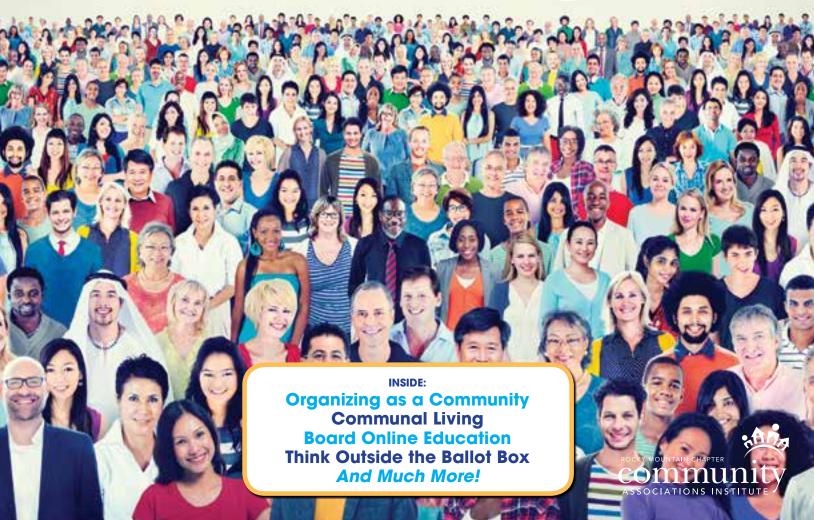


Community LIVING







FEATURED

Tips & Tricks:

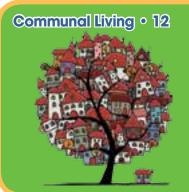
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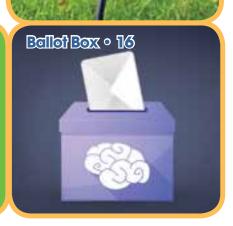
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The materials contained in this publication are designed to provide our members and readers with accurate, timely and authoritative information with regard to the subject covered. However, the Rocky Mountain Chapter of CAI is not engaging in the rendering of legal, accounting, or other professional types of services. While the Rocky Mountain Chapter of CAI provides this publication for information and advertising, the Rocky Mountain Chapter of CAI has not verified the contents of the articles or advertising, nor do we have the facilities or the personnel to do so. Members and readers should not act on the information contained herein without seeking more specific professional advice from management, legal, accounting or other experts as required.

President's Message

Roundup

Love CAI? Of course you do! You can also Like, Friend & Follow CAI-RMC and National







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President

CAI-RMC

ith the New Year behind us and February marching on, it feels like time is passing so fast and we are just twirling in it at an unheard pace! I'm already looking ahead to spring & summer projects, landscaping start ups and pool openings! Aren't we still shoveling snow? We still have our snowiest months to come! Yet, we are looking ahead at what's to come and to be accomplished.

This is a good time for each one of us to evaluate not just the upcoming projects and seasons, but also our goals for our industry and what we each are willing to do to elevate our industry. Maybe it's something as easy as attending a local Chapter event or as complicated as planning a seminar for your Board member clients. Whatever the "it" may be for you, I hope that you make a plan for accomplishing "it" and that it will make you feel that it was worth the planning and implementing the effort! After all, not doing anything is the worse that any of us can do, therefore, find your "it" and do "IT" already! And while you're at it, have fun and remember why you joined this industry in the first place! It was so that you can accomplish a lot of "its" and to feel like you make a difference.

Thank you for all of you who continue to plan, accomplish and grow our industry! $\mathbf{\hat{h}}$



Executive Director's Message



BRIDGET SEBERNExecutive Director
CAI-RMC

AI-RMC continues to grow! In my opinion, there's no wonder as to why. Our active volunteers are like the hands that hold the world - in short, they're amazing! The management companies that have our magazines in their lobby and encourage their staff to be involved in our industry, they're downright impressive. It's because of our committed members that we consistently see rapid growth every month within our membership!

For all of our new members, WELCOME. By now, you've probably heard from a member of the membership committee, welcoming you to our chapter and inviting you to an event. If you haven't joined us yet, make sure you do soon. We have so much to offer but we won't push you out the door or onto a committee—you'll have to take that first step.

For all of our veteran members, and members that have joined within the past couple of years, we have new and exciting things coming your way. Our website will be improving in the coming months—this month we've already implemented a refined member search tool. The website has useful information that a lot of you may not know about. Make sure you check it out and browse through it—it's just like any tool; while there's potential for great things, it won't do anything unless you use it.

For those of you coming to our next informative Lunch and Learns in March (both in Denver and Ft. Collins) don't forget that we will be following a new time format: educational portion will be from 11:00–12:00pm followed by lunch from 12:00–1:00pm. If you're not interested in the educational portion, simply come at 12:00 to enjoy lunch and networking. If you would like CAI approved continuing education credit, you must come for the educational portion. See you then!

"If you haven't joined us yet, make sure you do soon. We have so much to offer!"



is a publication of the Community Associations Institute, Rocky Mountain Chapter.

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ADVERTISING

Deadline: First of each month for the following month's issue. NOTE: All ads must be camera ready or additional charges will apply. All ads must be prepaid. Advertising in *Common Interests* is a benefit of membership, and you must be a member to advertise. Acceptance of advertising in this magazine does not constitute endorsement of the products or services. Rates available upon request. Email bridget@hoa-colorado.org.

