



AN INTRODUCTION TO

community association *living*

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community

association

living



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CAI is a national, nonprofit 501(c)6 association created in 1973 to educate and provide resources to America's community association industry. Its members include: volunteer leaders of condominium and homeowner associations, cooperatives, and planned communities of all sizes; community managers and management firms; builders and developers; and attorneys, accountants, lenders, reserve specialists, insurance providers, and other providers of professional services and products for community associations. CAI has more than 50 chapters throughout the United States. Each chapter has its own menu of programs and services and serves geographic areas, entire states, and multiple states. CAI estimates that there are currently 286,000 community associations in the United States.

The Center for Community Association Volunteers (CCAV), a specialized member group, was created by CAI to help better serve our members and increase the value of membership. Its aim is to assist owners in becoming more effective, efficient, and respected leaders.

The material presented in this publication has been prepared for the general information of the reader. While the material presented is believed to be accurate, neither CAI nor its chapters warrant the publication's suitability other than as information guidelines.

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is distributed 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.

—From *A Declaration of Principles*, jointly adopted by a Committee of the American Bar Association and a Committee of Publishers



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Introduction

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The purpose of *An Introduction to Community Association Living* is to introduce community volunteer leaders and members to community associations, provide a greater understanding of exactly how a community association works from both an organizational and people standpoint, and to endow members with the information necessary for fully enjoying and benefiting from community association living.

LEARNING OBJECTIVES

After reading this publication or completing the course, you should be able to:

- Define the term “community association” and articulate the three characteristics common to all community associations.
- Describe the three different kinds of community associations—from a real estate organization standpoint.
- Explain the differences between the various types of governing documents and state the relative importance of each.
- Describe the major components of a community association—rules and regulations, governance, and community management.
- Understand the basic relationship between community association members and their operating boards.
- Detail the rights and responsibilities of owners as members of a community association.



What is a Community Association?

"Automatic and mandatory homeowners associations are part of an overall concept of residential property ownership. Purchase of the home or lot brings with it membership in the association which provides the structure for operation and management of the residential community concept. Membership includes certain mandatory obligations, financial responsibilities and rules of the association." —*THE HOMEOWNERS ASSOCIATION MANUAL*, BY PETER M. DUNBAR, ESQ., AND MARC DUNBAR

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By purchasing into a community association, be it a condominium unit, townhome, or single family home, the owner agrees to abide by the community's pre-established guidelines. The owner will often live close to his or her neighbors, share common facilities, and voluntarily sacrifice certain freedoms, all for the cause of protecting communal property values and reducing nuisances. Reasonable restrictions, consistently enforced over time, will preserve the net value of the community and maintain a high quality of life for residents.

DEFINITION OF A COMMUNITY ASSOCIATION

A community association provides a communal basis for preserving, maintaining, and enhancing homes and property. All community associations have three basic, defining characteristics:

- **Membership in the community association is mandatory and automatic for all owners.** This is unlike other associations whose membership is voluntary.
- **Certain documents bind all owners to be governed by the community association.** These documents require mutual obligations to be performed by the individual owner and the community.
- **Mandatory lien-based economic charges or assessments are levied on each owner in order to operate and maintain the community association.**

“....[the community association] gives continuity to the community, it preserves the architectural integrity and it maintains the common properties. Properly run, it promotes the community concept and protects the community’s property values.” —*THE HOMEOWNERS ASSOCIATION MANUAL*, BY PETER M. DUNBAR, ESQ., AND MARC DUNBAR

PURPOSE OF A COMMUNITY ASSOCIATION

People choose to live in community associations for numerous reasons. Many association owners value the inherent benefits offered by community association living. Community associations are designed to:

- Manage common areas of the property
- Manage property interests of owners
- Provide services for owners
- Develop a sense of community through social activities and/or amenities

NOMENCLATURE

Depending upon the specific organization or U.S. state, community associations are referred to differently. Following are common terms typically used to describe community associations:

- **Community association:** This term is used by Community Associations Institute and by the Bureau of Condominiums of Florida.
- **Common-interest community (CIC):** This term is used by the National Conference of Commissioners on Uniform State Laws.
- **Common interest realty association (CIRA):** This term is used by the American Institute of Certified Public Accountants (AICPA).
- **Common interest development (CID):** This term is used by the California Department of Real Estate (DRE).



CAI RESOURCES

The Essentials of Community Association Volunteer Leadership, by Katharine Rosenberry, ESQ.

