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**THIRD QUARTER 2019**

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

## Droning On AND On

Should Associations Use Them to Catch Violators in the Act?



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**Help! We Can't Find an Available Contractor!**

**Surplus Funds at the End of the Year is a Good Thing, Right?**

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# president's message



Dear Members,

I hope everyone is enjoying the summer. Our chapter has had another few months of encouraging activity that I am happy to share with you.

On Legislative Action day, the Channel Islands Chapter had the privilege of sending seventeen members to the offices of California Assemblymembers Jaqui Irwin and Monique Limon, as well as State Senator Hannah-Beth Jackson. While Sacramento can seem distant to us down here in SoCal, the policies created by our state representatives shape the day-to-day details of our businesses and lives, often in significant fashion. CAI is grateful to have such strong representation with our members taking advantage of their access to our local public servants.

The scale of our collaborative efforts is not limited to the state government. At CAI's statewide planning meeting we continued our discussion on board member training, improving the market value for credentialed managers and developing a junior college program to train potential community association managers.

Furthermore, we have another statewide event upcoming in October. With programs for community managers, board members, and homeowner leaders, the Legal Forum on October 18 in Newport Beach is a can't-miss opportunity. Speakers and guests will provide updates and information regarding legal issues at both local and state levels. Attendees will benefit from seeing legislators, attorneys, a trade show featuring over fifty-five industry vendors, and keynote speaker, CLAC Advocate Louie Brown, Esq. Please find more info and register at [www.caionline.org](http://www.caionline.org).

This is also the time of year to start considering your own role in the organization. CAI-Channel Islands has enjoyed strong growth because of the contributions from our dedicated volunteers and strong leadership. We would love to have you join a committee and be a part of the team to whatever extent you can. We need all hands on deck as we are fast approaching the 900 member milestone! If interested, please email our Executive Director Leah Ross at [leah@cai-channelislands.org](mailto:leah@cai-channelislands.org).

The Chapter has had a terrific first half of 2019 and I encourage you to continue to engage with the chapter as we move into the second half as there are many opportunities for networking, education, advocacy and more. Thank you for your participation and membership with CAI-CIC!

Joe Smigiel, CIRMS

Joe Smigiel, CIRMS

CAI-Channel Islands Chapter President



By Andrew M. Jun, Esq.  
Tinnelly Law Group, PC

# Droning On AND On

Should Associations Use Them to Catch Violators in the Act?

**QUESTION:** *One of my boards is starting to ask in what situations it would be appropriate for an association to use a drone. Can drones be used to inspect the building exteriors or be used to monitor other areas where violations regularly occur?*

**ANSWER:** Serial dog poop litterers, unauthorized parking of vehicles, architectural violations, smoking nuisance—the list goes on and on when it comes to common “repeat violations” that a homeowners’ association (“HOA”) encounters on a day-to-day basis. With the increasing number of repeat violations and limited number of HOA board members and property managers, questions have surfaced whether or not HOA’s may, *or should*, utilize drones to enforce violations. Specifically, HOA boards are concerned with the legal implications that such utilization may impose because, well, why wouldn’t an HOA board want to send out a drone to inspect an architectural violation or monitor a smoking nuisance in lieu of physically walking the property to do the same? In addition to the convenience factor that drones provide, it gives HOAs the added benefit of having concrete, recorded evidence should the violation escalate to the level of arbitration or judicial enforcement.

From a legal standpoint, the two primary areas of law that factor into HOA drone usage are (1) privacy law and (2) property law.

## Privacy

While there are numerous privacy laws and regulations, for HOA purposes, *California Civil Code* §§ 1708.8 (a) and

(b) (collectively, the “Provision”) are the most applicable in regard to drone surveillance and enforcement. The Provision prohibits both “physical” and “constructive” invasion of privacy. Physical invasion of privacy requires the element of intentional trespass onto the land or airspace of the home (discussed further below) while constructive invasion of privacy does not require the element of physical trespass onto land or airspace.

