Duty of Financial Management** – The board is responsible for managing the finances of the association,



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which includes levying and collecting homeowner assessment payments. This requirement is so important that statute requires a board to review the association's financials no less than monthly. YES, THE STATUTE REQUIRES IT TO BE MONTHLY SINCE 2017.

- **Duty of Maintenance** – The board is responsible for the maintenance, repair and replacement of the association's common area components, so the board should be aware of any actual or potential maintenance issues, as well as the association's plan in addressing any deferred maintenance items. The association's reserve study is a helpful tool for identifying deferred maintenance items and the estimated cost for addressing these items.
- **Duty of Operation** – The board is responsible for the operation and management of the common area facilities and amenities, such as pools and clubhouses. The board is also responsible for contracting and paying for services for the association (e.g. janitorial services, landscaping, utilities).
- **Duty of Enforcement** – The board is responsible for enforcing the association's governing documents, which includes the enforcement of use restrictions, delinquent assessment collection, and architectural restrictions. In all cases, enforcement must be reasonable, consistent, and uniform, subject to approved variances within the board's authority.

Although the Business Judgment Rule offers fairly robust protection for an association's directors, it does have its limits. A recent example can be seen in the court's ruling in the case of *Palm Springs Villas v. Parth* ((2016) 248 Cal. App4th 268). In *Parth*, a director unilaterally authorized multiple third party actions that exceeded the scope of her authority. This director entered into various contracts, without ever consulting with her board, and signed almost two million dollars' worth of promissory notes that were secured by the association's assets, without consulting the association's other homeowners. In each case, this director admitted that she never reviewed her association's governing documents to see what these documents said with regard

to her authority to enter into contracts or take out loans for the association. Foreseeably, the association sued this director under a breach of fiduciary duty claim. According to the court, the director's failure to review her own governing documents and confirm the scope of her authority amounted to "willful ignorance" and created an issue of material fact as to whether the director acted with reasonable diligence entitling her to protection under the Business Judgment Rule. On appeal however, the Supreme Court determined that Parth should still be afforded the protection of the Business Judgment Rule.

In addition to the Business Judgment Rule, *Civil Code* §5800 provides that a volunteer director will not be held personally liable for any action that results in damages to the association or its members in excess of the association's insurance coverage if: (1) the association maintains directors and officers ("D&O") liability insurance coverage in minimum amounts of \$500,000 for an association with 100 or less separate interests or \$1,000,000 for an association with more than 100 separate interests; **and** (2) the director's act or omission was performed within the scope of the director's duties, in good faith and was not willful, wanton or grossly negligent. As you can see, failing to act in good faith could expose a director to personal liability in any amount that exceeds the Association's D&O insurance coverage.

In conclusion, a board of directors is legally obligated to manage its association, and "steer the bus" for the benefit of its members. At the same time, the law recognizes that a board is composed of volunteers and no board is perfect. Together, the Business Judgment Rule and *Civil Code* §5800 form a critical safety net for directors and shields their decisions, as long as certain minimum standards, as briefly mentioned above, are met. Fasten your seat belt as you may be in for a bumpy ride! 📌

**Sandra L. Gottlieb** is one of California's leading community association attorneys. She is a founding partner of the law firm of SwedelsonGottlieb, which was formed in 1987. Sandra began her practice of law in 1978 and began representing and providing legal counsel to community associations in the mid-eighties. Sandra's extensive negotiating skills have given her the ability to work with volunteer board members, associations' managing agents and opposing counsel, and provide sound counsel regarding association operational issues. Sandra is an active member of CAI and CACM. Contact Sandra at [slg@sghoalaw.com](mailto:slg@sghoalaw.com).



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Recap

CAI-Channel Islands Chapter's



Thank you to everyone who joined us for the Chapter's Oktoberfest Community Faire on October 5 at The Westlake Hyatt. It was a fun event filled with education, networking, and delicious food. Special thanks to our sponsors!