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Committee Corner



EDITORIAL COMMITTEE

April Showers Bring May Flowers

Spring is just around the corner and with the thought of the grass turning green and flowers blooming, maybe you are blooming with ideas for articles to be shared in the magazine! If so, send your topic ideas to Jessica **Meeker** at **imeeker@bensonpc.com**. We are currently working on May's issue, with the topic of Community Liability.



Having just wrapped up our first Lunch & Learn...

2016 is off to a great start for the Programs and Education Committee. Thanks to our panelists Brianna Schaefer, Chris Rhody, and Jennifer Matheson for sharing their expertise with our members.

The P&E Committee is the educational arm of the Rocky Mountain Chapter chapter and is currently comprised of 7 members:

Melissa Keithly • Tim Moeller Alicia Granados • Christopher Drake Natalie Tuccio • Tanya Grace Lee Freedman • Joel Gregg

Our committee strives to provide quality educational programs that relate to all aspects of the Community Association industry. We are actively seeking additional volunteers to serve on our committee. If you have an interest in continuing education and want to be part of a fantastic group of people, please contact executive director Bridget Sebern, our committee chair Melissa **Keithly,** or any other committee member listed above.

We would like to extend a great big thank you to all of our volunteers and most importantly to all of YOU that make P&E events such a great success by attending our events.

Here's to another great year and don't forget, **WE WANT YOU!**



SPRING SHOWCASE

Race to Success!



We are excited to announce that the committee has received several RFP's for the education sessions to be presented at the 2016 **Spring Showcase**, we want

to thank everyone that submitted a class to be reviewed! Along with the educational sessions, the committee is very excited as the vendor showcase will be held in a different hall this year, we anticipate and hope for a higher than normal attendance of managers, board members, management companies, and business partners.

We would like to remind all the business partners to get creative with the theme selected this year as there will be a prize for the best booth! Please be creative and interact with the attendees. The winner will be featured in Common Interests!

To all the attendees, please be ready to walk the red carpet and get your outfits ready! It is going to be an educational and fun event!

MEDIA & MARKETING COMMITTEE

What Does M&M Do for CAI-RMC?

The purpose of the Committee is to promote CAI-RMC programs and events to existing and potential members, build awareness of the existence of CAI-RMC with homeowners and other relevant stakeholders in the state. and to foster a positive view of community associations by the general public. M&M has a lot to do all of the time. Throughout a given year, M&M coordinates marketing outreach events, attends tradeshows, creates marketing collateral, builds relationships with cities, the media and other housing-related organizations and works with the other RMC committees to help them reach their event branding and attendance goals. The M&M Committee meets the 2nd Friday of every month at 9:30 am. If this sounds like something you'd like to help with, we encourage you to sit in on a meeting and learn more!

M-100 THE ESSENTIALS OF COMMUNITY ASSOCIATION

March 2-5, Thornton

April 6-9, Breckenridge

September 7-10, Denver

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This comprehensive community association management course provides a practical overview for new managers, an essential review for veteran managers and an advanced course for board members. You'll receive a 400-page participant guide filled with dozens of sample forms and time-saving tips for working with homeowners, vendors, managers and other professionals. Successful completion of this course is the first step in obtaining a professional designation in community association management. Topics include:

- Roles and responsibilities of managers, owners, committees and the board
- Management ethics
- Developing, implementing and enforcing rules
- Organizing and conducting board meetings
- Preparing budgets and funding reserves
- Assessment collection policies and procedures
- Collecting delinquent payments
- Financial statements, reporting methods and operations
- Evaluating risk management and insurance programs
- Implementing maintenance programs
- Preparing bid requests and identifying key contract provisions
- Recruiting, selecting and managing personnel
- Managing sustainable and developing communities

COURSE MATERIALS

Participant guide and flash drive with bonus readings and materials

COURSE LENGTH

2.5 days | 8:30 a.m.-5:30 p.m. | 8:30 a.m.-5:30 p.m. | 8:30 a.m.-noon

TUITION

CAI manager member: \$445 | Nonmember: \$545

DESIGNATION CREDIT

Successful completion of the M-100 can be the first step toward earning the CMCA credential, awarded by CAMICB. Visit www. camicb.org for details.

CONTINUING EDUCATION CREDIT

Visit www.caionline.org for information on continuing education for state licenses.

ADVANCE REGISTRATION IS REQUIRED

Visit www.caionline.org and register for this course online. Register online four weeks ahead and receive a \$25 discount.





Organizing as a Community



Joe Jackson, Hammersmith Management

1. Have a Clear Vision

If you are thinking of ways to organize your fellow residents in your community, chances are it's for a reason. However, before approaching anyone with your idea or cause, it's important to have it clearly laid out. No one will want to donate their time or effort to an idea that's only half-formed, so be sure to organize your thoughts before you try to organize your neighbors.

2. Set Specific Goals

Organizing your thoughts means setting specific goals for your cause or project. Goals should be SMART:

specific, measurable, action oriented, realistic and timely. Essentially, before trying to engage members of the community, you should be able to explain the specifics of the project or idea, how you are going to measure its success, the steps you are going to take to achieve it, why it's attainable and the timeframe you expect it to be completed.