In any event, both Provisions hold one liable for invasion of privacy when same utilizes a drone to “capture any type of visual image, sound recording, or other physical impression of the plaintiff [e.g., homeowner] engaging in a private, personal, or familial activity and the invasion occurs in a manner that is offensive to a reasonable person.” (Emphasis added.) Ah yes, the “reasonable person” standard comes into play here as it does in almost 99.99% of standards used to dictate liability. Interpret it exactly how it sounds. If an HOA is utilizing the drone to capture a serial dog poop litterer in the community park, it certainly would not offend a reasonable person walking their dog in the park, nor would the violating individual have a “reasonable expectation of privacy” (a standard also used to adjudicate privacy suits) on common area owned by the HOA.

On the other hand, if an HOA is investigating a nuisance matter of excessive cigarette and/or marijuana smoke, can the HOA operate a drone from the common area zooming into the living room? Probably not. While one may make the argument that if the smoking activity was viewable in plain sight from common area streets (e.g., curtains wide open) that the individual has no reasonable expectation of privacy,



it is likely to fail because the principle of an individual's right and expectation of privacy within his/her home is held to an extremely high standard. Furthermore, it is best practice for HOA's to err on the safe side of caution and avoid potential exposure to liability.

### Property

In addition to looming privacy concerns, HOAs need to be aware of property laws that protect homeowners from drone usage; in particular, communities that consist of single family homes wherein the homeowner owns the airspace above the land. In the early stages of property law (also known as "common law"), the principle that controlled for centuries was "[w]hoever's is the soil, it is theirs all the way to heaven and all the way to hell." Of course, this has changed over the years with the evolution of mankind and (flight) technology starting with the groundbreaking U.S. Supreme Court case *United States v. Causby*, wherein the Court held that homeowners owned the airspace above ground level up to 365 feet (anything above that was public domain).

Today, homeowners own the airspace 500 feet above ground level in "uncongested areas." (14 CFR § 91.119(c).) This is the standard generally applied to airspace demarcation in residential communities (i.e., HOA's). See *Lacey v. United*

*States*, 595 F.2d 614 (1979); see also *Aaron v. United States*, 311 F.2d 790, 801 (1963). The idea behind this is to give homeowners property rights to their parcel of land as high above it as "normal use of the land" requires. As such, unless the drone is capable of operating in excess of 500 feet above ground level (at which point no practical HOA purpose will likely be served), under very limited circumstances should a drone ever be hovering above a homeowner's physical land or airspace.

### Summary & Recommendation

HOAs should utilize drones to enforce violations of their governing documents *where appropriate*—this should be considered on a case-by-case basis. Whether it is a serial dog poop litterer or smoking nuisance matter, it is advised that HOAs that are intending on utilizing drones use sound judgment, and more so, consult with their general counsel. Keep in mind that in order to operate a drone for HOA-related purposes, the HOA will have to apply for an exemption from registering drone with the Federal Aviation Administration ("FAA").

From our experience, with any recording devices implemented by HOAs, it is best practice and strongly recommended for HOAs to adopt a "Surveillance Camera Policy" or "Drone Policy," wherein rules are implemented to regulate such devices and afford protection to the HOA. [⬆](#)

**Andrew M. Jun, Esq.** is an attorney at Tinnelly Law Group, PC, a law firm which has been devoted exclusively to providing legal representation to California community associations for 30 years.



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## 2019 LEGISLATIVE UPDATE

### New Legislation Affecting Your Association

#### PROGRAM SPEAKERS



#### **JAMES PERERO, ESQ.**

Myers, Widders, Gibson, Jones & Feingold, LLP  
James Perero is an attorney 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.



#### **STEVEN A. ROSEMAN, ESQ.**

Roseman Law, APC, CAI-CLAC Delegate  
Steven Roseman, Esq. is the founder and managing partner in the law firm of Roseman Law, APC. During the past (20) years, Mr. Roseman has represented homeowners associations and their boards handling their Association legal matters. Mr. Roseman is an active member of both CACM and CAI and currently serves as the Channel Islands Chapter's Delegate for CAI-CLAC.