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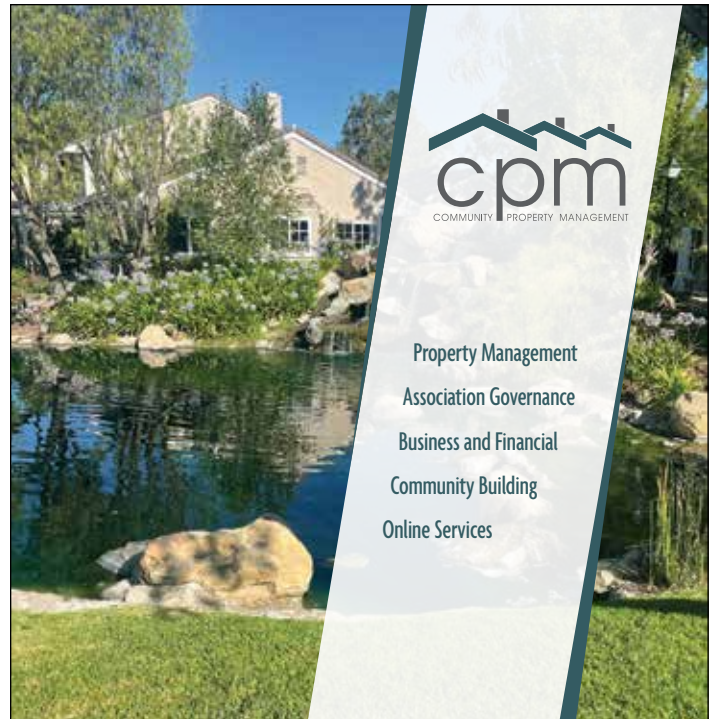


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# Going Rogue

## Avoiding & Successful Handling of Renegade Board Members

By Jeffrey A. Beaumont, Esq., CCAL  
Beaumont Tashjian



The conduct and statements of board members always have the appearance of being “officially sanctioned by the board”. Therefore, board members must be careful when addressing association business with members, third parties, or otherwise outside of a duly noticed board meeting (or an emergency meeting pursuant to Civil Code Section 4923). Each individual board member owes a “fiduciary duty” to the association, which arises out of a relationship wherein one person (the board member) has the legal obligation to act for another’s (the association and its members) benefit, specifically to manage and protect the association’s property and money. A fiduciary obligation is the highest level of duty recognized by law and the implications and consequences of breaching same can be severe.

This legal obligation is governed by statute, case law, and the association’s governing documents, all of which require board members to act in good faith, in a manner the director believes to be in best interests of corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. (Corporations Code Section 7231, which is often referred to as the “Business Judgment Rule”). If this fiduciary duty is satisfied, Courts will give the board’s decision judicial deference regarding repair and maintenance even if a reasonable person would have acted differently. *Lamden v. La Jolla Shores Clubdominium Association* (1999) 21 Cal.4<sup>th</sup> 249.

Corporations Code Section 7210 requires an association’s affairs to “be exercised by or under the direction of the board.” In other words, boards have one legal voice and must act as a whole, not unilaterally. Civil Code Section 5800 protects board members from personal liability when its decisions are made: (1) within its scope of authority;

(2) performed in good faith; (3) the act was not negligent; and (4) the association maintained the requisite liability insurance. This is akin to the protections afforded under the Business Judgment Rule. So long as directors make decisions consistent with the association’s governing documents, law and the Business Judgment Rule, the action taken will be protected as will the individual directors.

When boards make decisions outside of meetings or when board members take unilateral action, the association and individual board members are exposed to liability, which may result in the possibility of no insurance coverage for any claims resulting therefrom. For example, if an individual board member signs a contract not otherwise approved by a majority of directors at a duly noticed meeting, Corporations Code Sections 7141 and 7214 protect third parties (but not directors) in such situations.

