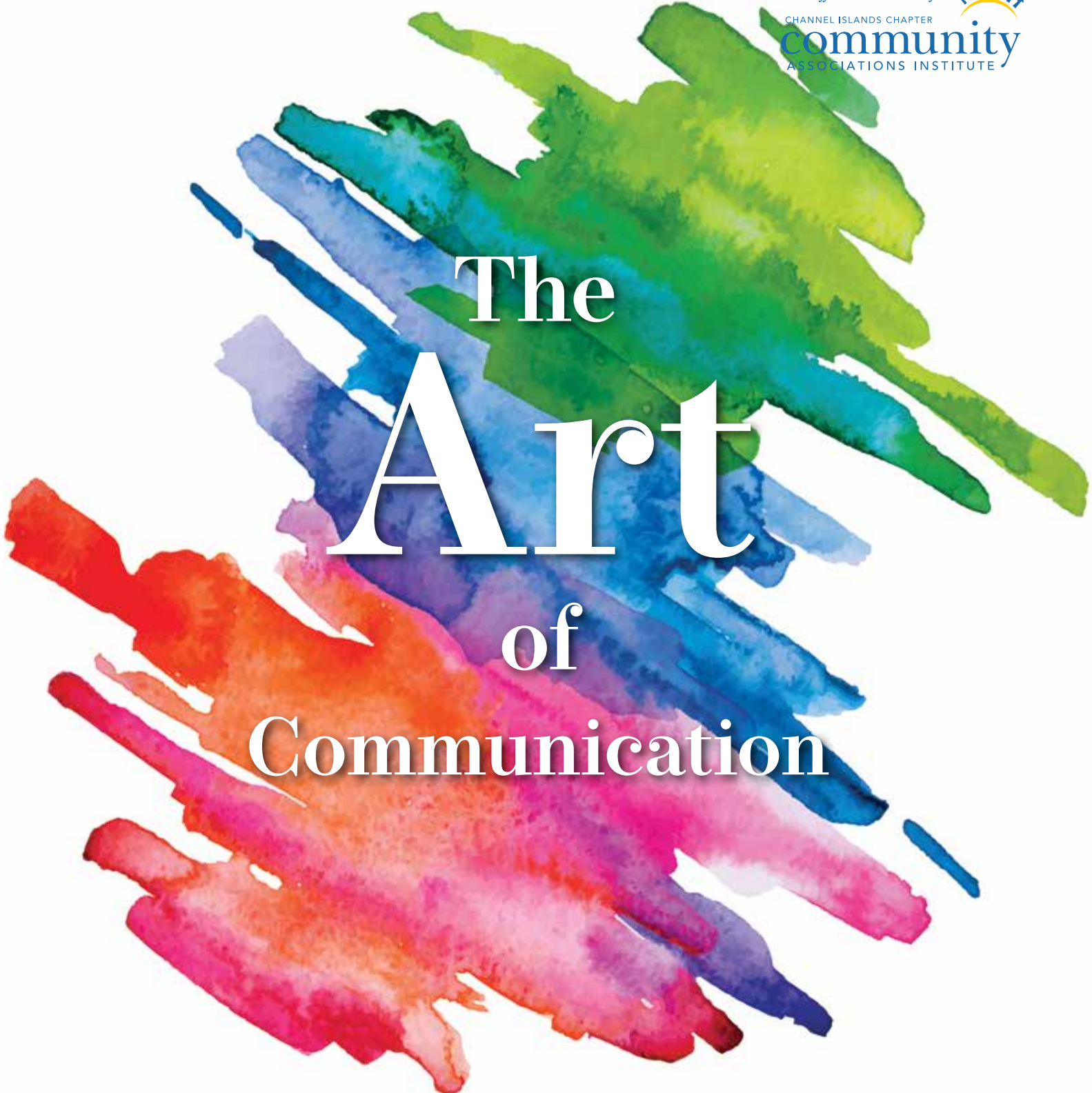


Channels of Communication

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SECOND QUARTER 2019

The Official Publication of
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The Art of Communication



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Channels of Communication is a quarterly publication of the Channel Islands Chapter of Community Associations Institute prepared expressly for Association leaders, managers and other related community association professionals. This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is issued with the understanding that the publisher is not engaged in rendering legal, accounting or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

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president's message



Dear Members,

As we look back at the first quarter, we should recognize the encouraging progress made in regards to the goals we established at the onset of the year.

One of our goals was the initiative to provide additional support to our manager members through the manager certification rebate program. Our rebate program not only encourages career advancement but also provides continuing education and the opportunity to better serve the communities they manage. Big congratulations are in order for the following managers that have taken advantage of the program and have earned one or more certifications -

Rebecca Barnhardt, CMCA, AMS

Matthew Bland, CMCA, AMS

Miah Calderon, CMCA

Sabrina French, CMCA, AMS, PCAM

Garett Guenot, CMCA

William Whitt, CMCA

Another area of focus is the opportunity to continue to increase the chapter membership. I am proud to announce that we have officially reached 850 members, thanks to a more than 10% growth in the last year. In line with efforts to expand member benefits, this month, members will receive a copy of our 2019-2020 Membership Directory Resource Guide. We encourage you to utilize this along with our online service directory, www.cai-channelislands.org, when looking for vendors who specialize in the homeowners associations industry. These vendors are our business partner members who actively participate in the chapter and support educational opportunities, for which we are deeply grateful. So please keep them in mind for your community association's needs.

Please be sure to visit the chapter website often. Other examples of online resources for members include forms and templates for your community association, digital copies of this magazine, opportunity to register for upcoming events, and blog posts to help keep you up-to-date on the industry. The chapter's website along with our national website, www.caionline.org, has something for everyone and is worth exploring. And, recently released, the Homeowner Resource Website, hoaresources.caionline.org, will provide homeowner association leaders with additional information and tools.