#### **LOUIE BROWN, ESQ.**

Louie Brown, Esq., CAI-CLAC Advocate  
Louie A. Brown Jr. is a partner with Kahn, Soares, & Conway, LLP and 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 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.

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# The Bidding Process - Keeping it Ethical from the RFP to Awarding the Contract

By Sheldon Chavin, CPM, CCAM  
Community Property Management

**QUESTION:** *How should the bid process for a large paint job be handled in the most ethical manner?*

**ANSWER:**

## **The Job Specification**

The bid process should begin with a detailed bid specification, typically prepared by the painting company. The bid specification should completely outline the job as to the type of paint product, one or two coats, primer or no primer and all necessary preparation required to be done by the contractors.

## **The Request for Proposal (RFP)**

The board/manager should develop a list of qualified companies that can provide a bid. The board/manager may wish to do some very limited reference checking in developing the list. The bid specification should be sent with a RFP (request for proposal). The RFP should contain the date for a bidder's walk of the job, when the bid is due and where the bid is to be sent. The RFP should require that *all bids be received in a sealed envelope*. If the bids are given to management, those sealed bids should be brought, still sealed to a regular board meeting and opened in the presence of the board.

## **Comparing Bids & Selecting the Contractor**

Once the bids are opened, a matrix should be prepared for ease in comparing the bids to be sure that the same





specifications are being bid on and it should contain the bid price for each contractor. At a board meeting, the board would vote to select the most qualified bid. The board may choose to review the matrix and select the most qualified bidder either in an executive session (as a third party contract) or in open session. After the contractor has been selected, additional reference checking may need to be completed in order to confirm this bidder is capable of doing the job and providing good, quality work.

The selected contractor should be asked to submit their contract, insurance and workers compensation insurance information. If it is a large association, the contract should be reviewed by the association's general counsel before the

board signs. A start date should be included in the contract along with a payment schedule. The contract should be executed by the board and an agreed upon work schedule should also be included. The bids and contract can be shared with an owner should the owner request to review.

Now that the contract has been awarded, this is a good time for managers to take a few minutes to notify the other vendors who did not get the job. They are always appreciative when this professional courtesy has been extended to them. 🏠

*Sheldon Chavin has been in management of Common Interest Developments since 1985. He earned a CCAM through California Association of Community Manager, and a CPM Certified Property Manager through Institute of Real Estate Management.*

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# Help! We Can't Find an Available

## Natural disasters and their repercussions down the road.

By Alfie Borkowski, ABC Builds, Inc.

**QUESTION:** *We are having a difficult time getting timely responses from contractors, tree trimmers and painters because they are working with fire victims. If a client signs a contract with a vendor in February and the vendor can't get to the work until August, what are we to do?*

**ANSWER:** We all know good help is hard to find. Coupling that with devastating fires and a strong economy makes even simple tasks a challenge to complete. The HOA world has long suffered from contractors who either don't have the proper insurance coverage or simply do not wish to deal with HOAs and that one resident who wants to throw a wrench in every project the board approves. Not to mention the ever present risk of potential litigation from dealing with an exponential number of residents. The state of current affairs has caused managers and boards to think outside their usual practices. As consumers we have to educate ourselves by understanding as many aspects of the industry as possible. That may mean putting yourself in the shoes of your vendor. The game plan to find competent, qualified vendors to complete projects may include one or all of the procedures listed below.

Bear in mind that there are three basic rules: time, costs and quality. The three are not mutually exclusive and should be used together to get the best outcome. Trading one will have an impact on the other two. Often projects are bid on, and due to decisions or lack of decisions, those projects are not approved in a timely manner. Then, when they are approved, the board believes the contractor has been waiting for the task when in



actuality the contractor has moved on. To avoid this scenario, encourage your board to make decisions in a timely manner, before conditions have worsened or litigation has resulted. On the other hand, we were recently tasked with bidding a rather complicated project and given just two weeks to submit. Our subcontractors were not able to gather the necessary information in that limited time frame, and we had to decline to bid on the project. Be realistic and allow time for accurate bidding. Rushing a project may result in higher costs.