Section 7214 provides that unless the third party has actual knowledge the contract was signed without board authority or at an improperly noticed meeting, the contract will bind the association, under the concept of ostensible authority. Under Section 7141, associations acquire rights (and obligations) under contract if it is signed by a director with express or implied authority. Once signed, associations assume the contractual obligations even if the board member(s) signing it did not have legal authority to do so. Individual board members signing such a contract are also exposed to personal liability for the unilateral act of entering



into an unauthorized contract. In such unfortunate situations there will likely not be coverage to protect the association or individual director from liability.

Another situation which exposes the board to similar liability occurs when board members send emails or letters to the membership regarding association business, without the consent or approval of a majority of the board. Unless statements regarding association matters (either verbal or in writing) are sanctioned and approved by the board as a whole, board members should refrain from making same, as doing so can be interpreted as a board statement or position.

“

***These pitfalls may be avoided by educating board members on their fiduciary duties, establishing a code of conduct for the board, and following proper procedure and protocols.***

Setting forth qualifications for individuals serving on the board in the governing documents is also a good way to limit eligibility to serve on the board to members in “good standing” with the association. “Good standing”

may be defined to include remaining current in payment of assessments, having no outstanding fines or other enforcement penalties for violations of the governing documents, or disqualification of directors who fail to attend a certain number of consecutive meetings. Requiring directors to attend a certain number of meetings and remain in good standing helps the board to operate efficiently, effectively, and in the best interest of the community.

If the board is unable to wrangle in a renegade board member, legal counsel should be consulted, and discipline considered. The board may formally censure the board member or strip the board member from office should the rogue board member fail to confirm his or her conduct. Should the foregoing measures fail, the board member may be requested to resign, or recalled by the members.

At the end of the day, the members have placed the utmost trust and confidence in the board to manage and protect the association’s property and money. The law recognizes the fiduciary obligations of managing another person’s assets as the highest level of duty. The board must satisfy its fiduciary duties and ensure association business is conducted efficiently and effectively without disruption from renegade board members. 🏠

**Jeff Beaumont** is the senior partner of **Beaumont Tashjian**, a full-service community association law firm providing general counsel, litigation, and assessment collections services to its clients with offices throughout Southern California. He proudly served as a two-time past president of the CAI-Greater Los Angeles and Channel Islands Chapters and is admitted to the College of Community Association Lawyers, earning his CCAL designation. Jeff can be reached at [jbeaumont@hoaattorneys.com](mailto:jbeaumont@hoaattorneys.com).









<p><b>Ruth Campbell, CCAM-PM, CMCA</b> Community Manager/President <a href="mailto:rcampbell@cidmanagementsolutions.com">rcampbell@cidmanagementsolutions.com</a></p>	<p>3481 W. 5th Street, Suite 104 Oxnard, CA 93030 Main (805) 351-8270</p>
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Recap

CAI-Channel Islands Chapter's



# Bingo, Boots AND BREWS



Thank you to our members and sponsors for supporting Bingo, Boots, & Brews! It was a fantastic evening of networking, Bingo, prizes, and more! And most importantly, we raised over \$10,000 as a contribution to support our California Legislative Action Committee! Thank you for your support!



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# CAI-Channel Islands

## CENTRAL COAST LUNCHEON PROGRAM

Thurs., Nov 9, 2023 • 11:30AM

### Ask The Experts: Hot Topics Legal Q&A

Join us for this educational session with the opportunity to get your legal questions answered on the following topics:

- Board Discussions by Email (new case law!)
- Balcony Bill – the deadline is quickly approaching!
- Short Term Rentals & ADUs
- Occupancy restrictions
- Project management
- Rogue Board Members
- Outdated Governing Documents

Submit your questions in advance to [cai@cai-channelislands.org](mailto:cai@cai-channelislands.org).

#### PROGRAM SPEAKERS



**Sandra L. Gottlieb, Esq., CCAL**, is one of California's leading community association attorneys. She is a founding partner of the law firm of SwedelsonGottlieb, which was formed in 1987. Sandra's extensive negotiating skills have given her the ability to work with volunteer board members, associations' managing agents and opposing counsel, and provide sound counsel regarding association operational issues. Sandra is an active member of CAI and CACM.