"Organizing your thoughts means setting specific goals for your cause or project.
Goals should be SMART: specific, measurable, action oriented, realistic and timely."

3. Garner Community Support

Once you have a vision and SMART goals, it's time to start building public support for your idea. This can take a lot of forms, but a great place to start is voicing your idea at your community's next board meeting. Depending on your community's policies though, the board may meet monthly, quarterly or only once annually. (Or any number of other configurations.) So if your issue is more time-sensitive and can't wait for a board meeting, you may want to organize a separate community meeting to discuss the issue. You might also try building awareness and support through social media posts, mailers or fliers in sanctioned public places within the community.

4. Delegate Responsibility

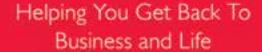
Once you've gained enough community exposure and support for your idea or project, it's time to start determining who will (and is willing) to help you see it through to completion. Because the project will likely impact everyone living in the community in some way, it's important for the whole community to feel and be involved. When deciding which roles each interested party should play in the project, think about each individual's strengths and areas of specialty. One of the great things about community living is that it puts you in close contact with neighbors from a variety of professional backgrounds, so use that to your advantage when delegating responsibilities.

5. Continuously Re-evaluate

Once the project is underway and has direction, it's important to continuously evaluate its progress to make sure it stays on track. This is where those SMART goals come into play: if you've laid the groundwork, evaluating and refocusing should be a simple process. It's also important to understand that, as time goes on, the scope and aim of a project can grow and evolve. So keep that in mind when evaluating progress; sometimes a project needs to move laterally before it can move forward. The key question you should ask yourself is "does this project accomplish the goal/solve the problem I intended?" and let that be your guidepost. \(\begin{array}{c} \ext{A} \)

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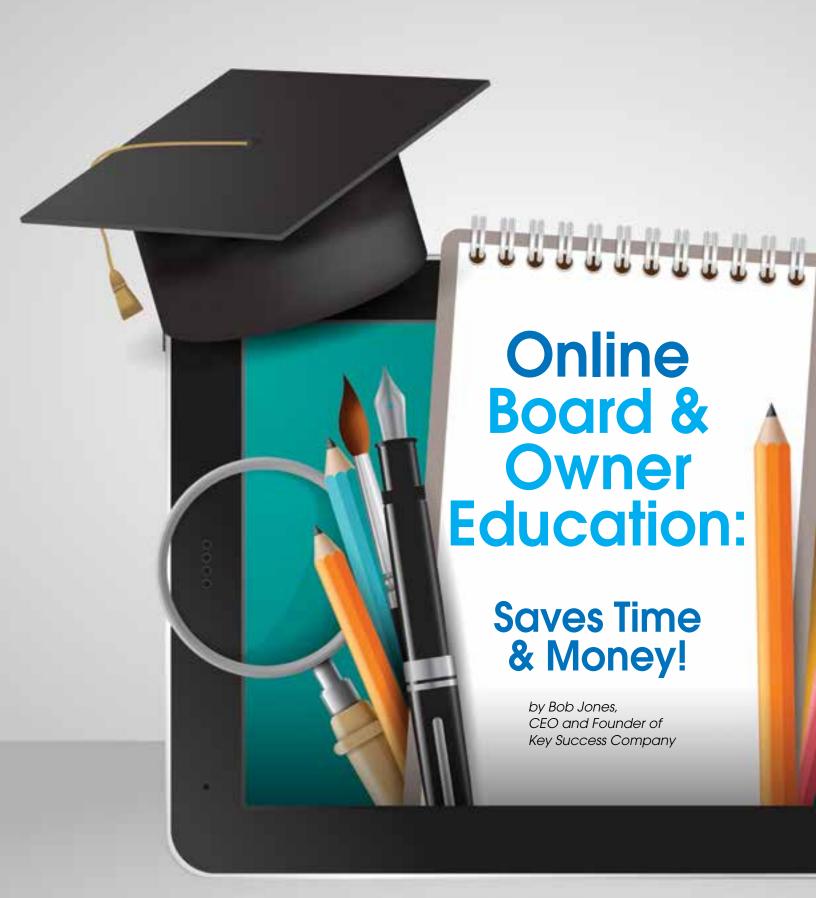
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MEMBER



Do educated board members and owners save community managers' money, time and headaches? Yes, Yes, and Yes!



f you are in the community management world, you will relate;

It's 11 p.m. a Saturday night and your office phone rings. An HOA resident is panicking. His car has been towed and he can't figure out where to call or why it happened,... or your HOA's board member interacts with a resident and the conversation should not have taken place the way it did!...

As a community manager, you know you need to address these issues; de-escalate them and educate those involved, so it doesn't happen again the in future.

However, what if you could more effectively keep these incidents from happening in the first place?

Let's talk about board members first. We all know it is not automatic that board members receive training. Most community managers will agree that trained board members make better decisions, they lead better and require less community manager interface. The problem is, many community managers do not have the time to train board members in the art of good leadership, in Robert's rules and what should be said or never said. When leadership problems persist, PM's have even less time to train and in some cases, the lack of training can lead to a downward spiral.

It is no secret that many new owners do not read their community's covenants and other governing documents given to them at the closing table. Residents also frequently do not read the community welcome packages, prepared with the best of intentions, by community management companies, as well!

In an ideal world, your board members and residents should be provided knowledge and training. That is simple and obvious enough, but how do you achieve that goal so that the intended parties actually learn it.