Construct a clear scope of the work for bidding. Establish the project goal. Describe the intended outcome and or assumptions. List specific constraints (i.e. budget) or restrictions the contractor must adhere to. Timelines are also important to define. Package this in a way to present to all prospective bidders in a clear format. The result should be an 'apples to apples' comparison for the board to review.



# Contractor!


Choose the contractor who has the proper qualifications for the task. This will limit you to an even smaller number of contractors, however, your result will likely have a better outcome.

Another strategy may include bundling small projects to make them more valuable to a contractor. For instance, it can cost a vendor as much to bring a crew out for a 4 hour task as it does for a full day. Bundling will make your dollar go further and make your project(s) more enticing to those involved.

Ensure swift payment. Why would a contractor wait 30, 60, 90 days for payment when they can get a check from a homeowner at completion, right on the spot? Consider having checks cut and signed in advance and ready for

pick up after you have reviewed the work. Have the contractor define the payment schedule in the contract. You can retain a percentage (10% is industry standard) until all parties are satisfied. This will help your vendor meet material and labor costs and make you a standout in future work.

Use the CSLB website as a tool. The website can assist you in seeing if a contractor has a current license, any complaints, workers compensation insurance, etc. On certain projects you may have the contractor submit 'Conditional and Unconditional Waiver and Release Forms' found on the CSLB website. They don't have to compose their own. The contractor can complete these forms online, print, sign, date and submit them with little effort on their part. Having them use the CSLB form will ensure that they are current and valid should the need arise.

Build relationships. It's time for you to be the builder. The contractors who are loyal and proven in these times will serve you well in future emergencies, seasonal work, reserve goals, etc. You are building your team through better understanding their objectives. A contractor who is familiar with a property and its history can be very valuable in the future needs of the community. 

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*Alfie Borkowski has worked in the construction industry for over 30 years. He owns and operates ABC-Builds, Inc., specializing in HOA infrastructure, since 2003.*



  
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# Surplus Funds at the End of the Year is a Good Thing, Right?

**By Jeremy Newman, CPA**  
*Newman & Associates CPA, PC*

“I want my money back!”

We’ve all said or heard it before, but how often does it end in our favor? This is especially true regarding surplus funds in a common interest realty association. Put simply, requesting a refund of an association’s surplus may not always be in your best interest.

Most associations typically have at least an operating fund and a reserve/replacement fund. The operating fund typically acts like a checking account that covers the normal daily expenditures of an association such as common area maintenance, utilities, landscaping, insurance, management services and so forth. The reserve fund functions more like a savings account and it pays for extraordinary and less frequent items such as significant repairs and/or replacements.

Many associations prepare a budget for each fund at the start of each year in order to estimate the foreseeable costs that will be incurred during the upcoming year and to ensure that enough member assessments are collected to cover such amounts. A common saying is that hindsight is 20/20. Likewise, a budget is not always “on the money”, causing the association to have either a surplus or a deficit in one or more of its funds.

Having one fund in a surplus position does not necessarily mean that the other fund will also have a surplus. Each fund covers its own respective costs, and such costs may be less than expected for one fund, but more than anticipated for the other fund. As such, it may be prudent to change the upcoming year’s budget to allocate less of the assessments towards the surplus fund and more to the deficit fund, rather than refunding the excess with an increase to future assessments.

For income tax purposes, associations can either file Form 1120-H, Form 1120, or Form 990. Very few associations qualify to be truly tax-exempt organizations which file Form 990. Most associations make an election to file Form 1120-H if they qualify, as the form represents the safest and simplest method of filing each year. If the association does not meet the requirements to file Form 1120-H, then the association must file Form 1120. The Form 1120 has a significantly higher IRS audit risk and, furthermore, has very complicated tax rules to follow. It is often prepared incorrectly due to these rules and the lack of certainty and guidance in the tax law applicable to Form 1120.






