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INSIDE THIS ISSUE

An Insurance Primer

Everything you always wanted to know about HOA insurance but were afraid to ask!

Wading into the Water

Navigating the minefield of water claims.

Apples to Apples Coverage

There is no such thing!

The Claims Game

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Page 6



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Your Chapter

- 5 President's Message
- 20 Crooners & Cocktails Awards Dinner & Casino Night
- 24 Congratulations & Thank You
- 24 CAI-Channel Islands Chapter Celebrates Reaching 900 Chapter Members!
- 25 New and Renewing Members
- 26 Chapter Sponsors



Page 16

Chapter Happenings

- 13 Slam Dunk Community Faire & All-Star Educational Programs
- 24 Calendar of Events

Special Features

- 6 An Insurance Primer
- 10 Wading into the Water
- 14 Apples to Apples Coverage
- 16 Ask The Expert
- 18 The Claims Game
- 22 Running an HOA During a Pandemic

Resources

- 27 Advertising with the Chapter
- 29 Classified Directory/Advertisers



Page 10



Page 14



Page 18

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president's message



Dear Members,

I have the honor of serving as your president of CAI-Channel Islands Chapter this year. Our vision statement for this year is “2020 – A Clear Vision for the Future” – Unity/Community/Strength. We have a very exciting year ahead. With the significant growth in chapter membership, our chapter leadership is adapting to the growth by providing additional member benefits and encouraging participation by our members on all levels. This will include reaching out to members who have not yet played an active role, inviting you to join our various committees, volunteer as a speaker or presenter at an event, or submit an article to our publication. By engaging our members, we will expand our pool of volunteers. By doing so, each of you will derive personal benefit and growth from your involvement, but will also assist our chapter in providing new, innovative and fresh ideas. Our current Board members are committed to assisting me in mentoring members who wish to participate. We will distribute a list of the various committees, and if any of you have an interest in a committee, it would be our pleasure to have your participation.

This year, we will also focus on professional and personal growth of our homeowners, community managers and business partners. The commitment to this growth will include speaking events that continue to educate, enhance and provide additional value both professionally and personally to our members. We will work at thinking “outside the box” to seek topics and speakers that will assist the chapter in that growth. We will start by having members give us your thoughts and ideas so we can better serve and take care of you! You can submit those ideas at anytime by emailing Chapter Executive Director Leah Ross at leah@cai-channelislands.org.

You will also see a significant increase in the visibility and acknowledgment of appreciation of the chapter's executive committee, the board of directors, committee chairs and their committee members. This chapter could not deliver on our promises to grow our membership, educate, increase membership value, and enhance the camaraderie and enthusiasm in participating in this chapter, without all the hard work and dedication of these volunteers.

We will continue to reach out to our community manager partners to assist us in encouraging their managers and board members to attend the chapter's events. CAI is committed to providing our community managers and board members with exceptional educational programs and credentials. By doing so, we elevate the standard of our industry and provide professional, well educated and knowledgeable board members and community managers that serve the interests of our communities.

Thank you to last year's board president, Joe Smigiel and the outgoing board members for all your remarkable work and for providing a platform of continued success for this chapter. Thank you for the opportunity to serve as your president this year. I look forward to assisting in continued growth and success for an already thriving chapter.

Steven A. Roseman

Steven A. Roseman, Esq.
CAI-Channel Islands Chapter President

An Insurance Primer

Everything You Always
Wanted To Know About
HOA Insurance But
Were Afraid To Ask!

By **Timothy Cline, CIRMS**
Cline Agency Insurance Brokers



Property Coverage

This first-party insurance coverage indemnifies the association for damage to property it either owns, leases, or has responsibility for. There are two sections of the CC&Rs that must be carefully reviewed to understand what building elements must be addressed. A well-organized reserve study will have a component list that may identify some otherwise forgotten items. As for the perils insured against, the broadest form (called Special Form) covers all perils of direct physical loss except for perils specifically excluded. Some specifically covered perils, such as earthquake and flood, can be purchased from excess and surplus lines at an additional premium.

General Liability

This coverage protects the association for sums it may become legally obligated to pay to third parties with respect to bodily injury and property damage. The best general liability coverage has no deductible and the defense costs sustained by the carrier to defend the association should be paid outside the limits (so the costs don't erode the limit left for any indemnity payments to a third party).