Let's talk about solutions. Ways to get the training to board members and residents range from face to face meetings, in-person classroom-like training and online learning are all obvious.

There are several educational programs offered by organizations, including Community Association Institute, that have in-person training sessions for both HOA board members and residents alike. The challenge is to get people to attend these sessions and while there, actually learn from their experience. For those who

do attend, learning something new can be limited because most people can only absorb so much information in a face-toface situation, and some information can easily get glossed over by the instructor. Studies suggest that in a 40-minute faceto-face lecture, very little to no information is recalled after the first 15-minute mark, and recall begins getting spotty even earlier than that.

A better option is an online format that includes light weight quizzes to check comprehension, and as a result your board members or residents are much more likely to internalize that information and apply it in the future.

Online learning allows a viewer to process the information at their own pace, which is essential because of how people learn. Being able to take a break while learning new information is essential for comprehension. An online learner works at his or her own comfortable pace. When he or she begins to "zone out," the learner is able to take a mental break, stop viewing the information, and then re-engage when ready. The learner doesn't lose critical information and the educator doesn't fail to convey information necessary to complete a lesson.

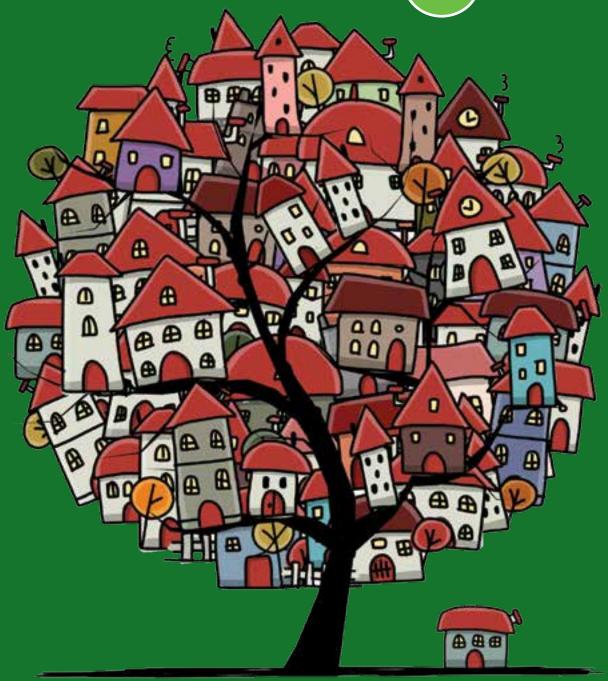
Quizzes are a huge asset for online learning. When a learner demonstrates his or her knowledge, ignorance is no longer a valid excuse for breaking a rule or violating a policy. The learner has provided clear proof he or she understood, internalized and recalled critical information. "Online learning [is] superior to classroombased instruction in terms of declarative knowledge outcomes," a study found4.

Just imagine!,...educating your board members and owners about where to park, how to interact, how high the weeds can grow in a yard, rec room and pools rules can be meaningfully provided to every new board member and owner. Now imagine all of this taking place online with just a few clicks of a community mangers' mouse, thus saving money, reducing headaches and increasing company profits!

We can all agree, however it happens, educated board members and owners... priceless! **A**

Bob's companies specialize in online property management efficiency, resident training, online video training and promotional videos production for business. Bob's websites are: www.MoveInSuccess.com and www. Ignite.Today; 720-722-1070

Communal Living



o two individuals have the same exact vision of the American Dream of homeownership and while some may fancy living in McMansions, others prefer the built in community feel and ease of living in either a condominium or cooperative environment. Those who prefer communal living should know that a homeowners association (HOA) is part of the package.

An HOA is defined as "A nonprofit association that manages the common areas of a condominium project or planned unit development (PUD). In a condominium development, the association has no ownership interest in the common elements. In a PUD, it holds title to the common elements of the project." Simply put, the HOA is the governing board that manages the buildings resources, plans for repairs and improvement process and is also responsible for making sure that all residents in a project follow the rules and laws to ensure peace and civility throughout the planned communities.

Advantages of Living with an HOA

Regardless of the type of property in question, the ultimate goal of an HOA is to ensure consistency in a living arrangement while leaning towards protecting property values. By doing so, the association is responsible for collecting HOA dues and laying down the local law of the land. It is because of this arrangement that many consumers have developed a love hate relationship with their HOA.

For individuals who believe that there is safety in numbers, do not want to invest the time or energy to deal with home maintenance issues and prefer planting roots in an established community, a homeowners association can provide a beacon of light. Some pros to an HOA include:

- Luxury on a Budget: HOAs are responsible for maintaining common areas and depending on the property that may include assets like swimming pools, gyms and the grounds at large.
- Cleanliness: Part of the HOA dues paid by those living in a communal arrangement are dedicated to general property maintenance and cleanliness such as maintaining building facades, cleaning common areas and snow removal.
- Peace Makers: Each type of communal living arrangement comes with its' own set of bylaws and an HOA is in charge of ensuring that all residents follow the rules. Individuals who notice violations within their community simply need to let the HOA know and they will do the dirty work.
- Property Values: While the rules implemented by the HOA
 may be strict, the laws can keep a property in top shape and
 increase the odds of keeping a property at fair market value.