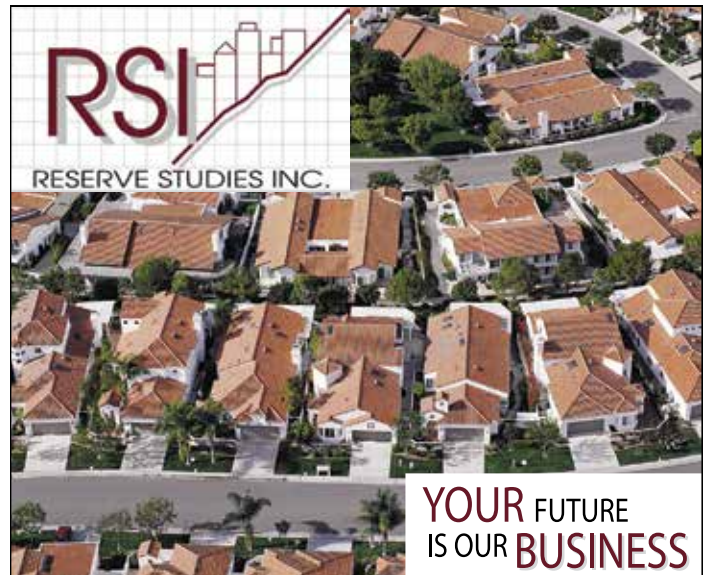
According to Section 528 of the Internal Revenue Code which governs whether or not an association can file Form 1120-H, an electing association must have “no part of the net earnings of such organization inures ... to the benefit of any private shareholder or individual.” This means that if an association sought to refund a surplus in a fund to its members, it would have to prove that in doing so it did not violate this test. While sounding simple enough, this has the potential to be a legal and administrative challenge with serious tax implications if completed incorrectly. If even one member receives more than what is that member’s due, the test will fail and Form 1120 will have to be filed instead.

Proper fund accounting is a very important and often overlooked matter for associations that must file Form 1120. Form 1120 factors “income” into three categories: Membership, Nonmembership, and Section 118 Capital Contributions. Membership income is taxable to the extent that it exceeds membership deductions. Nonmembership income is taxable to the extent that it exceeds nonmembership expenses. Capital contributions are deemed nontaxable so long as they are properly accounted for. The most significant risk the Form 1120 poses is the reclassification of items normally deemed nontaxable (i.e., capital contributions) to be treated as

taxable member income instead. This can result in an immense income tax liability that the association could have otherwise avoided. While Revenue Ruling 70-604 can help to alleviate this dilemma, this election is made every other year thus disallowing the accumulation of excess funds. Deferred excess income does not disappear; it has to be included on the next filing of Form 1120.

Consulting with an association tax expert is recommended! 

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# When it Comes to Your Landscape Company, Are You Getting Exactly What You are Paying For?

**By Tyler Slade**

*Slade Industrial Landscape, Inc.*

**QUESTION:** *Why is it costing HOA's more than ever for landscaping services? Whenever it rains and the crew can't work, we don't get a credit on our bill and the company doesn't make up the work. Why is drive time deducted from the 8 hour work day? What can our board do to make sure the company is doing their job?*

**ANSWER:** Unfortunately, when meeting new boards these types of complaints are all too familiar. During the previous 6 decades, there have been many economic factors and business trends that have directly affected the landscape industry.

Beginning in July of 2017, landscapers in California experienced a 12% increase in minimum wage followed by a 9% increase in 2018, a 7% increase in 2019 and a projected 5% increase in 2020. (These statistics apply to corporations in LA county with over 50 employees.) As minimum wage goes up, so will payroll taxes, workers compensation insurance and general liability insurance. Simply put, by 2020 corporations in California will have endured over a 40% increase in operating costs since 2016. The inevitable outcome is an increase in the cost of doing business which is then passed on to the client.