Director and Officers Liability Coverage

This coverage protects the association should an allegation be made that the board of directors has committed a mistake

in judgment (referred to as an "act, error or omission"). The definition of insured should extend to committee members, volunteers, and the community manager and/or management company. Like the general liability coverage, the board should seek a policy where defense costs are paid outside the limit of liability. Over the last ten years, many of the standalone D&O policies contain a modest degree of employment practices liability coverage which protects against employment-related claims such as discrimination and wrongful termination.

Crime Insurance

This coverage protects the association against dishonest acts perpetrated by the employee (which, when written correctly, would be the board members, the community manager, and management company). Whether you purchase crime insurance or employee dishonesty protection (formally known as a fidelity bond), the concept is the same. Limits are specifically described in the Davis-Stirling Act (Civil Code §5806):

"Unless the governing documents require greater coverage amounts, the association shall maintain crime coverage in an amount that is equal to or more than the combined amount of the reserves of the association and total assessments for three months."

Commercial Umbrella

This coverage is usually the least expensive way for the association to purchase additional liability protection. The best policies are written to be in excess of **both** the general liability coverage and the association's directors & officers liability coverage. In both cases, the policy waits for either policy to become depleted and then steps in to provide additional protection.

Workers' Compensation

Insurance professionals typically recommend the association maintain workers' compensation policies whether or not it has direct employees. There are a handful of carriers that write coverage with low minimum premiums. Should there be an injury on the premises, this policy protects the association, if it is deemed to be the employer at the time of loss. Without coverage, the association would be responsible for paying any benefits otherwise afforded by a workers' compensation policy.

Earthquake and Flood Protection

Earthquake and flood are both considered such catastrophic perils that traditional insurance carriers **exclude** coverage under the "special perils" description. Flood coverage is

readily available from: (1) the Federal Government, through the National Flood Insurance Program (NFIP); and through excess and surplus Lines (non-admitted). If your community is in a Special Flood Hazard Area (SFHA), the association is required to maintain coverage. Determining whether the association needs earthquake coverage requires more research. Factors to be considered include: (1) distance to fault lines; (2) type of soils; (3) type of parking; (4) year built; and (5) susceptibility to liquefaction. Additionally, how much equity owners have may also have weight in considering the coverage. Because of the complexity of the coverage, the Association would be well-advised to consult with their agent/broker.

How do boards eliminate liability?

Condominium association boards will never fully eliminate liability for themselves, their homeowners, or the managers since even the broadest D&O coverage available still contains exclusions and limitations. HOAs would be wise to purchase the broadest D&O coverage form available, and to always rely on a knowledgeable agent/broker who specializes in common interest developments.

(Continued on page 8)



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Risks of inadequate coverage

In the Northridge earthquake, owners who lived in severely damaged developments where the Board failed to maintain earthquake coverage had only one option: to walk away from their home and their equity. Inadequate liability coverage presents a different but oddly similar outcome. California Civil Code Section 5805 requires a condominium association with more than 100 units to maintain at least \$3,000,000 of liability coverage. If the condominium association does maintain at least the required \$3,000,000 of coverage, a claimant may only pursue legal proceeding against the association and not against the individual owners.



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Exercising prudent business judgement when applying for insurance

- Seek the advice of a knowledgeable, competent, third-party professional
- Exercise reasonable inquiry
- Act in good faith (as a reasonable person would in similar circumstances) ⬆

***Timothy Cline, CIRMS®**, is one of the United States' foremost authorities on insurance for common interest developments. He is President of Cline Agency Insurance Brokers, with offices in Los Angeles, California and Portland, Oregon. He and his staff specialize exclusively in coverage for condominium associations, homeowners associations, planned developments and cooperatives throughout California, Oregon, Washington, and Arizona. Tim holds the Community Insurance and Risk Management Specialist (CIRMS®) designation from Community Association Institute (CAI).*



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Wading into the Water

Navigating the minefield of water claims

By **Tiffany Smith-Nguyen, Esq.**, Delphi Law Group, LLP

Tina Neubauer, CMCA, CIRMS, Roy Palacios Insurance Agency

Ms. Jones, an owner at Golden Slumber Condominium Association had a pipe burst underneath the bathroom sink causing damage to the interior of her unit. The association's manager tells Ms. Jones she cannot file a claim on the association's insurance policy because any pipes that service her unit are her responsibility to maintain as is the interior of the unit including any damage that the water caused. Is the manager correct?