Disadvantages of Living with an HOA

HOAs certainly can streamline the home owning process for many, but to do so there are many restrictive behaviors they may rely on. Some cons associated with living under an HOA include:

- Rules: Bylaws can help keep order in a community, but those
 who break them will certainly feel the wrath of an HOA in
 the form of fines and penalties. Some common bylaws of
 HOA managed properties include home decor (limiting
 color options and decorative choices), requiring certain
 obligations of residents (in relationship to maintaining
 lawn health, types of pets allowed or putting time limit on
 guest stays) and everything in between.
- Can Limit Renting: HOAs can limit homeowners' flexibility in terms to subletting properties. Homeowners who long to be landlords may need to have their potential tenants screened by board members plus, the association can put time limits and financial caps on the agreement.
- Homeowner Dues: Dues are monthly payment amounts
 that are a non-negotiable expense that is part of the living
 arrangement. If the payments are not paid on time or in
 full, legally an HOA can place a lien on the property, and if
 not paid, they can foreclose on a home.

"The ultimate goal of an HOA is to ensure consistency in a living arrangement while leaning towards protecting property values."

How to Deal With HOAs

Prospective home buyers interested in moving into a community governed by an HOA need to conduct their due diligence on the local lay of the land before fully committing to the real estate transaction. That process involves a thorough review of the bylaws, prior to signing on the dotted line and making the personal choice to follow them to a "T" in order to avoid any complications. Additionally, if there are certain rules that seem to go against the greater good, individuals may opt to get involved in the homeowners association by attending meetings or even running for the board. \spadesuit

3 Day Disclosure Rule of HOA and Management Company Fees



Jerry Orten, Orten Cavanagh & Holmes, LLC

ederal rules now require disclosure of HOA and management company fees in 3 business days.

- The required disclosures include:
- CIC documents
- transfer/record change fees
- status letter fees
- assessments and dues
- working capital
- any other fees of the HOA or management company

Compliance with the New Rule

To comply with this 3 day requirement, title companies are expected to request these disclosures and other HOA information 3 weeks prior to closing.

HOA management companies and self-managed HOAs should expect inquiries for timely disclosure. HOA management companies and HOAs should implement procedures to comply with these new deadlines.

Details on this New Rule

This new rule was adopted by the Consumer Financial Protection Bureau ("CFPB"). The CFPB is independent agency, created under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The CFPB is empowered to implement and enforce rules against financial service providers.

The rule requires disclosures as part of the Federal Truth In Lending Act and the Federal Real Estate Settlement Procedures Act ("2013 TILA-RESPA Final Rule and amendments"). The rule is based on new residential mortgage applications.

Rationale for this New Rule

One of the main objectives of this new rule is to provide consumers with clear and transparent disclosures of all loan fees and closing costs associated with the purchase and financing of residential real estate. Disclosure is intended to allow consumers to compare loan offers from multiple lenders. Consumers are provided time to understand terms of the loan so they may obtain the best deal for them.

New Forms to Borrowers

Consumers will receive two consolidated disclosure forms:

- A Loan Estimate
- Closing Disclosure

Instead of receiving four required federal mortgage disclosure forms:

- Initial Truth-in-Lending disclosure
- Good Faith Estimate
- Final Truth-in-Lending disclosure
- HUD-1 Settlement Statement

These two forms are intended to make overall loan cost information easier to understand.

3 Days for Disclosures

The rule sets strict timelines within which a buyer/borrower in a residential real estate transaction must receive the new forms:

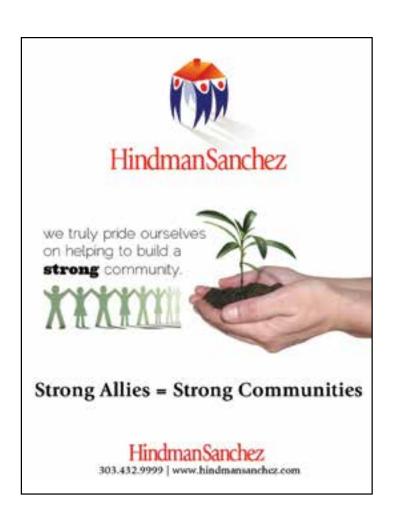
- Loan Estimate (within 3 business days of loan application)
- Closing Disclosure (at least 3 business days prior to closing)

Similar CAM Rule

Colorado Community Association Manager licensing rules also require written disclosure of a HOA and management company's fees and charges in connection with the sale, transfer and closing of the real estate in a CIC. The CAM rule also is a 3 business day rule. See CAM Rule F-6, subsection 3.

CCIOA

The Colorado Common Interest Ownership Act C.R.S Section 38-33.3-316(8) continues to requires that Associations provide a written statement of unpaid assessments currently levied against an owner's unit within 14 calendar days of a certified mail request. This statute remains in place.







Thinking Outside the Ballot Box



Ashley Nichols, HindmanSanchez

hew! You made it—Give yourself a pat on the back. For the most part, annual meeting season is over and the stress that comes along with it has, for the most part, passed. Think back to the last annual meeting you attended (either as a manager, board member, or community member) and picture it: there were several vacant board positions that were up for election. Ten of your 200 community members were in attendance at the meeting, and an additional ten community members had submitted a proxy for their vote. Ten

percent! Are the community members apathetic, is it inconvenient to attend board meetings, or is it something else? If voting was easier, it is likely that more community members would participate in the process.