The Homeowners Association Manual, Fifth Edition, by Peter M. Dunbar, ESQ., and Marc Dunbar



Types of Community Associations

Community association is a generic term used to describe residential developments in which each owner is bound to a real estate organization by a set of governing documents that require adherence to a set of rules and the payment of assessments. The money collected in assessments is used for the operation of the association. Community associations are not voluntary organizations; membership is automatic when a unit is purchased. Though real estate practice and terminology varies among organizations and states, it is important to note that the following community association terms and concepts are valid in any locality.

There are three basic types of community associations:

- Planned community
- Condominium
- Cooperative

PLANNED COMMUNITY

Planned communities are the most common type of community association. Recent estimates indicate that 52–55 percent of all community associations are planned communities.

In a planned community, each purchaser has exclusive ownership to a lot/unit, including the property the lot/unit sits on and the residential dwelling itself. Each resident generally owns an interest separate from the other owners, coupled with mandatory membership in an association.

The association owns the common area, but the owners have very specific rights and obligations with respect to the common area. Common areas in a planned community include the grounds, recreational areas, and sometimes, the roads. Because most planned communities consist of detached housing, common areas do not generally include walls and roofs, although they may.

There are many types of planned communities including townhouse developments, single family home developments, planned unit developments, planned residential developments, cluster developments, property owners associations, and master planned communities.

CONDOMINIUM

Condominiums are the second most common type of community association. According to recent estimates, 38–42 percent of all community associations are condominiums.

The condominium is a unique form of ownership where the owner typically only owns the air space, but not the physical boundaries of the unit or the land underneath the unit. The owner additionally holds a shared interest in the common area. The separate interest is usually contained within a building.

The owner's fractional shared interest may be equal or based on another system, such as square footage. For example, if there are 100 condominium units, each owner may own 1/100 of the common area or each owner may own a fractional share based on the size of his or her home.

A condominium is distinguished from other community associations by the fact that the owners generally own common area as co-owners. As long as co-owners own some common area, however, the association also may own property, as it does in a cooperative and planned community, depending on state law.

Many people think of condominiums as apartment buildings. However, condominiums come in other forms. In some states, mobile home parks, boat slips, and parking garages also can be condominiums. For example, if the owner of a mobile home has a separate or exclusive interest in the mobile home structure and a shared interest in all the area that is not occupied by a mobile home structure, the park can be a condominium.

COOPERATIVE

Cooperatives are the least common type of community association, constituting approximately 5–7 percent of all community associations. A corporation owns the building or other property that makes up the cooperative. An owner owns a shared interest in the corporation and the exclusive right to occupy or “rent” a specific portion of the cooperative—usually called an apartment. Because most cooperatives are contained within a building, the common area in a cooperative often consists of hallways, elevators, roofs, parking areas, and laundry facilities.

In this type of association, the member is more akin to a shareholder. In cooperatives, the association owns all property, including all the units.

Each of the three types of community associations can exist by themselves, or they can be grouped in clusters termed master associations, umbrella associations, or master planned communities. If multiple uses are included, the term mixed use association is used.



RESOURCES

The Essentials of Community Association Volunteer Leadership, by Katharine Rosenberry, ESQ.

U.S. Census publications, the American Housing Survey, IRS Statistics of Income Reports, consultation with CAI professional members, and state-specific data from California and Florida and related trade organizations



Legal Basis for Community Associations

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In order to effectively live in and participate in a community association, owners must understand the legal basis of community associations and learn the scope and limit of authority of the association board, manager, and service providers. Community associations derive their basic legal authority for their existence, activities, and actions from various sources including:

- Federal, state, and local statutes; regulations; and case law
- Legal documents unique to the community association that bind the association and its owners
- Lender requirements (e.g., requirements set by secondary mortgage institutions)
- Standards set by professional bodies (e.g., auditing standards set by the American Institute of Certified Public Accountants—AICPA)

STATE STATUTES, REGULATIONS, AND COURT DECISIONS

All states have statutes that enable the establishment of condominiums and corporations. Some states have statutes that enable the establishment of cooperatives or planned communities. Several states, including Florida and California, require or regulate such

community association budget items as reserves for replacement, audits, insurance, and the conduct of financial operations.

State courts have also made decisions that affect the types of expenses community associations incur. For example, there have been “security” cases involving the adequacy of lighting, patrols, and off-duty police; cases involving parking and sign requirements; and “slip-and-fall” cases involving the adequacy of snow plowing. To find out more about the case law that applies to community associations, review the *Community Association Law Reporter* or consult with an attorney specializing in community association law.