When it comes to rainy days it has always been an industry standard to avoid sending crews out. The liability of having trucks on the road during rains puts crews in unsafe situations. Some boards do ask for credits but it is very rare that this occurs. In most contracts the price that is determined is based on an anticipated amount of rain days. So, in the years that there is little to no rain, the vendor will have to absorb the difference. In the event that there is a lot of rain, most vendors will apply additional labor where needed to get the property caught up.

The 8 hour work day seems to be a question that continues to resurface. This frankly, is a tough question to answer. The answer varies from company to company. Including drive time in the total eight hours is not highly unusual. However, when the property looks good and the job is getting done this concern tends to fade away. It is when the





as possible. Hiring a new vendor takes time, costs money and can be a strenuous and extensive process. When a board finally does hire a vendor the last thing they want is to have to terminate this vendor and start the process all over again. Take your time looking into the company of interest to you and see if their values and business ethics aligns with yours. Are they looking for a long-term partnership or simply just to close the sale and move on? Is their action plan for your community genuine and authentic or does it feel arbitrary??

Finding the right landscape company isn't always easy, but when you do, it can change the way you experience and live in your community for years to come. 🏡

**Tyler Slade** worked part-time for Slade from 1998 until 2002 when he graduated from Antioch University with a degree in Business Administration with an emphasis in management. After college Tyler entered into sales and marketing in the apparel industry. Devoting over 10 years in the business Tyler had the opportunity to work on marketing and branding campaigns for some of the largest apparel companies in the world including GUESS, Levi's, 7 for all Mankind, BEBE, OBEY, Big Star and True Religion.



Tyler has applied his business and sales knowledge to Slade to help position the company for future growth and long-term success.

property maintenance is behind that board members get frustrated and, rightfully so.

To address the final and perhaps most important question "What can our board do to make sure the company is doing their job?" The best way to do this is to go on job walks at least once a month with the landscaper. When a board and a vendor walk together it allows the board to point out concerns they may have while also allowing the vendor to offer recommendations on what they think needs to be done to improve the landscaping. Open communication keeps everyone on the same page and usually assists in solving problems before they become larger issues. In the long run, hopefully the vendor will understand the customer's needs more clearly, therefore becoming more proactive in their approach.

At the end of the day, the goal is to eliminate as much risk



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# 2019 Legislative Update

By **Brian D. Moreno, Esq.**, *SwedelsonGottlieb*



It is an understatement to say that the 2019 legislative session has been a busy one for CAI's California Legislative Action Committee (CLAC). CLAC has been opposing and continues to fight SB 323, which is similar to legislation Governor Brown vetoed last year. CAI members and CLAC have been extremely involved in speaking with legislators while these proposed bills are pending, in an effort to strike a balance between the rights of individual homeowners with their associations. Below are a few of the hot bills that, if passed, will have a significant impact on community associations in California.

## **SB 323 (Wieckowski) – The Elections Bill (Take Two)**

Here we are again. In 2018, CAI and its members vigorously opposed Senator Wieckowski's attempts to prevent community associations from establishing director qualifications. Governor Brown ultimately elected to veto the bill that would have threatened owners' privacy and would have made other fundamental changes to the way associations conduct their elections. Governor Brown's reasoning for the veto was persuasive:

California has over 50,000 common interest developments varying in purpose and size. Each one has governing documents that are tailored specifically for that individual community. This bill takes a once-size-fits-all approach, but not all homeowners associations are alike. If changes to an election process are

needed, they should be resolved by members of that specific community.

Despite Governor Brown's sensible objection to the 2018 election bills, on February 15, 2019, Senator Wieckowski re-introduced similar legislation found in SB 323. After amendments, the current bill would include the following significant revisions to the Davis-Stirling Common Interest Development Act:

1. The bill would require associations to allow any convicted felon to serve on its Board, even though Corporations Code section 7221 allows a board of directors to remove a director that has been convicted of a felony. As a practical matter, a director with a financial-related felony conviction (i.e., theft, embezzlement, etc.) may create significant difficulties for associations that wish to (or are required to) obtain a fidelity bond as part of the association's master insurance policy. Eliminating an association's ability to prevent a financial felon from serving on the board could be disastrous for the community, both from an insurance standpoint and the standpoint of a board of directors seeking to preserve the security of the association's bank accounts.
2. SB 323 would also prohibit associations from ever suspending an owner's right to vote. An owner could stop paying assessments and materially violate the governing documents; yet, under SB 323, that

delinquent and unfit owner would be able to run for the board and serve.