Our forward thinking inspires us to prepare for the future at all levels. Therefore, we are happy to recognize that our President-Elect, Steven Roseman, Esq., recently returned from leadership training at the CAI Annual Conference in Florida. He will be all the more equipped and prepared to keep our chapter growing and thriving as he takes the lead, working with the chapter's board of directors in 2020.

I hope you are all proud of the progress we have made in the last few months and I am excited for further advances in education and membership as we begin the summer. The chapter is hosting two events in June and we hope you can join us for these opportunities – June 20 – Central Coast Dinner Program: "The Great Debate – Parking, Pets & People" June 25 – Chapter Luncheon Program (Oxnard): "Busting the Myth-Assumption vs Reality"

For more information and to register, visit www.cai-channelislands.org.

Thank you to all of our members for your hard work, dedication and leadership in the industry. Have a great summer and be sure to enjoy the warm weather.

Your 2019 President,

Joe Smigiel, CIRMS

CAI-Channel Islands Chapter President



The Art of Leading a Successful Board Meeting

By Jason M. Adams, Esq.

Gibbs, Giden, Locher, Tuner, Senet & Wittbrodt

Let's face it – no one looks forward to attending an association board meeting. At best, a board meeting is just another to-do item on a board member's already busy schedule. At worst, a board meeting is a multiple hour scream fest where volunteer directors who are doing their best to run a corporation get publicly scrutinized by the same neighbors they see every day.

In the association members' defense, many boards bring the negative aspects of board meetings upon themselves by how poorly they run their meetings. Board members often try to hide their ill preparedness behind incomplete or inaccurate information which makes it seem like the board has something to hide. This makes the members understandably suspicious, and more likely to become adversarial at meetings.

With the foregoing realities in mind, the issue becomes how to diffuse this inherent powder keg of a situation and make board meetings successful. The first task is to define what a "successful" board meeting is so the goal is clearly identified. Civil Code §4090 defines a Board Meeting as: "A congregation, at the same time and place, of a sufficient number of directors to establish a quorum of the board, to hear, discuss, or deliberate upon any item of business that is within the authority of the board."

Based on the definition of a board meeting, the goal should be to hear, discuss, or deliberate association business as smoothly and efficiently as possible, and to do so in a manner that ensures members will want to volunteer for the board in the future. Achieving that goal is attainable if the board follows some relatively straightforward principles that are generally applicable to all well-run meetings.

Preparedness

"Give me six hours to chop down a tree and I will spend the first four sharpening the axe."

– Abraham Lincoln

The first principle is preparedness. Preparation is critical to laying the track for a successful board meeting. All of the other components set forth below flow from being prepared. When the board demonstrates that it is prepared the members are more likely to trust the process. It is difficult for anyone to disrupt the process when the rules are clearly defined and it is apparent that the board is following those clearly defined procedures.

Preparedness starts with the governing documents before the meeting even begins. The board should analyze the association's governing documents and ensure that they contain clearly defined rules regarding how board meetings will be conducted, as well as penalties for disrupting meetings. These rules should be reiterated in the meeting agenda, which should be circulated to the members well in advance of the meeting. Although Roberts Rules are not required for board meetings, they provide an excellent basis for establishing universally agreed upon procedures for conducting the meeting and executing the agenda.

Once the meeting begins, stick to the agenda and follow the rules. The more polished and professional the board, the higher the likelihood of a successful meeting.

Brevity

"The longer the meeting, the less is accomplished."

– Tim Cook, Apple CEO

Brevity is a key component in most professional situations, and especially when it comes to meetings. Everyone is busy and respecting everyone's time is paramount. If the board is adequately prepared, then board meetings should be concise and efficient. The more efficient the meetings, the more likely people are to attend and participate in future meetings.

Again, use the rules to stick to the agenda. If issues come up that are not on the agenda, and not an emergency, put those issues on the agenda for the next meeting.

The biggest challenge in sticking to the meeting agenda is generally accommodating members who wish to speak. This issue can be addressed if the association is prepared. Members are entitled to attend board meetings and must be provided the opportunity to speak. However, the board may establish a reasonable time limit for member comment. The time limit should be one of the rules that is clearly defined in the governing documents and laid out in the meeting agenda in advance of the meeting. If a member attempts to speak beyond their allotted time, the board should calmly and respectfully remind the member of the time limit set forth in the rules. Advise the member that their comments will be taken under consideration and the board will provide the necessary response if a response is warranted.

Associations often consider inviting guest speakers or including other “fun” activities as incentive for people to attend board meetings. Those strategies are likely ill advised unless they add enough value to the meeting to avoid being considered a waste of time. Such potential time wasters should probably be avoided and/or deployed in a different venue out of an abundance of caution unless the board has confirmed that it is an activity the members are truly clamoring for.

People hate to have their time wasted. Avoid that concern by making board meetings concise and efficient.

Transparency

“A lack of transparency results in distrust and a deep sense of insecurity.” – Dalai Lama

Boards should be as transparent as possible without divulging confidential or other information better served for executive session. Members are generally inclined to think that board members are hiding information or advancing their own agendas. The best remedy for such suspicion is to shine a light on the process and show the members that is not the case.

Consider easy to read graphs or charts demonstrating exactly where the association’s money is going. Remain professional and do not gossip about association issues outside of association meetings. Again, successful meetings do not happen without establishing a sense of trust with the membership about the process.

Inclusion

“When everyone is included, everyone wins.”

– Jesse Jackson

Similar to the issue of transparency, the board should take great care to minimize any “us versus them” type of thinking as it pertains to the members and the board. Encourage participation. Invite the “difficult” members to serve on a committee. It is amazing how fast complaints tend to subside when the complainer is invited to actually do something remedy the issue they are complaining about. If managed properly, seemingly difficult members can be a valuable asset if their energies can be refocused on the association’s behalf.