**Janet L.S. Powers, Esq., CCAL**, has been a member of the California State Bar since 1985. She is a senior supervising attorney in the Fiore Racobs & Powers Irvine office. Ms. Powers is a member of the Orange County Bar Association and Community Associations Institute. She is a member of the prestigious College of Community Association Lawyers (CCAL) of CAI and has served on the Editorial Board of the CCAL Journal of Community Association Law. She was the President of the Board of Directors of the Orange County Regional Chapter of CAI.



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THIRD QUARTER 2023 [www.cai-channelislands.org](http://www.cai-channelislands.org) 17

# Association Financial Records Review, Don't Rubber-Stamp

*By Sean D. Allen, Esq.  
Roseman Law, APC*

Association directors are fiduciaries, which means that they are entrusted with the money and property of others and therefore they owe those persons a duty to act in their best interests. This is one of the highest standards of duty imposed by law. It should go without saying then that one of the most important roles and responsibilities of an association's board of directors is to protect and properly manage the association's money.



Surprisingly, this seems to be one area where many boards cut corners or attempt to over-delegate their financial oversight obligations. Not only is this bad business, but it too often results in fraud and embezzlement, and it could very well create some significant liability issues. Boards can't simply rely on the reports prepared by management and rubber-stamp their approval. Instead, an actual, thoughtful review of the association's financial records is required, and the frequency of those mandatory reviews has been dictated by the Legislature.

California Civil Code section 5305 sets out the basic requirement that a review of the financial statements of the association must be prepared in accordance with generally accepted accounting principles (GAAP) by a licensed CPA for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars (\$75,000). A copy of this annual review of the financial statements must then be distributed to each of the association's members within one-hundred twenty (120) days after the close of the fiscal year, by individual delivery. The association's governing documents can impose more stringent standards, such as requiring a more in-depth audit of the financial statements rather than a review, but if the governing documents are silent on the matter, then the above rules apply.





Even though association managers are generally allowed to prepare association budgets and financial reports under Corporations Code 7210, it is the board who is ultimately responsible for reviewing and approving all the records and expenditures. When the board fails to meet its obligations and a misuse of association funds results, it may be a breach of the board's fiduciary duties. Thus, in that situation not only is the association damaged by the board's malfeasance, but the individual board members themselves could potentially be exposed to personal liability.

Fortunately, Civil Code section 5501 provides some flexibility for association directors. It allows for the above monthly review requirements to be met when either every individual member of the board, or a subcommittee of the board consisting of the treasurer and at least one other board member, reviews the documents and statements described above outside of a board meeting, so long as the review is ratified at the board meeting following the review and that ratification is reflected in the minutes of that meeting. So, while the financial review requirements still sit squarely on the shoulders of the board, particularly the treasurer, that review can take place outside of a board meeting and can mostly be delegated to a subcommittee.

*Continued on page 20*

In addition to the mandatory annual review by a CPA, Civil Code section 5500 requires that the board itself must conduct regular reviews of the association's operating accounts, the association's reserve accounts, the current year's actual operating revenues and expenses as compared to the current year's budget, the latest bank account statements, the income and expense statement for the association's operating and reserve accounts, and the check register, monthly general ledger, and delinquent assessment receivable reports for the association. Each of the above reviews must be conducted on a monthly basis, but the association's governing documents can again impose more stringent standards.



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In addition to the above financial review requirements, association directors should also be aware of the provisions in Civil Code section 5502. That section expressly prohibits transfers from the association's reserve or operating accounts without prior *written* approval from the board unless the transfer is under a certain threshold. For associations with fifty or fewer homes, the transfer does not require written board approval if the amount is less than five thousand dollars (\$5,000) or five percent of the estimated income in the annual operating budget, and for associations with fifty-one or more homes, the transfer does not require written board approval if the amount is less than ten thousand dollars (\$10,000) or five percent of the estimated income in the annual operating budget.