The question of maintenance and insurance responsibility comes up more often than not when it comes to claims filing and whether the association's insurer will pay for some or all of the damages. Many managers and boards are under the impression that maintenance responsibilities and insurance responsibilities are the same. If maintenance responsibility

for the component that failed or was damaged lies with the homeowner, then surely the responsibility to insure it also lies with the homeowner. Well, we are here to tell you...not exactly.

Insurance adjusters will sometimes receive the maintenance matrix from managers with instructions to deny a claim. Unfortunately, that's not exactly how it works and here is why. Maintenance responsibilities and the duty to insure often differ even under the same set of CC&Rs. To add to the confusion, actual insurance coverage may exceed an association's duty to insure under the governing documents. In short, responsibility for maintenance of a component does not always determine who is responsible for insuring that component and the association's insurance may cover components the association is not usually responsible for.



Let's go back to the example. Ms. Jones is smart and has a personal unit owner policy referred to as an HO6 so she files a claim with her carrier and waits to hear from her adjuster. The savvy adjuster knows the association insurance game and asks for the association's governing documents. He pays close attention to the insurance section that specifies the insurance responsibility of the community. In his investigation he determines that the association must have a "walls-in" policy which includes coverage for the interior of the units including the fixtures as opposed to a bare walls policy where none of the interior components are covered. The savvy adjuster requests that Ms. Jones file a claim with the master policy. Why you ask? Simple. While the duty to maintain the pipe is the responsibility of the unit owner, the ensuing damage is likely covered under the association's policy because the CC&R's require the association to insure the interior of the units.

In this example, the Golden Slumber Condominium Association's CC&Rs specified the association had the duty to carry a "walls-in" policy. Not all CC&Rs are this specific and some are actually quite vague, focusing on policy limits and allowing the board to determine the type of policy. Most CC&Rs also only set a minimum duty to insure and in some cases

the policy purchased by the association may actually be more comprehensive than required.

Back to Ms. Jones. In this example, the manager's assertion that maintenance and repair responsibility for the burst pipe belongs to Ms. Jones is correct. The association's policy may not pay to repair the pipe. The onus for those repairs would be on Ms. Jones, but the ensuing damage would likely be covered by the association's insurance policy (subject to the deductible), even though Ms. Jones is responsible for maintenance of the interior of her unit. Why you may ask again? Remember that in this case the association has a "walls-in" policy that covers some aspects of the interior of a unit.

But that's not fair! The interior of the unit is not the association's responsibility, why should the association's insurance policy pay for it? Try to think of the association's insurance policy as an asset the association acquires for the benefit of the association and its members in case of an unfortunate event. It "belongs" in part to each of the members. Since the members pay for the policy through their assessments they should be entitled to receive the benefits of the policy.

(Continued on page 12)



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This is not to say that an association is helpless in protecting its master insurance policy from minor or nuisance claims by members. Deductibles and clear protocols regarding who is responsible for payment of the deductible and under what circumstances can help ward against expensive premiums and nuisance or minor claims. Associations that are concerned about whether their insurance meets or exceeds their insurance responsibilities or that wish to establish clear deductible protocols are encouraged to have their policies and governing documents reviewed by qualified professionals.

Communication is key. Be sure to communicate the basic information about your insurance policy including any changes to the association's membership. Make the notification clear and concise so that all unit owners are aware of their insurance responsibility and can work with their individual agent or broker on selecting the appropriate insurance protection for their individual needs. Remember, the association's maintenance responsibilities are not the same as the association's duty to insure and each association's governing documents are unique. If you have any questions about responsibility or coverage, contact the association's insurance broker or legal counsel. 

Tina Neubauer, CMCA, CIRMS is the Executive Vice President of Commercial Accounts for Roy Palacios Insurance Agency. Ms. Neubauer graduated with a Bachelors Degree from California State University, Fullerton and has over 21 years' experience in Personal and CID insurance. She is a multi-chapter member of CAI and also has her Educated Business Partner Designation.