Positivity

“Perpetual optimism is a force multiplier.”

– Colin Powell

Positivity is a powerful force and can set the tone for board meetings. Miserable and negative board members are almost guaranteed to carry out a miserable and negative meeting. No one is suggesting disingenuous cheerleading or a Kumbaya session, but the board should do its best to maintain a positive light as it pertains to the association’s issues. Highlight the good news at the association. Talk about the fun or popular things the association accomplished with association funds, and emphasize any other positive developments affecting the community. It may sound silly but casting a positive light over the proceedings can have a drastic effect on everyone’s tone.

Conclusion

Being prepared, transparent, inclusive and positive will help the board conduct efficient meetings that people will actually want to attend. The first step to implementing these recommendations is to review the association’s governing documents to ensure that the rules are in place to achieve success. Assuming that is the case, the rest is up to the association’s board, community manager and attorney to implement the plan according to the specific makeup of the association. Associations vary by size and personality and there is no “one size fits all” board meeting. Whatever the circumstances, successful board meetings are achievable with straightforward concepts that anyone can initiate at any time during their tenure as a board member.

Jason M. Adams, Esq. is Senior Counsel at Gibbs Giden and has represented countless homeowner’s associations as general counsel, handling all aspects of client needs including day-to-day management, governing document drafting/enforcement, contract formation/negotiation, collections, litigation and appeal. Adams is a longtime CAI member and has served on the CAI Publication Committee and currently sits on the CAI discount mediation panel. Adams is also a licensed property and casualty insurance broker and certified Construction Risk & Insurance Specialist (CRIS).




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Best Practices for Leveraging Technology

By Brad Watson, CMCA, AMS
PMP Management, AAMC



Exponentially advancing technology has changed the way we communicate and conduct business, and for the most part these technological advances have made us both more effective and more efficient professionals. How does a professional in today's fast-past environment maximize the positive impact of advancing technology to better serve our clients while at the same time maximizing our professional productivity? Below are a few predominant community management functions and best practices to leverage technology.

Messaging & Written Communications

As professionals, we need to proactively control how information and communications flow through our offices. Just because a medium for communicating is quick and efficient does not mean it is appropriate for business communications. Text messaging and social media, for example, have become a common and convenient means to quickly and efficiently engage with friends and family, but is it appropriate for professional communications? When it comes to professional communications, I suggest applying the following standards: communications should be formal, searchable and capable of being cataloged for future reference. While text and/or social media messaging technology is efficient, neither of these mediums meet the suggested standards for professional communications. To ensure you're meeting reasonable business standards for written communications, I suggest directing all written professional communications through e-mail. While e-mail may not be as fast and efficient as text messaging, you will have a formal, searchable catalog of all correspondences in one place for future reference. At the same time, utilizing e-mail is helpful to preserve work-life balance by ensuring non-emergency matters are reserved for regular working hours.

While many companies use Microsoft Outlook as their business e-mail platform, I have found that far too many professionals do not utilize many of Outlook's sophisticated capabilities to catalog messages and set communication

expectations. While Outlook's functionality is more than we can cover in this piece, you're encouraged to study the many great functions Outlook has to offer.

Track Open Action Items & Work Orders

An online platform to track open action items and proactively communicate updates to clients on a regular basis is critical to an individual's professional success in our industry. The sheer depth and breadth of information and tasks that professionals in our industry are expected to know and recall is far beyond what anyone can reasonably be expected to remember. As such, running action lists are important to ensure all outstanding items and work orders are being addressed. While written lists and regular e-mail updates to clients are great, they are not efficient and oftentimes lead to more back and forth e-mail exchanges than desired. There are several online software platforms, such as Microsoft's SharePoint, that allow professionals to track client directives and convey updates regularly. Such online tracking and reporting platforms streamline communications and demonstrate to the client that you're working diligently to ensure all outstanding items are addressed in a timely manner. In addition, online tracking and reporting tools such as SharePoint limit back and forth e-mail exchanges for more efficient and effective communication.

Electronic Files & Document Approvals

Technological advances have made printing and filing hard copy documents inefficient and unnecessary. In fact, file cabinets are becoming as obsolete as the Dewey Decimal System, and for good reason. Electronic file systems are fast, convenient and easily searchable.

While fewer and fewer professionals are keeping hard copy files, opting instead for scanned electronic files, many managers still print hard copy proposals, contracts and association applications for board member signature(s). Once signed, these documents then still need to be scanned and filed electronically, which is not the best use of resources.



Instead, consider utilizing an online document signature platform, such as DocuSign, which allows professionals to upload documents and agreements for electronic review and signature. While board member approvals must comply with Civil Code, there is no reason these documents should not be sent to the board electronically for signature(s) once approved. Consider not printing your next vendor proposal or contract and consider utilizing these fast, efficient, and user-friendly online tools.

Embracing and leveraging technological advances not only enhances the service to your clients, but also streamlines the ways we communicate and ensures that we're maximizing our productivity. 📈

Brad Watson was a founder of Property Management Professionals LLC. ("PMP MANAGEMENT") in 2008.

A native Californian, Brad attended the University of Southern California where he earned a Bachelor of Science Degree in Business Administration with emphasis in Finance. Brad is an active member of the Community Association Institute ("CAI"), earning designations as a Certified Manager of Community Associations ("CMCA") and Association Management Specialist ("AMS").






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Top 10 Reasons to Embrace a Paperless Office

By Tom McDermott, Yardi Systems, Inc.

Want to reduce overhead costs, receive payments on time and put money in the bank without staff intervention? A paperless office can help you achieve those goals and more.