It should not come as a surprise that the use of all forms of electronic communication, including social media, is rapidly increasing. According to a recent report (Global Digital Statshot: August 2015) released by We Are Social, Inc. (a company that focuses on social media marketing and communications), the world is moving towards a total digital age. Some interesting statistics are:

- 1. There are 3.175 billion active internet users globally (nearly half the population);
- 2. There are over 2.206 billion active social media users;
- 3. There are 3.734 billion unique mobile users (51% of the population); and
- 4. 1.925 billion users use their phones for social media.



Additionally, the report shows that year-on-year growth is still going strong. Internet users increased 7.6% from 2014 to 2015. There are nearly 600,000 new internet users daily! Soon, doing anything offline will be a thing of the past. So, how can your association take advantage of the digital age? One way, and the focus of this article, is to conduct online, or electronic, elections. Hanging chads (eek! outdated reference!) and scrawly handwriting or incomplete written ballots could be a thing of the past. So let's dive right into the future.

The first thing you'll need to address is whether your association even has the right to conduct an election online. Yes, it does! There are two ways a community member potentially might participate in an election through electronic means: (i) by conducting an election by written ballot (i.e., no physical meeting is held and, instead, members simply cast their votes through some form of online voting system), which is permitted by law at Colorado Revised Statutes § 7-127-109, and (ii) by telecommunication (i.e., attending the meeting by telephone, Gotomeeting, Skype, etc.), which is permitted under § 7-127-108. We will delve into both methodologies below.

Action by Written Ballot

In this scenario, the association is not holding a meeting but, rather, conducting an election online in lieu of a meeting. So the members are being asked to review the information on the election and the potential candidates, and then cast their votes online.

The Revised Colorado Nonprofit Corporations Act ("Nonprofit Code") at Colorado Revised Statutes § 7-127-109 allows actions to be taken by written ballot in lieu of a meeting, as long as certain procedures are met. The Nonprofit Code requires the association to "deliver" a written ballot to every owner entitled to vote, however the method of delivery is not discussed. Nor does the Nonprofit Code spell out the method by which such ballots are returned to the association. Therefore, ballots could be delivered to members via internet means and, conversely, such ballots may be cast and returned to the association via the internet. However, be sure to consult with your attorney as to the procedural steps that must be taken when taking action by written ballot under this section, including the information that must be specified on the ballot, the information that must accompany the ballot, and the deadline for casting the ballot online.

Participating by Telecommunication

In this scenario, the association is holding a membership meeting but a members may be present at such meeting via electronic means, such as by phone or Skype. Or, the association might be holding the meeting itself by phone or entirely online via Skype, Gotomeeting, etc. with membership participating in the same manner.

The Nonprofit Code, at Colorado Revised Statutes §, allows members to participate in any annual, regular or special meeting of the members by, or through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. So the key is that everyone must be able to hear (not necessarily see) each other during the meeting.

"Convenience is at the top of the list as one of the greatest benefits of conducting elections online. Making access to meeting information available online and providing community members with the opportunity to electronically vote will likely give substantial rise to the amount of participation in your community."

So, once it is time for the election portion of the meeting, how does the member who is participating via electronic means cast his/ her vote? Technically, that homeowner is "present" at the meeting so the member may provide their vote by voice, or by some form of electronic means (e.g., email, text, etc.).

But what about the secret ballot requirement? The Colorado Common Interest Ownership Act (CCIOA) in Section 38-33.3-310 discusses voting, proxies and when secret ballots are required and/or allowed. Except for associations that have delegate voting, votes for contested positions on the executive board shall be taken by secret ballot. Additionally, at the discretion of the board, or upon request of twenty percent of the owners present at the meeting or represented by proxy, a vote on any matter affecting the community on which all unit owners are entitled to vote shall also be by secret ballot.

How is secrecy preserved in an electronic world? Unfortunately, there is no guarantee that secrecy will be preserved when conducting elections via electronic means. However, if the vote is being conducted through an online voting system, when determining which company to use for the online vote you should be sure that the system will be able to: (i) authenticate the member's identity and validity of each electronic vote to ensure that the vote is not altered in transit, (ii) transmit a receipt from the online voting system to each member who casts an electronic vote and,

(iii) separate any authentication or identifying information from the electronic election ballot, so that the election ballot is not tied to any specific member.

If, on the other hand, a member is participating by telecommunication at a meeting, the person collecting the votes may receive the vote via telephonic or electronic means, and then transfer such vote onto a secret ballot. While secrecy may not be preserved between the member and the person who is collecting that member's vote, the membership as a whole still will not be able to tell how individual community members voted.

Next, you will want to make sure that your governing documents do not prohibit electronic voting by community members. The Bylaws for your association may not expressly allow voting by this method because this is a relatively new technology, but as long as they don't specifically prohibit it, you may use electronic voting within your community. Even if your governing documents do not provide that your association has the ability to conduct elections electronically, the Nonprofit Code allows it.