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GAME SCHEDULE

- 4:15 pm Pre-Game Legal Q&A Session with Attorney Members** – Email your questions to leah@cai-channelislands.org
- 4:15 pm Pre-Game Hosted Happy Hour for Community Managers**
- 4:30 pm Tip-Off: Exhibit Hall** Featuring over 50 HOA Vendors who specialize in their game
- 6:15 pm Post-Game: Homeowners / Board Members Dinner Program** "Team Strategies For Your Community" & Grand Prize Give-A-Way
- 6:30 pm Community Managers' Dinner Program** "Coaching Strategies For Your Communities" & Grand Prize Give-A-Way
- 7:30 pm Event Concludes**

Attire: Wear your favorite team's attire!

REGISTRATION

Homeowner Members & Community Managers: Complimentary
Homeowner NON-Members- Dinner: \$25 | Exhibit Hall: Complimentary
Advance Registration is required by May 28.

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Apples to Apples Coverage

There is no such thing!

By Steve Reich

Steve Reich Insurance Agency, Inc.



The bid process for most Community Associations can be confusing and complicated. It is difficult for both the managers and the boards to know and understand the differences in the numerous products available. It is critical that the agent/broker be experienced with all of the unique coverages required by community associations.

Let's take a look at some of the most important things to know:

Is your coverage in compliance with the Association's CC&Rs?

This is very important. Your documents will often give guidance and tell you the insurance coverages needed. However, it is not uncommon for the CC&Rs to give conflicting information. Being able to determine the proper coverages is critical. If the agent/broker doesn't ask for and review your CC&Rs, move on and look for another broker.

Is your coverage in compliance with the current Civil Codes?

This is equally as important. The board and association members could potentially be at risk if you are not in compliance with Civil Codes. The number of associations that are not in compliance would shock you.

Property Coverage – Do you really know exactly what you're covered for?

Property claims are by far the most frequent type of losses. Let's spend a little time exploring this because it is extremely important but also a little difficult to understand.

When addressing what the association is responsible for covering, most CC&Rs are muddy at best. The definition section, repair & maintenance, and the insurance sections can often send mixed messages. If your policy is a CC&R based coverage form it will typically say, "We will pay for what the association is responsible for" and that could lead to some problems. How will the adjuster interpret the CC&Rs and determine coverages? Unless your CC&Rs are crystal clear, it is not suggested associations use this type of coverage form. An agent/broker should be able to tell you and the owners exactly what you are covered for. When asked the question, "What exactly are we covered for and what coverages do I need?" and the broker's response is, "We defer to the CC&Rs", beware. The board should know what is covered and it should be communicated to all the unit owners. There are policies available that provide specific coverages without relying on your CC&Rs. In most cases, these types of policies are safer and avoid potential claim problems.

Directors & Officer Liability – An important coverage designed to protect the volunteer board and committee members that offer their time to serve the community. Not all insurance companies writing D&O insurance offer the same protection. There are numerous policy coverage forms that can have substantial differences. For example, some company forms may not have a duty to defend and exclude coverage for any type of insurance decisions, discrimination, or breach of contract. It is important that you have an agent/broker that understands these forms and can provide the proper protection.

Due to the complexity of coverage forms, it is very difficult to compare apples to apples. Remember, there is a big difference between limits of coverage and coverage forms. Below is an example of what might be a typical insurance matrix that you may receive from your manager during the bid process:

	Company A	Company B
Property Coverage	\$17,400,000	\$17,560,000
Deductible	\$ 5,000	\$ 5,000
Liability Coverage	\$ 5,000,000	\$5,000,000
Fidelity Bond	\$ 600,000	\$ 600,000
D&O	\$ 5,000,000	\$5,000,000
Work Comp (No Payroll)	Included	Included
Total Premium	\$ 18,460	\$ 20,174

Looks pretty simple, doesn't it? Obviously, Company A is the better value because the coverage limits are all pretty much the same and the premium is lower. But wait, the coverage forms may be quite different. What if Company B covers the unit's interior fixtures and additions while company A does not? What if Company B includes the property manager on the bond as required by your management contract and company A does not? What if the D&O coverage offered by Company B has far fewer exclusions than Company A does? Although the coverage limits are nearly the same, the actual coverage provided is in fact very different. Unfortunately, the majority of boards would select Company A because they simply don't know or aren't aware of the differences.

HOA insurance products are complex and associations will all have different needs and requirements. A well-versed agent/broker, specializing in community associations will understand these needs and requirements and will be in a better position to provide the proper coverage. Does your agent/broker know how to read and understand your CC&Rs, know the Civil Code requirements, work with the association managers and attorneys, issue the required disclosures, offer communication to owners and lenders, get involved in the claims process and have access to multiple insurers offering coverage to community associations? These are some of the questions you want to ask.