All of this, taken together, creates a roadmap for the board to meet one of its most basic and important fiduciary obligations: the protection of the association's money. Cutting corners here is not recommended. ⚡

**Sean D. Allen, Esq.**, is a partner with Roseman Law, APC. Having exclusively represented homeowner associations and other common interest developments for several years, Mr. Allen has broad experience with issues and disputes that impact community associations. Mr. Allen serves on the Board of Directors for our Chapter and is a frequent event speaker. He has authored a number of articles pertaining to common interest development law and its application to community associations in California. Mr. Allen can be reached at [allen@roseman.law](mailto:allen@roseman.law)



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# CAI-CHANNEL ISLANDS CHAPTER

## Fall Luncheon & Annual Legislative Update

Thursday, November 16 • 11:15am

11:15am: Lunch & Networking Noon: Educational Program

Spanish Hills Club 999 Crestview Ave., Camarillo

### Join us for this festive luncheon featuring...

- ✓ Fall Give-a-ways & Goodies
- ✓ Annual Legislative Update Program
- ✓ Opportunity to support FoodShare of Ventura County

### This program will cover:

- ✓ New laws impacting Common Interest Developments
- ✓ Updates to legal requirements from a case law perspective
- ✓ What's to come in 2024?!

### PROGRAM SPEAKERS



#### LOUIE BROWN, ESQ.

Kahn, Soares & Conway, LLP  
Louie A. Brown, Jr. is CAI-CLAC's legislative advocate in Sacramento and specializes in maneuvering through California's complex legislative and administrative process. Louie's expertise is a true asset to CAI-CLAC. Louie is a partner with Kahn, Soares & Conway, LLP. He manages the firm's Government Relations Team representing clients before the California State Legislature and various state administrative agencies. Louie specializes in providing clients with expert advice in maneuvering through California's complex legislative and administrative process. He testifies regularly in the Capitol before many legislative committees on behalf of clients and has written numerous laws and played key roles in many of the Legislature's major accomplishments and budget negotiations over the last decade.



#### JAMES PERERO, ESQ.

Myers, Widders, Gibson, Jones & Feingold, LLP, CLAC Delegate  
James Perero is partner at the law firm Myers, Widders, Gibson, Jones & Feingold, LLP where he represents community associations as general and litigation counsel. His work with community associations aims to improve and strengthen the quality of life for community association members through development and enforcement of effective governing documents, and, when necessary, through litigation. Mr. Perero is an active member of CAI-Channel Islands Chapter and currently serves as the chapter's CAI-CLAC delegate.



Community Associations Institute (CAI) provides education, resources, advocacy and networking to the Homeowners Association Industry.

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HOA BOARD MEMBER, HOMEOWNER OR COMMUNITY MANAGER:

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Please register by Monday, November 13

This educational program has been approved for 1 hour of continuing education credit by CAI and CAMICB.

For more info or questions, call 805-658-1438 or visit [cai-channelislands.org](http://cai-channelislands.org)



Please bring non-perishable food items as a donation to FoodShare of Ventura County. For each item collected, the following companies will contribute \$1 per item (up to \$300) as a contribution to CLAC.

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# Developing and Maintaining GOOD VENDOR RELATIONSHIPS

By Joy Steele, CMCA, AMS, HOA Organizers, Inc.  
Geoff Lloyd, Just Right Painting

As communities look to the new year to set their maintenance calendar and seek out vendors for upcoming projects, here are some handy “Do’s and Don’ts” to keep in mind when developing a solid relationship with vendors. These tips are handy and will go a long way in this effort:

## DO

**Be specific.** When identifying a project or requesting services, it’s important to the success of the project to be clear on what kind of work or proposal you are seeking. This includes providing desired scope, available budget, and any special instructions. Additionally, be realistic. If you have budget limitations, let the vendor know so they can provide a proposal that respects the available funding for your community. You don’t want to alienate a potential contractor or service by asking for comprehensive proposal if it’s not realistic to funds available.