Paperless offices come with several advantages. Below are just a few:

1. **Reduced processing costs.** As reported by Entrepreneur.com, paperless systems can cut the cost of processing rents, fees and other financial transactions by an average of 29%.
2. **Shortened A/P processing time.** Electronic payments make paying vendors quick and easy.
3. **Decreased document storage fees.** Digital files can reduce or eliminate the need for paperwork storage space and associated expenses.
4. **Faster document tracking.** Say goodbye to digging through paper files! Cut document retrieval time so you can redeploy resources on more important projects.
5. **Improved data security.** Real estate operations require a large amount of sensitive data. Storing electronic files in the cloud is the most secure place to have your records.
6. **Improved accuracy and transparency.** Managing data and payments online aligns everyone – you, your team, vendors and owners – on one data source.
7. **Sustainability gains.** The EPA reports that Americans add 85 million tons of paper, 400 million ink and 100 million toner cartridges into the waste stream each year. Printing 10 million pages requires 595,000 KW of energy. Going paperless decreases printing costs and your carbon footprint.

8. **Lower overhead costs.** Paperless office solutions can reduce your overhead costs by about \$80 per employee each year, according to the EPA.
9. **Less data entry.** Digital transactions reduce manual data entry and accompanying human error. With a paperless office, you can eliminate manual check processing time.
10. **Convenience for residents.** Modern tenants want to pay online. Give homeowners and renters what they want with ACH, debit and text payment options.

Tom McDermott is the vice president of multifamily sales at Yardi. He is an expert in real estate operations, office efficiency and time management with more than 20 years of experience in the software industry. Based in Santa Barbara, Yardi develops and supports industry-leading investment and property management software for all types and sizes of real estate companies.



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Ten More Reasons to Go Paperless

By Nat Kunes, AppFolio, Inc.

Has your community association gone entirely paperless yet? If not, now is the time. Put your fears of change and security aside. Modern community management software is not only secure, but it also allows you and your entire team to have a single source of truth. In case you need more convincing, here are ten more reasons to go paperless:

1. **A Happy Team.** Your entire team will enjoy the flexibility that comes with being able to work from various devices and locations to improve their work-life balance, which is an especially important benefit for employees with families or those who commute long distances to the office.
2. **Build a Top-Notch Team.** Modern software helps attract tech-savvy job seekers who appreciate technology. With state-of-the-art, intuitive software community managers can train new hires quickly.
3. **Increased Team Efficiency.** Automate recurring tasks with workflows built directly into your software to get more done in less time.
4. **Improved Customer Experience.** Deliver mobile, self-service options to the board and homeowners in line with the modern technology they're quickly becoming accustomed to.
5. **Painless Property Tours.** Conduct site walkthroughs using a mobile device. Review the condition of your community, take pictures of violations, and send notices instantly with a mobile app — no more manually inputting notes.
6. **Streamlined Monthly Dues Processing.** You and your homeowners can enjoy the benefits of online dues and assessments payments. Handling paper checks and taking trips to the bank can be a thing of the past.

7. **Simple Information Sharing.** Share reports and documents with board members and homeowners digitally, instead of distributing printed materials for board meetings and general updates.
8. **Space Savings.** With an all-in-one software-as-a-service (SaaS) as your single source of truth, there is less need for physical space to store paper documents.
9. **Comprehensive Communication.** Quickly and easily communicate with your community through bulk email or texting, cutting down on phone calls and office visits.
10. **Reach Your Goals.** With all of the time you'll save using paperless processes, you can put more attention to growing your business and meeting your goals.

Going paperless is nothing to fear. As you can see, the benefits are far-reaching and include everything from reducing clutter to building a more efficient and connected team. The way we do business has changed, and your customers and employees expect modern, mobile experiences. Now is the time to deliver, and the transition is easier than you think. 

Nat Kunes is the Sr. Vice President, Real Estate Investment Management for AppFolio. He works on a daily basis with property management professionals to identify industry trends and product features that are included in AppFolio's property management software.



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So You Want to Update your Governing Documents

By Kelton Lee Gibson, Attorney at Law

Myers, Widders, Gibson, Jones & Feingold, L.L.P.

The governing documents of associations can get outdated and contradictory to current laws. Some are quite old, even going back to as long ago as the 1950s or 1960s. We often receive inquiries on how the process of restating the CC&Rs and Bylaws for our associations will go. Here is a step-by-step approach to getting it done:

1. Board or committee meets with counsel to ascertain the need to restate or redo the governing documents and to ascertain the concerns of the board.
2. Counsel prepares drafts of the documents, which will include legal updates and provisions drafted to the specific needs of the particular association. All are different and unique to each association. One size does not fit all!
3. The board or committee reviews the draft documents, meets with counsel to go over suggested revisions, and approves the documents.
4. Members are sent a copy of the board-approved documents (CC&Rs and bylaws) for their review. There should be a cover letter from the board and/or counsel explaining the need for the revisions and summarizing the new documents. Included should be an explanation that the old versions were not used as a basis for the new ones, hence redlined versions cannot be prepared.
5. One or more meetings of the members should be held (or it can be as part of a board meeting) to answer questions and hear comments from the members. Legal counsel should be present.
6. The board should consider the suggestions of the members and determine whether or not to adopt suggested changes. Counsel should be directed to either make suggested changes or else leave them as is.
7. Counsel and management prepare the voting documents to be mailed to the members for their vote and return. The procedure is similar to the double-envelope process used to elect directors. The documents should include:
 - a. Copies of the proposed restated CC&Rs and bylaws
 - b. Cover letter explaining the process and the need.
 - c. Voting instructions, including date of a meeting to count the ballots.
 - d. A secret ballot.
 - e. Double return envelopes.
8. Hold a meeting. If there are enough return ballots to constitute a quorum, with a comfortable margin in case some vote against, open and count the ballots. The percentage of members needed to approve the restatement varies from association to association, from between 50% to 75% or more. The percentage necessary may be different for the CC&Rs versus the bylaws.
9. If there are not sufficient votes, continue the meeting per statutory procedures to a future date. Send out the documents again to those who did not return their ballots with cover letter and request for return. This can be done multiple times until a sufficient percentage of the members have voted.
10. Consider knocking on doors or calling persons to get them to vote. Take a ballot with you.
11. Although not all attorneys agree, it is my opinion that some governing documents, depending on the exact language contained in them, can be restated or amended by “deemed consent”, a process where the member’s signature on a letter’s return receipt can constitute written assent to the proposed restatement. This is only available for a limited number of associations and will require careful review by counsel and legal approval. However, in some cases, if sufficient votes cannot be obtained, it may be a possibility.
12. At a meeting, count the ballots. If approved, have the association’s secretary and president sign the restated CC&Rs and bylaws, with the CC&Rs notarized. Record the CC&Rs.
13. Send copies of the signed and recorded CC&Rs and signed bylaws to the members.