3. The bill would allow owners to review the signatures of all other owners on the outside mailing envelopes, and to copy voter lists, including parcel numbers. In other words, as a condition of casting a ballot, owners must give up their right to keep their signatures private, which goes against long-standing privacy laws that have protected owners over the years.

SB 323 imposes other adverse requirements relating to CID elections that will deter owners from voting (by requiring them to sacrifice their privacy), increase the costs of elections, result in costly amendments to governing documents, jeopardize the security of association bank accounts and insurance, and allow wrongdoers to vote on important community issues. CAI-CLAC opposes this bill and is working hard to defeat it through the grass roots efforts that were successful in 2018. Please respond to CLAC's calls to action by contacting your representative or other key legislators and urging them to defeat SB 323.

## **Assembly Bill 670 (Friedman) – The Granny Flat Bill**

Assembly Bill 670 seeks to void any provision in a community association's governing documents prohibiting an "accessory dwelling unit" on a single-family lot. Some refer to this as a granny flat. An "accessory dwelling





unit” is a second unit on a lot, either detached or contained within the walls of the house on the lot, and including cooking, sleeping, and bathroom facilities. Accessory dwelling units may also have relaxed setback and parking requirements. CAI-CLAC opposes this bill. This bill has passed the legislature, and is heading to the governor’s desk for signature. If signed into law, it will allow a community association to impose reasonable restrictions, provided the restrictions do not effectively prohibit or unreasonably restrict these units. This is again another attempt at micro-managing a community association whose governing documents contain architectural restrictions designed to maintain aesthetic consistency. An association should be able to decide the architectural features, designs, and looks of a community for purposes of maintaining or increasing property values.

### **Senate Bill 326 (Hill) -- The Balcony Bill Restated & Defect Litigation Preservation**

Senate Bill 326—which is supported by CLAC—would require community associations to inspect balconies to assure that they are safe. In 2018, CLAC helped to defeat provisions which would have required community associations to perform invasive testing on balconies every six years. This year, CLAC assisted Senator Hill in creating a process which makes sense for community associations while at the same time meeting the public policy goal of protecting

residents’ safety. Every nine years, condominium associations would be required to conduct a visual inspection of a balcony and if evidence of water intrusion is found, the inspector would use his or her best professional judgment in deciding on any further needed investigation. The inspector would write a report including the current condition of the balcony, expected future life and anticipated performance, and any repair recommendations. The inspector would also notify the local code enforcement agency of any imminent threat to personal safety. The first inspection must be completed by January 1, 2025.

In addition, the bill provides that an association’s governing documents shall not impose any preconditions or limitations on the board’s authority to commence and pursue legal action against the declarant, developer, or builder for construction defects. In fact, the bill declares unenforceable, null, and void as against public policy any limitation or precondition on an association board of director’s authority to pursue legal action against a declarant, developer, or builder, unless that limitation or precondition is lawfully adopted by members of the association not affiliated with the declarant after the declarant has relinquished control of the board and no longer owns a majority of units in the association. ⬆

## **GET INVOLVED!**

If you are interested in serving on the Chapter’s Legislative Support Committee or would like more information on how your community can support CLAC, please contact Executive Director Leah Ross at [leah@cai-channelislands.org](mailto:leah@cai-channelislands.org).



**Brian D. Moreno, Esq., CCAL** has been practicing common interest development law since 2003. Brian is an active member of CAI in several Southern Cal-

ifornia chapters and has authored a number of articles pertaining to common interest development law and its application to community associations in California. Additionally, he has been a featured speaker at CAI events as well as an approved instructor for various chapters in Southern California and serves on the Channel Islands Chapter’s CLAC Committee. In 2013, he was the 20th California attorney to be admitted to CAI’s College of Community Association Lawyers.