A qualified broker will also have a good feel for the marketplace and the factors that affect it. We have all enjoyed and have been spoiled by a very soft market for several years now. Most associations have seen improvements in coverage, a decrease in earthquake deductibles, premiums remaining stable, or in many cases decreasing. Due to the heavy losses from the wildfires, hurricanes and flooding, we are now seeing some negative effects and changes from this. In California, we are seeing policies that provide property

coverage being cancelled at an alarming rate. Premiums are increasing for all types of property coverages as the insurers try to recover and add to their surplus in order to meet future claims obligations. Managers and boards should be aware of the ever changing and challenging insurance landscape and adjust their budgets accordingly. [⬆](#)

After graduating from Arizona State University with an Insurance Major, Steve has owned and operated his multi-line agency in Ventura County since 1975. Steve has received numerous awards and is a member of the Farmers Insurance Group President's Council, which is awarded to only the top quarter of 1% of all agents nationally. The agency has specialized in the community association business for over 30 years and has been an active member in the CAI.



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By Troy A. Kennedy, Esq.
Adams Stirling, PLC

QUESTION: *What will we need to change in our documents to implement the accessory dwelling unit bill (AB 670)?*

ANSWER: For years now, legislators have attempted to address the growing housing crisis in California. Numerous accessory dwelling unit laws have been enacted and then later revised by a legislature resolved to provide low housing to Californians. With the recent passage of Senate AB 670, common interest developments, typically referred to as homeowners associations (HOAs), are now subject to California State and local accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU) laws.

AB 670, enacted as Civil Code Section 4751, amends the Davis Stirling Act which governs common interest developments. This new law makes it unlawful for HOAs to prohibit or unreasonably restrict the construction or use of an ADU or JADU. To ensure compliance with this law common interest developments' governing documents should be examined and revised where needed.

It is important to understand that each HOAs' governing documents are different; therefore, in response to the question, "what will need to be changed in governing documents to implement the new ADU and JADU law," the answer is, it depends. The key question associations must answer is whether any provision in their governing

documents prohibits or unreasonably restricts the construction or use of ADUs or JADUs.

Some association's CC&Rs and/or rules and regulations explicitly prohibit converting garages into a dwelling. Such provisions must be removed because they would violate the new law. However, it is still acceptable to require that a garage be used as a garage only unless an application to construct an ADU or JADU has been approved. Similarly, provisions in governing documents that prohibit construction of a separate detached or undetached livable structure should be eliminated.

Many associations have architectural rules/standards, architectural guidelines, contractor rules, remodeling agreements, and construction deposits as part of their governing documents. To the extent these governing documents prohibit or unreasonably restrict the construction or use of ADUs or JADUs, they should be revised or removed. While an outright ban or prohibition on ADUs and JADUs is relatively easy to detect in governing documents, identifying restrictions that are "unreasonable" may not be as easy to perceive. This begs the question, what is an "unreasonable restriction" on the construction or use of an ADU or JADU.



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There are a number of restrictions that can be placed on ADUs and JADUs but, any restrictions that would violate the law would clearly be unreasonable. For example, California Government Code Section 65852.2 requires, among other things, that a homeowner be allowed to add up to 150 square feet of living space onto their existing residence to create an ADU. It would be an unreasonable restriction for an association's governing documents to prohibit expansions beyond 100 square feet because such a prohibition would contravene the law.

AB 670, however, does not require associations to meticulously search through all of their governing documents to determine what a reasonable restriction is and what is not. In other words, there is no absolute requirement to amend every governing document that would prohibit or unreasonably restrict the construction or use of an ADU or JADU. Still, associations must be careful not to enforce those provisions in their governing documents.