14. If the vote fails, and if a super-majority of the members is required for approval, and if over 50% have voted in favor, but less than the required percentage, it is possible to petition the court for approval. Members will be notified of this and allowed to appear and address the court.

Getting the governing documents restated is not an easy task, and often takes a year or more to accomplish. However, it is important to have the association's governing documents in correct legal form. 🏠

Kelton "Lee" Gibson has practiced law for over 40 years and focuses his practice in the areas of construction defect litigation, community association law, real estate and civil litigation. He has an AV peer rating from Martindale-Hubbell, the highest rating an attorney can receive. Mr. Gibson is a past two-term president of the Channel Islands Chapter and is a frequent speaker and writer in connection with legal issues for the chapter.



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Understanding the Manager's Role vs. The Board's Role – Communication is Everything

By Matthew A. Gardner, Esq., Richardson / Ober

Experienced directors learn that delegation is essential to effective community management. No board, or individual director, can or should be juggling all of the tasks it takes to make a community function. Duties can be assigned to individual directors with relevant background. Boards may also want to create committees with groups of experienced owners and directors to tackle a problem. In most cases, boards should rely on their managers to tell them when delegation makes sense. Managers are there to use their experience to see a common problem and quickly propose a reasonable solution that might take a volunteer more time to analyze.

By collaborating with association management, boards can not only improve results within the community, but also improve relationships with the owners. Spending less time on day to day management gives boards more time to focus on ways to serve their fellow owners.

Once boards decide which tasks to assign to managers and which tasks to keep, they should prepare a summary or resolution of that authority for their records. However, keeping track of individual projects requires more than organization. It requires constant communication between everyone involved. Boards need to establish clear guidelines for action items so that everyone knows where to go for information on any specific issue.

Authority to Act

Legally all community decisions must be made by an association's board of directors. Boards cannot step back and ask their managers to handle everything without any guidance. Boards can anticipate some of the more time intensive tasks, and work on finding a solution that lets them maintain control over the community without micro-managing routine decisions.

With the exception of duties centered on association finances and exercising legal rights, boards are generally free to ask managers for assistance on operating the community. Whether asking managers to act as primary contact for vendors, send out warning letters for violations, or send out notice and communication to owners, boards can determine when managers are the most effective as representatives of the community.

Remember that managers only have as much authority to act as boards decide to extend to them. Boards should be comfortable with how much authority they grant to their managers, and when to expect the manager to report back to the board with updates. So when boards authorize their manager to issue a violation notice to an owner, it is reasonable for the manager to notify the board if the owner responds to the violation, requests a waiver or hearing with the board, or proposes another resolution. The updates allow the board to remain in control of the decision-making authority, without needing to be involved on every discussion on that approved topic.

Establish Communication Between the Board and the Manager

Once the Board decides what authority to give to the manager, those guidelines should be communicated in writing both to the directors and the management company. Written instructions eliminate any confusion about when the board expects the manager to act, and when the board expects to be consulted before proceeding.

For instance, management contracts establish expectations about what duties managers will fulfill. Frequently, management companies will include language in their contracts which allow them the authority to approve small projects or emergency repairs without prior board approval.



This type of delegation anticipates association needs, relieves some of the urgency of finding directors and holding a board meeting, and encourages cooperation between management and the community.

On smaller projects (those between \$500 or \$1,000), managers will be able to minimize board time spent reviewing bids or vendors. On emergency projects (like water leaks), boards may set a higher approval to avoid any increase in damage, and reduce the overall expense of delaying a costly repair. In both situations, boards can sit down in advance and determine appropriate dollar amounts to set, and expect that managers will work within those guidelines. Managers are still required to support those approvals when it comes time to balance the accounts, so boards are still involved in the oversight of the community.

Provide Notice when Managers are Responsible

Even when boards provide clear instructions to their managers, others may not be aware how much authority managers have. Boards need to make sure that both owners and business partners know when managers are the primary point of contact. Keeping those contact points clear reduces confusion and eliminates frustration.

When boards delegate authority to managers to oversee projects within the community, that information should be shared with the owners. Associations should send notice to owners alerting them to new projects, and let the owners know that if there are any questions or problems to bring those to the attention of management. That notice keeps owners informed, and lets managers know to expect feedback during the course of any project. Owners will not be frantically calling directors at home, or chasing after contractors because they know that managers can help them solve their problems. It also gives managers an opportunity to monitor the progress with vendors, and be able to send back a detailed report for their next board meeting. Managers who can update their boards with feedback save the board from being ambushed by unhappy business partners and owners.