## 2019 Chapter Calendar of Events

- Sept. 12** Central Coast Dinner Program, 6 pm,  
Ventana Grill, Pismo Beach,
- Sept. 19** Santa Barbara Luncheon, "Mythbusters",  
11:30 am, Hyatt Centric Santa Barbara
- Sept. 24** Chapter Luncheon "Fight Night or Fight Nice?!",  
11:30 am, Los Robles Greens, Thousand Oaks
- Oct. 5** Board Leadership Workshop (Session 1),  
8:30 am, Courtyard Marriott, Oxnard
- Oct. 8** Business Partner Appreciation Luncheon,  
11:45 am, Los Robles Greens, Thousand Oaks
- Oct. 12** Board Leadership Workshop (Session 2),  
8:30 am, Courtyard Marriott, Oxnard
- Oct. 18** CAI Legal Forum: CA Communities,  
8 am, Newport Beach Marriott
- Oct. 29** Community Faire, 4:15 pm,  
The Westlake Village Inn, Westlake Village
- Nov. 7** Central Coast Dinner Program,  
5:45 pm, Ventana Grill, Pismo Beach
- Nov. 12** Santa Barbara Luncheon,  
11:30 am, Hyatt Centric Santa Barbara
- Nov. 19** Chapter Luncheon "Annual Legislative Update",  
11:30 am, Los Robles Greens, Thousand Oaks
- Dec. 10** Chapter Luncheon, 11:30 am,  
Los Robles Greens, Thousand Oaks

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

## Annual Local Legislative Action Day

The Channel Islands Chapter hosted its Annual Local Legislative Action Day on Monday, August 5. This day is an opportunity for chapter members to engage with local legislators at their offices and express the interests of Community Association homeowners. By meeting face-to-face with elected officials, CAI members have helped legislators understand how pending legislation can directly impact the homeowners associations industry. Thank you to our many members who participated in this year's meetings! And thank you to Assemblymember Irwin and the offices of Senator Hannah-Beth Jackson and Assemblymember Monique Limón for meeting with the committee.

For more information on how you can reach out to our local legislators, visit [www.caiclac.com](http://www.caiclac.com).

### *Thank you to the following members for attending the Chapter's Local Legislative Action Day!*

**Sean Allen, Esq.**, Roseman Law APC • **Beth Daniel**, Community Property Management (CPM) • **Matt Bland**, CMCA, AMS, PMP Management, AAMC • **Colby Bloom**, CPM • **Tatiana Brunstad**, Lordon Management • **Miah Calderon**, CCAM, CMCA, CPM • **Tami Chavin**, AMS, PCAM, CPM • **Marilyn Matthews**, Harbor Lights Homeowners Association • **Louis Mellini**, CPM • **Katie Papa**, CPM • **Phyllis Pazen**, Lakeside Village Association • **James Perero, Esq.**, Myers, Widders, Gibson, Jones & Feingold, LLP • **Leah Ross**, CAI-Channel Islands Chapter • **Chelsi Rueter**, CCAM, CMCA, AMS, PCAM, CPM • **Carrie Simmons**, CPM • **Randy Stokes**, Surfside III Condominium Association • **JoAnne Young**, Lordon Management





# Thank you

*to the following members for renewing your membership with CAI!*

## Individual Homeowner Leader Members

Dr. Gary Davis, Casa San Carlos Homeowners Association  
Stanley Davis, Village Green Property Owners Association  
Adriene Forester, Villa Constance North  
Michael Moore, Rancho Santa Rosa POA  
Myrene Smith, Carefree Living Association

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Sevilla Condominium Association  
Whaler's Village Townhomes Association  
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## Schedule of Events

**September 19**

**Santa Barbara Luncheon**  
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**September 24**

**Chapter Luncheon**  
"Fight Night or Fight Nice?!"  
Thousand Oaks

**October 5 & 12**

**Board Leadership**  
**Development Workshop**  
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