The best way to implement AB 670, would be to adopt an ADU/JADU policy that affirmatively regulates the application process, approval or denial, construction, and use of ADUs and JADUs. Such a policy would list all the documents homeowners must submit when applying for approval to construct an ADU or JADU. The policy would also require that homeowners sign a construction/remodeling agreement agreeing to certain requirements such as having insurance to cover any damages to the common area during construction, and indemnifying the association for those damages, just to name a few. Associations should also have a recordable covenant prepared for homeowners to sign. This covenant would be recorded on the title of the property where the ADU and/or JADU is being built and would give notice to prospective purchasers that an ADU or JADU was constructed on the property and the homeowner is responsible for all repairs, replacement, maintenance and liabilities that may arise due to its construction and use. An ADU/JADU policy will go a long way to ensure ADUs and/or JADUs are constructed properly and safely with the risks properly allocated. [↑](#)

Troy A. Kennedy is an attorney with *Adams Stirling, PLC* and serves as corporate counsel to common interest developments throughout California. He counsels boards of directors on matters affecting their associations, handles contract review, amends and restates governing documents, and provides legal opinions on general liability issues involving maintenance and insurance matters. Troy also has valuable experience handling complex civil litigation involving breach of contract, fraud, trademark infringement, real estate disputes, intellectual property, and probate law.



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It's What You Don't Know That Matters

By Pamella De Armas, CIRMS
Silicon Beach Insurance

Every game has rules, and in the claims game, the rules revolve around the governing documents and the policy coverages.

When the rules in the insurance section of the governing documents are clear, that is, identifying exactly what the HOA is responsible to insure and exactly what the unit owner is responsible to insure, it is a game changer for sure! Everyone passes GO and moves forward.

When the governing documents are silent or the wording is unclear, who covers what becomes problematic and nobody passes GO! It becomes even more problematic if the unit owners do not have their own HO6 policy (a personal unit owner's policy). Now the game becomes more intense!

The CC&Rs are for the benefit of the association and the unit owners. Both should know the insurance section of the CC&Rs well so when a claim is filed there are no surprises.

Below is actual language from an older set of CC&Rs. Note: the insurance section is silent on who covers betterments & improvements. Also, the Owner Insurance section uses the word "should" which requires no action. A better choice would have been to use 'shall'.

Insurance

1. Association Insurance: Adequate public liability, fire and property damage insurance covering the entire project except the personal property of the owners located within the project shall be obtained and thereafter maintained by the Association for the benefit of the owners and encumbrancers upon the project or any part thereof as their interests may appear. Such insurance shall comply as to form, content and insurer with the requirement of the encumbrancers. The premiums for said insurance are to be paid out of the maintenance fund with each condominium unit bearing 1/31st of the cost thereof.
2. Owner Insurance: Each owner should provide adequate insurance on his personal property located within the project.

Now, let's look at what a set of clear, well written CC&Rs look like.

Section 1.1 Association Insurance Requirement

The Association shall obtain and maintain the policies of insurance described in this Section 1.1.

- (a) fire and casualty Insurance

The Association shall obtain and maintain a policy or policies of fire and casualty insurance with extended coverage, special form, without deduction for depreciation for the full replacement value of insurable improvements *in the common area and property owned by the Association*.

Section 1.3 Owner Insurance Requirements

(a) Property damage and general liability insurance
Each owner is responsible for purchasing and maintaining an insurance policy(ies) that include the following coverages:

1. personal property insurance for the full replacement value of the contents within the owner's unit
2. *The replacement cost of the finishes and fixtures installed in the owner's unit including, but not limited to interior walls and doors, ceiling, floor and wall surface materials, utility fixtures, cabinets, built-in appliances, heating and air-conditioning systems and any equivalent replacements to the foregoing*
3. personal liability insurance
4. loss of use protection

As you can see, the above two examples are as different as night and day! If your association's CC&Rs insurance section is vague and unclear, it is worth the expense to at least update this section. Doing so will also help make all the parties 'whole' again in a much quicker time frame. The ideal ending is for all parties to be winners in the claims game. Well written CC&Rs, a unit owner condo policy (HO6) with betterment and improvements coverage, and good communication between the manager, the board, the claims adjusters and the unit owner will help what could have been a bad situation turn into a win-win situation! 🏡

Pamella De Armas has been active in the insurance industry, specializing in community associations since 2007. She founded Silicon Beach Insurance Services in 2015. In 2016 Pamella earned her CIRMS designation. Pamella is active with the CAI-Greater Los Angeles Chapter and has served on the board of directors for 2 terms. She currently serves as Co-Chair for CAI-GLAC Wine Night Committee



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presented by
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and Louie Brown, Esq.**
(Pictured – Steven Roseman, Esq.)