Now you, along with your legal counsel, have reviewed your documents and Colorado law, and have determined that your association can vote by electronic means. Should you conduct your election in this manner? There are many advantages to doing so. Convenience is at the top of the list as one of the greatest benefits of conducting elections online. Making access to meeting information available online and providing community members with the opportunity to electronically vote will likely give substantial rise to the amount of participation in your community. In both our personal and professional lives, people generally are living their lives online. It is convenient to pay bills online, it is convenient to buy anything you may want or need online, etc. So, why not make it more convenient for your community members to vote by offering online voting? Your association may already maintain and make frequent use of a website for disseminating and gathering information, so offering online voting is not that far of a leap.

Another advantage to online voting is that it affords community members who may not live near the community the opportunity to retain their voice in association issues. These community members may have, in the past, either chosen not to participate or may have chosen to give their proxy to another member. There are pros and cons to the use of proxies. The advantages are that as stated above, off-site community members may still participate in the process, and they allow communities to have elections where most owners attend by proxy-otherwise, there would not be quorum or the opportunity to elect board members. But some concerns with proxies are related to the possible abuses, such as forgery and alteration. Another concern is that proxies may be used to allow some community members the opportunity to push their own personal agendas by collecting large numbers of proxies. By using electronic voting methods, these off-site community members are more likely to "turn out" for election day.

And who can forget about the potential money saved? Your time for the cost of assembly and vote tabulation, as well as the costs for postage (and return postage) adds up. With electronic voting, while there will still be a cost (nothing is free!), it is likely to be less costly than traditional methods associations are employing currently. There are vendors that provide this service specifically for community associations. These vendors provide services

including, but not limited to setup of a dedicated website for your association's voting needs, homeowner registration services, automated vote tabulation, and voter participation reports. Many of these vendors also provide services that help you transition from "traditional" voting methods to the voting method of the digital age by providing a way for you to include the paper ballots that some of your community members may choose to cast. And it certainly provides for transparency and avoids any appearance of impropriety in the community when the voting is handled by a third party vendor that manages the voting process, rather than by the board itself or a manager, where some community members may perceive there to be a certain agenda. Your manager or attorney can certainly help you to choose the right vendor for your association's needs.

But these all sound great? There must be a downside, no? Of course, as with everything, there are both advantages and disadvantages. You want to make sure that by offering online voting, your association is broadening the options available to owners, not narrowing them. That means that your association may have to take extra steps (read, pay extra money) in order to ensure that all community members have equal opportunity to cast their vote. Always have equally convenient "paper" voting options available for those who are not comfortable voting online or have no computer access, and even consider making a computer temporarily available for online voting the community clubhouse or recreation center. You also want to make sure that technical assistance is available to

any owners who have questions about online voting or who have trouble with the process.

Some other potential pitfalls, and things that your association will absolutely have to ensure are correct, are that the system in place has a way to authenticate the voter and the vote. Your system also needs to be able to retain the information for potential recount, inspection and of course, records retention purposes.

Your board should also consider adopting a policy regarding online meetings.

In 2014, the HOA Information and Resource Center (a section of the Colorado Division of Real Estate) released its Annual Report. The report breaks down complaints by topic and elections and voting complaints made up 3.8% of the complaints received. The report indicated that many of the complaints involved election misconduct by both the board of directors and the managers, and examples were as follows: not following association election procedures, improper use of proxies, not counting votes and proxies correctly, not maintaining or producing records of election results, etc.

Electronic voting can apply more transparency (real and perceived) to the voting process, which could certainly alleviate some potential complaints from your community members. By considering all of the pros and cons discussed in this article and consulting with legal counsel about whether electronic voting would benefit your association, your board will be on the forefront of the digital age, and will certainly by thinking outside of the [ballot] box! **A**



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o your declaration of restrictive covenants has a restriction on posting signs on your lot, or in the windows or your condominium unit. The language is something like this:

No sign, poster, billboard, banner, window display or advertising shall be erected, placed, maintained or permitted on any part of a Lot/Unit so as to be visible from outside a Lot/Unit, other than a name plate of the occupant and an address or street number, and except one sign advertising the Lot/Unit for sale or for rent not larger than five (5) square feet, or security signs not larger than one (1) square foot. The Design Review Committee may adopt guidelines further restricting permitted signs relating to dimensions, color, style and location of such signs No flashing or moving signs shall be permitted on any Lot/Unit if the same would be visible from the outside of the dwelling/Unit.

Your visceral response is "What?! They [the amorphous homeowners association/board of directors/enforcement committee] can't tell me that I can't post signs! I've got rights! That's unconstitutional!"

Is it?

While it can be in vogue to say something is unconstitutional, and that the U.S. Constitution and the Colorado Constitution guaranty freedom of speech, and posting signs (and similar items) is an exercise of that freedom of speech, the analysis goes deeper than that. The First Amendment to the U.S. Constitution says "Congress shall make no law...abridging the freedom of speech, or of the press;..." There have been many, many court decisions addressing this right, and what it means. Further, the Fourteenth Amendment to the U.S. Constitution extends the protection of this constitutional right to prevent infringement by any state.

What does this mean, you ask? In essence, the U.S. Constitution affords no general right of free speech in a private setting, if there is no "state action." State action is generally action of the government, or conduct that may fairly be treated as that of the government itself. Courts will examine the role of the homeowners association to determine whether it is a "state actor," but generally they have held that associations are private and the free speech protections



afforded by the U.S. Constitution don't apply. Rather, they have held that, at the time that owners purchase their homes, they contractually agree to abide by the provisions in the declaration, and by doing so, relinquish their freedom of speech as it applies to placing signs on their properties.