Boards and managers should also inform business partners of the primary point of contact. Vendors and contractors need to know which questions to take directly to managers, and which items require board input or approval. Often, the original contract or agreement will tell business partners who to contact on certain issues. When that person is the manager, boards should give the manager and the business partner the same instructions and limitations. Communication prevents business partners from trying to pressure managers to make quick decisions without board approval.

The Effect of Clear Communication

Communities cannot function without proper communication between directors, between managers and their boards, and between owners. It is important to detail as much as possible and create a plan for handling the direct communication between all three. Many owners will turn to a manager at the first sign of any problem. Managers need to know that boards trust them, and have given them the proper tools to resolve those issues. Boards need to give enough guidance so that managers know how to respond to those challenges, and not be concerned about managers exceeding their authority. When boards and managers are communicating regularly and clearly, the owners know that their community is in good hands.

Matthew A. Gardner is a Senior Associate with Richardson Ober PC. He concentrates his practice on real estate and homeowner association law, representing various types of entities and community associations, including condominium developments, planned developments, commercial developments and mobile home communities.



Mr. Gardner is an active member of the Community Associations Institute as he is a past committee chair and is a frequent facilitator for the CAI Board Leadership Course and the Managers' Law Course.



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QUESTION: *What can be done about a board member's inappropriate behavior at board meetings?*

By Sophie Haimof, Esq.
Roseman Law, APC

ANSWER: As a volunteer director on a board of a homeowner's association, I imagine one has already been exposed to wild situations, and depending on one's tenure, a director may have already grown accustomed to misbehaving homeowners. Regardless of the nature of the situation, as a director, you are legally bound to act in accordance with California law and enforce your association's governing documents concisely and fairly because a board of directors must act in the best-interest of the association. But what does a board do when the misbehaving homeowner happens to be a director who acts inappropriately during meetings, bullies other directors, uses profanity and lashes out when decisions are made contrary to his or her position? What actions can the board take to prevent such action? The following is an overview of several options the board can exercise which may be necessary for the board to implement, in order to maintain order.

Censure. A majority of the board has the ability to censure, or in other words, formally reprimand, a director for inappropriate actions. There are specific instances in which censuring a director would be appropriate, including without limitation, disruptive actions at meetings, including shouting, the use of profanity, and engaging in personal attacks against fellow directors. Censuring a director would also be appropriate in the event the director breached confidences and/or fiduciary duties, interfered with association operations, engaged in inappropriate or improper behavior toward association employees or vendors, or failed to disclose conflicts of interest.

Once a board has decided that a censure is appropriate, the board should notice a hearing for the censured director. The censure should be recorded in the meeting minutes which should distinctly reflect the reasons why the director was censured. Boards should be aware that although a censure will indicate the board's strong disapproval for the actions of the censured director, a censure will not act to remove a director from the board nor will it impair the censured director's ability to attend board meetings or participate in board discussions and decisions, unless the censured director has been recused from a particular vote. A director should recuse himself or herself from a board decision to avoid a conflict of interest or other potential breach of fiduciary duty. All board members owe an association and its membership certain fiduciary duties. One of these fiduciary duties is the duty of impartiality. The duty of impartiality requires that directors carry out their obligations in a fair and consistent

manner and directors may not favor or act with partiality to any homeowner. Thus, when a director has a personal interest in the outcome of a board decision, that director must recuse himself or herself from participating in any discussions and voting on such decision.

Request for Resignation. A majority of the board can also request that a misbehaving director resign from his or her position on the board. Oftentimes, if a majority of the board decides to censure a misbehaving director, and if the director's actions warrant a request for resignation, the board will simultaneously request that the misbehaving director resign from his or her position on the board. Something the board should keep in mind is that, while the board can request that a director resign, the director is not required to resign. However, if a misbehaving director fails to resign, the board may seek removal of the director.

Removal. The board may have the ability to remove a misbehaving director; however, removal is appropriate only under specific circumstances, provided the association's bylaws allow for it. Otherwise, a director can only be removed by the courts, if: (i) the director acts fraudulently or dishonestly; (ii) grossly abuses his or her authority; or (iii) breaches a duty. However, this would require the board to bring an action against the misbehaving director. Alternatively, a misbehaving director can be removed by the vote of the membership, with or without cause, if at least five percent of the members of the association call a special meeting to recall such director and obtain the requisite votes necessary to approve the recall. It is important for boards to note that a recall process can be financially burdensome for an association. A misbehaving director can be removed by the board, if the association's bylaws provide that a director can be removed if the director ceases to be qualified to serve as a director. If your association's bylaws do not include qualifications for directors and specific instances in which a director can be removed from the board without a vote of the homeowners, the association can consider amending the bylaws to include the same.

Although removing a problem director may be unreasonably difficult or impossible, a majority of the board can vote to remove that director's officer position. Officers hold their office at the pleasure of the board and can be removed by the board at any time with or without cause upon a vote of a majority of the board. This would eliminate the problem director's officer designation (i.e. President, Secretary,

Treasurer, etc.) and reassign that role to another director. Removed officers remain on the board of directors as a “Member at Large”, meaning they are now a director without any particular officer designation. Although not a complete solution to the problem, many times it is the officer role which causes a director to overstep their bounds, and this action can often go a long way to reigning in a rogue director’s actions.

Executive Committee. In carrying out any of the aforementioned disciplinary actions, it may become necessary to form an executive committee to exclude a misbehaving director from participating in certain discussions regarding the discipline of or litigation against such director. California law allows a majority of the board to elect to create an executive committee, consisting of at least two directors, to serve at the pleasure of the board. Only directors may be members of an executive committee. An executive committee should be formed to preserve any attorney-client privilege and confidentiality.