## DON'T

**Don’t withhold vital information on expectations.** If you are requesting a proposal to get an idea of cost but aren’t ready to move forward immediately with the project, let the vendor know, so they can allow for adjusted future costs. This will promote good will and ensure the vendor will establish a time frame with you and how best to proceed with the project in a way that benefits everyone.

For the past three years, the HOA and condo industry has adapted into what is regularly referred to as ‘unprecedented times’ for associations, management companies, and service providers, aka vendors. Whether it’s a regularly contracted service, or special projects for a community, vendors find themselves navigating the balance between delivering the goods and services they offer and keeping their workforce and supply chains stable in an increasingly unpredictable economy.



# DO & DON'Ts

## DO

**Loop in your community manager when communicating with vendors.** Volunteer directors are often the onsite contacts during services or projects and having all parties on the same page will ensure things are properly accounted for. Especially if something changes midstream.

## DON'T

**Don't give out vendor contact info without clearing with them beforehand.** This is for managers and Board Directors. If the vendor has provided their cell to coordinate scheduling or site access, be sure to check with them before providing it to anyone else. Many vendors have stories of times when a homeowner tried to do an end run around communication channels and calling and texting repeatedly, without respect to their schedule.

## DO

**Be flexible and patient.** This includes response time either by phone or email and be mindful when scheduling walk through. Vendors have no control over supply chain, and sometimes labor availability. Delays can happen. Whether the needed replacement part is still on a ship in the harbor, or the crew has been depleted due to illness and longer than normal recovery, remember that vendors are people too. They will greatly appreciate your understanding and will reciprocate the flexibility whenever possible.

## DON'T

**Don't micromanage** – If you find an item that needs to be added to a project in progress, reach out to the manager and vendor as soon as you know, and be understanding if it requires a change order. Please respect the working time of the crews and technicians onsite while they are performing their tasks. Crews onsite are there for a specific job and frequently have limited availability to answer questions not directly related to the work at hand. If you have questions about the project, connect with the vendor or the community manager to get those answers.

Quality vendors are always seeking innovation for best practices, and they really want to bring excellence to the table for their clients. Remembering these handy tips will go a long way to developing a solid working relationship with vendors and managers alike. 📌

**Joy Steele, CMCA®, AMS®,** is VP of Corporate Communications at HOA Organizers, she is a regular content contributor to multiple CAI Chapters; and was the editor-in-chief for the WSCAI Journal in 2019. As a member in good standing in both the National Society of Newspaper Columnists and the Society of Professional Journalists, Joy is passionate about providing clear, engaging communications to her audience, as well as learning exciting new ways to serve her clients. Joy can be reached at [joy@hoaorganizers.com](mailto:joy@hoaorganizers.com).



**Geoffrey Lloyd** is an Estimating Specialist with Just Right Painting with two years of experience as a vendor and fourteen years of experience as a Community Manager. Geoff can be reached at [geoff@justrightpaintinginc.com](mailto:geoff@justrightpaintinginc.com).



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Meadowtree Homeowners Association  
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Teso Robles Homeowners Association

## 2023 CHAPTER EVENTS

### November

- 9 Central Coast Luncheon, 11:30 am,  
Ventana Grill, Pismo Beach
- 16 Chapter Luncheon, 11:15 am, Spanish Hills Club, Camarillo
- 30 Holiday Happy Hour, 5-7 pm, Westlake Village Inn

### December

- 14 Chapter Luncheon, 11:15 am, Spanish Hills Club, Camarillo

For more information & to register,  
visit [www.cai-channelislands.org](http://www.cai-channelislands.org)

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Stanley Davis, Village Green Property Owners Association  
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**Kenneth S. Kasdan, Esq.**  
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NEW MEXICO, AND HAWAII  
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