In Colorado, restrictive covenants contained in a declaration, such as sign restrictions, are enforceable as written, if clearly written. However, in 2005, the Colorado legislature adopted certain revisions to the Colorado Common Interest Ownership Act

(CCIOA), stating that certain provisions in declarations, bylaws, or rules and regulations were contrary to public policy, and therefore, are unenforceable. This modification to CCIOA applies to all community associations in Colorado regardless of when they were formed, and disallows "the display of a political sign by the owner or occupant of a unit on property within the boundaries of the unit or in a window of the unit." However, CCIOA did allow certain restrictions on the display of political signs.

Here are the basics of the CCIOA provision:

- Homeowners associations cannot prohibit the placement of political signs on property occupied by a resident in the community, or in the window of a unit.
- Homeowners associations may regulate the timeframe for the display of political signs, by prohibiting the display of these signs earlier than 45 days before an election and more than 7 days after an election.
- regulate the size of political signs which may be displayed on an owner's property or in the window of a unit. The maximum size of political signs can be limited to the lesser of: (1) the maximum size allowed by any applicable city, town, or county ordinance that regulates the size of political signs on residential property; or (2) thirty-six inches by forty-eight inches.

- Homeowners associations may limit the number of political signs which may be displayed to 1 sign per political office or ballot issue that is contested in an upcoming election.
- CCIOA defines a political sign as "...a sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue." For example, a sign that says "Support candidate for City Council" in an upcoming election would be a lawful political sign. On the other hand, a sign that says "We support Walmart Strikers" would not be sign that is protected by the CCIOA provision, and it could be restricted if the declaration disallowed that type of sign.

As you can see, in many cases, restrictive covenants in an association's declaration prohibiting signs will be enforceable, and that enforcement will not be a violation of any constitutional protection. If you have a provision like the one referenced above, you may want to think about amending it to reflect that political signs are permitted as provided by CCIOA. And while you're

amending, you may want to think about whether other sign restrictions make sense for your community, or whether the restrictions need to be relaxed due to the changing nature of your community. Ultimately, your restrictive covenants should be a reflection of the values in your community, including any restrictions on signs and speech. A

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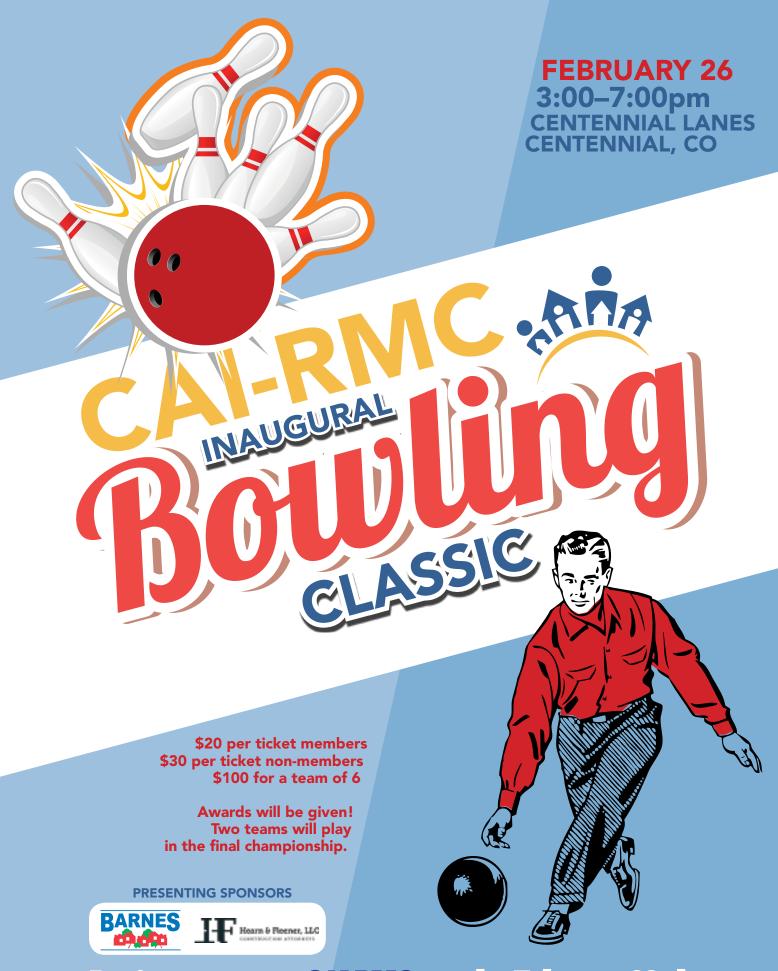
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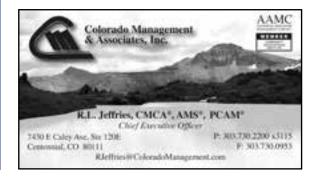






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26 Fri	CAI-RMC Inaugural Bowling Classic Celebrity Lanes • Centennial	10-11 Thu-Fri	M205—Risk Management Sheraton DTC • Greenwood Village	
MARCH				
2-5	M100—The Essentials of	APRIL	APRIL	
Wed-Sat	Community Management DoubleTree • Thornton	22 Fri	2016 Spring Showcase & Trade Showe	
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