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Matthew Bland, CMCA, AMS, PMP Management, AAMC
(Pictured: Joe Smigiel, CIRMS, 2019 Chapter President with
Matthew Bland, CMCA, AMS, PMP Management)



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(Pictured: Teresa Agnew, Roseman Law; Lupe Aguilera,
Spectrum Property Services; and Lindsay Biren, Interstate Restoration)



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(Pictured: Brad Watson, CMCA, AMS,
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Running an HOA During a Pandemic

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

Everyone is actively monitoring the news for the latest updates on the Coronavirus Disease (COVID-19). We are all hopefully following the guidelines from the Centers for Disease Control and Prevention (CDC), the World Health Organization (WHO), and other local and national health organizations. Regardless, it goes without saying that members, homeowners, board members, community association managers, management company executives and business partners have

many questions about prevention, containment and how to move forward during this crisis.

First and foremost, please listen to the health care professionals and heed their advice. The CDC and other qualified health officials should be your primary source of information and guidance regarding the Coronavirus threat. HOA affairs, while important, are secondary to protecting the health and well-being of our communities. However, while the CDC and other healthcare

professionals can guide us concerning the medical risks, we understand that business must be conducted and the day-to-day affairs of running a community association must still be managed.

How to Hold Meetings, if Necessary

In this new era of “social distancing” the traditional method of holding in-person board and membership meetings needs to be reconsidered. For now, we should all consider postponing

any non-essential meetings for at least thirty (30) days and shelter in place as much as possible. This is the prevailing opinion as of the time of writing this article. However, information is changing at a rapid rate; so much so that this article may not even still be relevant by the time it is published. Nevertheless, most association issues are not so pressing as to warrant transmitting or being infected by the Coronavirus at an association meeting. Postponing meetings as much as possible to allow for adequate social distancing and self-quarantine at the outset of this pandemic is almost certainly the best approach.

With that said, there is an alternative built into the California Civil Code which allows for video or teleconference meetings to be held. Civil Code § 4090(b) sets forth the following requirements for an association to hold a virtual board meeting:

As always, the association must provide the notice and agenda for the board meeting in advance. Unless the meeting will be held solely in executive session, the notice must identify at least one physical location at which the association's members can attend the meeting. It is important to note that the law requires that at least one director or a person designated by the board must actually be present at that physical location.

Just like any other meeting a quorum of the board must be present. In the case of a teleconference board meeting, this occurs when a sufficient number of directors to establish a quorum "are connected by electronic means, through audio or video or both." In other words, the meeting can be conducted via conference call. Assuming proper notice was given and quorum established the meeting may proceed so long as all of the participants and attendees, including

the directors and the members, are able to hear one another. There are any number of devices which provide the capability for both audio and video teleconferencing but this can be accomplished as simply as using a telephone on speaker mode just so long as everyone can hear everyone else.

If an open board meeting cannot be postponed for whatever reason, please keep in mind that there may be federal, state, and local government restrictions in place regarding group gatherings which may be affected by having members congregate in a single location around a speakerphone or otherwise. Community associations should check with their local health officials to determine if any such restrictions are in place before noticing a meeting.

What Else Boards and Management Professionals Can Do

Community associations control and are responsible for their common areas. With that in mind, boards may want to consider taking action to limit any potential claims of negligence or premises liability which might arise in this situation. With that in mind, it would be a good idea to implement a schedule for extensive cleaning and disinfecting of common areas and common area surfaces and to properly document the same. This could include the installation of hand sanitizer dispensers or disinfecting wipes in the common areas for owners and guests to use. Additionally, boards should explore the possibility of closing certain common area amenities such as gyms, clubhouses and pools. Boards should discuss these options with their legal counsel before taking action.

In the event that common areas are closed in response to the COVID-19 pandemic notices should be posted explaining the board's reasoning and

provide an estimated time for when the areas are anticipated to reopen. Any such notices should direct residents and guests to seek additional information from the relevant governmental agencies.

In short, the health and safety of ourselves, our neighbors, family, residents, staff and management should be our highest priority at this time. Certain reasonable changes may need to be implemented in an effort to contain and mitigate the possible transmission of the COVID-19. If we can all continue to use sound discretion and make sensible efforts to adhere, as reasonably as possible, to the laws regulating the conduct of associations while following the recommended and mandated health guidelines we stand the greatest chance of minimizing the impact of this pandemic. [!\[\]\(cf531ed27e91483460120fcc057b3901_img.jpg\)](#)



Sean D. Allen, Esq., is a partner with the law firm of Roseman Law, APC, and is the head of the firm's HOA department.