The board can undertake any of the foregoing options in disciplining a misbehaving director, if appropriate. But what can the board do to prevent situations like this from occurring again in the future, if a misbehaving director is elected to the board? The association should review its current governing documents and if the association does not currently

have an ethics policy and member code of conduct in place, the board can consider adopting one. A code of conduct and ethics policy can be drafted to apply to both directors and committee members and can provide that directors must act in conformity with certain standards, for example, all members must treat fellow directors, homeowners, management and vendors with respect. The code of conduct and policy can also require directors to acknowledge their acceptance of the terms set forth by requiring the directors to sign a commitment pledge. It is important for associations to have the proper enforcement provisions in place in order to run efficient meetings and maintain order on the board and within the association. [⬆](#)



Sophie Haimof is an attorney with Roseman Law, APC. Ms. Haimof represents common interest developments in dealing with all their transactional needs, including the creation and amendment of governing documents, contract negotiations, corporate governance and compliance with Davis-Stirling Act.

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Channel Islands Chapter Makes Big Splash at CAI's Day at the Capitol

By *Jasmine F. Hale, Esq., CCAL*, Adams Stirling PLC



Having attended Community Association Institute's (CAI) "Day at the Capitol" event for the past three years as the Chapter's Legislative Action Committee (CLAC) Liaison, I suppose you could say I'm no longer a spring chicken! Gone are the days where I would have sweaty palms and walk down the halls of our state capitol with anxiety worrying about whether I would be arrested on site for making a wise crack to a legislator. With time and experience under my belt, this year I was appointed as a team leader and helped walk new attendees through the ropes to make sure their first experience with advocacy and lobbying was a positive one. But, the big takeaway from this year's event was what a tremendous impact OUR chapter – yes, Channel Islands – had on legislative issues over the past year.

Let's cover the basics first. I was joined by Chapter members Ted Lansing (a fellow CLAC member) and Jeff Beaumont, Esq. (past Chapter President and current At Large CLAC Delegate). Talk about rolling large! And, though small in numbers, we were mighty in impact. Ted even brought his daughter!

Next, CLAC decided to change up the program format this year and hold the event on a Monday and Tuesday to allow more time for lobbying. While I was skeptical about whether people would show, given the time commitment, it was the biggest turnout I've seen so far. So enough about the details, let's get to the good stuff.

I'm pleased to report that after years of being the "Little Engine That Could"

chapter, Channel Islands has finally arrived... No, we didn't just arrive, we made a big splash! Our chapter produced the Legislator of the Year (our own Assemblywoman Jacqui Irwin of Thousand Oaks) and the Chairman's Choice for Volunteer of the Year (you're looking at her!).

We were honored that CAI selected Ms. Irwin as CLAC's Legislator of the Year for her assistance in helping to kill SB 721 (aka the Bad Balcony Bill) and also for her staunch support and partnership in caring about community associations and the issues that impact us. Ms. Irwin spoke at our event and detailed her unexpected rise in politics that started with her serving as her kid's little league sports commissioner. It goes to show that sometimes even a little effort and involvement can lead to big things. So, if you've ever wanted to see how laws get made, please come join us at a CLAC meeting. They always follow our monthly Chapter lunches. Who knows, perhaps it will lead to something big?!

Next, I was literally rendered speechless (and that's saying something, I'm never at a loss for words!) when I was named as the Chairman's Legislative Volunteer of the Year. As they described the award recipient, someone who's legislative efforts have helped to shape CAI's statewide legislative action committee efforts and who has worked tirelessly on committees helping to advance positive legislation and defeat negative laws, I was like, "oh yeah, this person definitely deserves the award." It was humbling to be awarded for doing something I'm so passionate about and happy to do.

And lastly, let's talk legislative shop. CAI's advocate, Louie Brown, has really put the pedal to the proverbial metal with CAI's legislative efforts. This year, we lobbied on behalf of five bills. Let's start with the bad news, SB 323 (Wieckowski), the legislative train wreck that would limit an association's ability to impose director qualifications (because everyone wants felons serving on their board!) and force associations to provide owner signatures to members who request copies of their secret ballots. Rest assured, CAI strongly opposes this bill and while its marching its way through the legislative process, we are showing up in force and doing everything in our power to kill it like we did last year. Now for the good news. SB 434 (Archeuleta), sponsored by CAI, would require management companies to transfer association records to a new management company, instead of holding them hostage as sometimes happen. SB 326 (Hill), the Better Balcony Bill that provides sensible requirements for communities to investigate and repair balconies. Senator Hill heard CAI's objections last year and has worked with CLAC to find a compromise bill that protects lives, but not at the cost of peoples' financial well-being. SB 754 (Moorlach) which would allow uncontested elections to be voted on by acclimation instead of having to go through the expensive and unnecessary secret ballot process. AB 885 (Irwin – yes, our own Jacqui Irwin) which seeks to provide tax relief to victims of natural disasters such as wildfires. Because, everyone affected by natural disasters can use a little hand, including with the taxman.



As you can see, it was a banner year for the Channel Islands Chapter at CAI's Day at the Capitol. We've become a central figure in our state's lobbying efforts and helping to shape the legislation impacting communities. Please know while our event is over, our efforts are just getting started. Please stay tuned for our local legislative week, coming up in August 2019 and know that our requests for participation, letters and calls by all chapter members really do matter. Thank you for allowing me to serve as your enthusiastic CLAC Liaison. 🏠



Jasmine F. Hale is a Partner at Adams Stirling PLC who has been practicing for over 15 years and specializes in representing community

associations as their general counsel. She oversees the firm's Santa Barbara office and serves as the liaison for CAI's California Legislative Action Committee (CLAC).