Having exclusively represented homeowners associations and other common interest developments for several years, he has broad experience with issues and disputes that impact community associations. Sean is an active member of Community Associations Institute (CAI) in several Southern California chapters and has authored a number of articles pertaining to common interest development law and its application to community associations in California.

2020 Chapter Calendar of Events

MAY

- 7 **Dinner Program**, Courtyard Marriott, Oxnard, 5:45 pm
- 19 **Chapter Luncheon**, Los Robles Greens, Thousand Oaks, 11:30 am
(Chapter Board Meeting at 10:15 am)
- 20 **Central Coast Luncheon Program**, Ventana Grill, Pismo Beach, 11:30 am

JUNE

- 2 **Slam Dunk Community Faire**, The Embassy Suites at Mandalay Beach, Oxnard, 4:15 pm
- 10-13 **CAI Annual Conference**, Hollywood, FL
- 16 **Managers' Program**, Spanish Hills Country Club, Camarillo, 11:30 am
- 18 **Central Coast Dinner Program**, Ventana Grill, Pismo Beach, 5:45 pm
- 25 **Santa Barbara Luncheon**, Hyatt Centric, Santa Barbara, 11:30 am
- 30 **Chapter Luncheon**, Spanish Hills Country Club, Camarillo, 11:30 am
(Chapter Board Meeting at 10:15 am)

Note: Event dates, times and locations are subject to change. Please check the chapter website: cai-channelislands.org for the most current information.

Congratulations to the following managers for earning industry credentials

Amber Hindley, Community Property Management for earning the CMCA (Certified Managers of Community Associations) Credential.



Garret Guenot, PMP Management, AAMC for earning the AMS (Association Management Specialist) credential.



Thank you to the following board members for their years of service on the Chapter's Board of Directors



Martha Kellerhof, Carefree Living Association served as a homeowner member on the board from 2014-2019. Martha also serves on the Chapter's Community Faire Committee.



Tracy R. Neal, Esq., The Miller Law Firm for serving on the board from 2013-2015 and 2017-2019. During her time on the board, Tracy served as Secretary, Vice-President, President-Elect and President.



CAI-Channel Islands Chapter Celebrates Reaching 900 Chapter Members!

At the January Luncheon, Chapter President Steve Roseman made a toast to recognize this milestone... "Cheers to Channel Islands Chapter – We look forward to continued growth and success for the chapter!"



Thank you

to the following members for renewing your membership with CAI!

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Mark Frink, The Highlands of Ranch Grande • Dale T. Hanson, The Highlands of Ranch Grande • Elisabeth Koch-Murray, Wildwood Ranch • Linda Legman, Villaggio Mountain Meadows • Ursula Norby, Puerta Del Mar • Carol Stamey, Carefree Living Association • Pat Stone, Oak Ranch Estates • John Weigle • Madelene Young-Ellis, Oaknoll Condominium

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Jessica Cisneros, Buenaventura Gardens • Shauna A. Gatlin, CMCA, FirstService Residential • Amber Hindley, CMCA, Community Property Management • Jeff Lucero, Premier HOA Management, Inc. • Renee Martinez, Farrell Smyth, Inc. • Matthew Meadors, CMCA, AMS, HOA Organizers, Inc. • Louis Melini, III, Community Property Management • Katherine Papa, Community Property Management

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MANAGEMENT COMPANIES

CID Management Solutions, Inc. 27

Community Property Management 16

Concord Consulting & Association Services 8

PAINTING

Austin's Painting..... 17

EmpireWorks Reconstruction & Painting..... 16

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Precision Painting..... 30

Sherwin-Williams 4

Whitestone Industries..... 28

PEST CONTROL

Animal & Insect Pest Management, Inc. (AIPM) 11

Cragoe Pest Services, Inc..... 8

Critter Busters 7

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Thousand Oaks Plumbing..... 17

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Suncrest Pool & Spa Service..... 30

PROPERTY MANAGER APP

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RESERVE STUDIES

Association Reserves, Inc. 15

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Schedule of Events

May 7

Dinner Program

The Courtyard Marriott, Oxnard

May 19

Chapter Luncheon

Los Robles Greens, Thousand Oaks

May 20

Central Coast Luncheon Program

Ventana Grill, Pismo Beach

For more information or to register,
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