Bingo & Brews



FRIDAY, SEPTEMBER 13, 2019 5:45 PM

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2019 Chapter Calendar of Events

- Aug. 8** **Dinner Program**, Los Robles Greens, Thousand Oaks, 6 pm
- Aug. 13** **Santa Barbara Luncheon** "The Three P's: Parking, Pets & People", Hyatt Centric, Santa Barbara, 11:30 am
- Aug. 15** **Managers' Program**, The Courtyard Marriott, Oxnard, 11:30 am
- Aug. 27** **Chapter Luncheon**, The Courtyard Marriott, Oxnard, 11:30 am
(Chapter Board Meeting at 10:15 am)
- Sept. 12** **Central Coast Dinner Program**, Ventana Grill, Pismo Beach, 6 pm
- Sept. 13** **Bingo & Brews**, Spanish Hills Country Club, Camarillo, 5:45 pm
- Sept. 19** **Santa Barbara Luncheon**, Hyatt Centric, Santa Barbara, 11:30 am
- Sept. 24** **Chapter Luncheon (& Annual Meeting)**, Los Robles Greens, Thousand Oaks, 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

Chapter Announcements

Congratulations to Jasmine Hale, Esq., CCAL for being the recipient of CAI-CLAC's Chairman's Choice for Volunteer of the Year Award. Jasmine's legislative efforts have helped shape CAI's statewide legislative action committee's efforts as she has not only led the Chapter's Legislative Action Committee but has also served on the various sub-committees for the LAC. Her consistent message to advance positive legislation and defeat negative laws has made a profound impact on our industry. Well done and Congratulations, Jasmine!



Congratulations to Sabrina French from PMP Management for earning her PCAM designation! The pinnacle of community association management. The PCAM designation is the highest professional recognition available nationwide to managers who specialize in community association management. Well done, Sabrina!



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The Value of a Credentialed Manager

By Ruth Campbell, CCAM-PM, CMCA

CID Management Solutions, Inc.

Common Interest Developments (CIDs) are nonprofit corporations; your board of directors has the same responsibilities and fiduciary duties as any corporate board of directors. The difference is your board consists of volunteers who have no prior experience serving on a board or are new to community association living.

This is where a credentialed manager comes into play; homeowners in an association need professional guidance on items ranging from the reasoning behind reserve funding, to the horrors of deferred maintenance and the need for adequate insurance. Not to mention proper budgeting, contract negotiations, and the unique laws that pertain to the community association industry. Having a credentialed community manager will help to ensure your manager has a firm grasp on what the industry is all about and be able to meet the needs of your community.

It is essential that the Board of Directors select a qualified management professional with credentials that indicate

their level of professionalism, and with whom you can work productively and trust to manage your community's day-to-day business. A credentialed professional community manager should help the Board preserve assets, maintain property values, provide assistance with operational and financial matters, and have tools and resources available to the Board to assist with the governance of your community.



A credentialed manager is an individual that shows a commitment to professionalism, ethics and continuing education through the various certification programs available in our industry. Additionally, credentialed managers agree to abide by a Code of Professional Ethics and Standards of Practice, or the Management

Firm Code of Professional Ethics and Standards of Practice. These codes provide ethical guidelines for performing services related to the practice of community association management and hold individual managers and management firms to the highest level of conduct.



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As a board member, trustee or volunteer leader working with your association or cooperative, you have fiduciary responsibilities which compel you to make decisions that can have profound financial and social impact on you and your neighbors. Receiving professional and accurate advice or guidance from your manager on issues related to community associations can make the difference between prosperity and distress.

Managers must take courses and pass tests to be credentialed. So why would a board hire managers who may not be qualified to look after their homes and their community?

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Qualified, knowledgeable managers and staff command a premium – especially in the current tight labor market for community managers. Boards expect excellent customer service which also costs money. At the end of the day we are a customer service-oriented business. In the growing field of community management, boards shouldn't settle for less than credentialed managers with knowledge and who will serve their community with professionalism and integrity. 🏠

Ruth Campbell is the owner of CID Management Solutions, Inc. in Oxnard, CA. She has been a professional portfolio manager with more than 20 years of experience in managing all aspects of Common Interest Developments (CID's). Ms. Campbell has managed over 40 associations throughout Ventura, Los Angeles, and Santa Barbara counties made up of condominiums, planned developments, gated communities, and mobile home parks. She is an active member of CAI-Channel Islands Chapter and the California Association of Community Managers (CACM) and holds the designations as a Certified Manager of Community Associations (CMCA) and Certified Community Association Manager (CCAM®) with a specialized certification in portfolio management.





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Policies: Ads must be prepaid and in full color (CMYK) and high resolution (300dpi). Ads may be postponed due to lack of space, but will have first priority in the next issue of Channels of Communication. Acceptance of advertising in this newsletter will not constitute an endorsement of product services.

2019 FULL COLOR RATES

per issue

8.5"w x 11.0"h	Full Page	525
	Full Page Inside Front Cover / Inside Back Cover	600
	Full Page Outside Back Cover	700
7.5"w x 4.75"h	Half Page	425
3.5"w x 4.75"h	Quarter Page	325
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Each advertisement will be billed at the current rate. No "ganging" of advertisements (i.e.: 4 quarter page ads will be billed at 4xs the quarter page rate, not the full page rate.)

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community
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ATTORNEY

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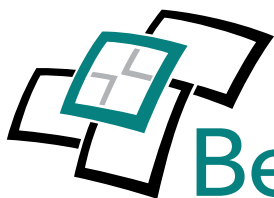
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Schedule of Events

August 8

Chapter Dinner Program

Thousand Oaks, CA

August 13

Chapter Luncheon

Santa Barbara, CA

August 15

Managers' Program

Oxnard, CA

August 27

Chapter Luncheon

Oxnard, CA

For more information or to register,
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