LOCAL LAWS AND REGULATIONS

Local governments may have codes, laws, and, possibly, taxes that associations must meet. Any requirements in these areas will result in expense items for a community’s budget.

For example, a local fire code may require such items as sprinkler systems, exit signs, fire extinguishers, or elevator inspections. Local health and safety codes may require pool inspections, water quality tests, or mandatory procedures for sewage disposal or recycling. Property taxes may be levied on land commonly owned by the association. To find out what local laws and regulations apply to your community association, contact your local government office or your local elected official.



CAI RESOURCES

Community Association Legal Counsel: How to Select and Use an Attorney (GAP #13), by Thomas J. Hindman, ESQ., and Loura K. Sanchez, ESQ.

Condominium and Homeowner Association Practice: Community Association Law, (Third Edition), by Wayne S. Hyatt, ESQ.



Governing Documents

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The purpose of a community association's governing documents is to provide for the legal structure and operation of the community.

The documents:

- Define the rights and obligations of both the association and its owners
- Create a binding relationship between each owner and the association
- Establish the mechanisms for governing and funding the association's operations
- Set forth rules and standards for the:
 - Protection of both owners and the community
 - Enhancement of property values
 - Promotion of harmonious living

HIERARCHY OF AUTHORITY

The general hierarchy of authority for governing documents is a loose one because not all documents address all issues involved in operating a community association.

For operating a community association, the general hierarchy of authority among governing documents consists of:

- 1.** Recorded map, plat, or plan
- 2.** Declaration; covenants, conditions, & restrictions; master deed; proprietary lease; or occupancy agreement
- 3.** Articles of incorporation (if incorporated)
- 4.** Bylaws
- 5.** Rules and regulations
- 6.** Other resolutions

RECORDED MAP, PLAT, OR PLAN

Some form of map is an essential document for a condominium or a planned community. A map, plat, or plan is recorded in the County Recorder's office before any lots or units shown on it are sold. The purpose is to show the precise location of each lot or unit, as well as the common areas. The format and content will differ according to local requirements. A map, plat, or plan may help define an owner's or a community's title to property.

On an operational level, it helps determine:

- Who is responsible for maintaining a particular piece of property
- Whether a property improvement is properly located

Some states require cooperatives to submit a legal description of the land involved and an architectural drawing.

DECLARATION, CC&RS, OR MASTER DEED

An understanding of the declaration; covenants, conditions, & restrictions (CC&Rs); or master deed requires an understanding of the rights of ownership first. Under Anglo-American common law, the ownership of land has been characterized as a "bundle" of rights. In the absence of any restrictions, the landowner traditionally has the full bundle. For example, he or she possesses the right to lease the property, build on it, mortgage it, occupy it, etc.

When people buy a parcel of real estate, the bundle of rights is defined in the deed to the property, as it is in the previous deeds for the same parcel. All of them are recorded in the land records. These documents are sometimes called the "chain of title."

The provisions in deeds which define or limit the rights of ownership are often called deed covenants or deed restrictions. The legal community speaks of these covenants or restrictions as “running with the land.” That is, they apply to the land, no matter who owns it in the future.

Instead of inserting all of the same covenants and restrictions into each individual deed in a community development, the developer draws up a declaration of covenants, conditions, and restrictions—or something with a similar name. The developer records this declaration in the County Recorder’s office before any of the real estate is transferred to any other owner.

The provisions in deeds which define or limit the rights of ownership are often called deed covenants or deed restrictions.

This means that the declaration is in the chain of title for each piece of real estate. Its terms are binding on the real estate itself, as well as on its original and succeeding purchasers. As a result, the declaration defines the bundle of rights of each owner in the community association.

For condominiums, this document is called the **declaration** or the **master deed**. For planned communities, it is called the **declaration of covenants, conditions, and restrictions**—or **CC&Rs**.

The declaration, CC&Rs, or master deed generally:

- Defines the portions of the development owned by the individual owners and those owned by the community association
- Creates interlocking relationships binding all of the owners to one another and to the association for the purposes of maintaining, governing, and funding the development
- Establishes protective standards, restrictions, and obligations in areas ranging from architectural control to prohibitions on various activities in order to promote harmonious living
- Creates the administrative framework for the operation and management of the association—although many of the specific administrative details are spelled out in the bylaws
- Provides the mechanism for financial support of the association through assessments
- Provides for a transition of control of the association from the developer to the owners

PROPRIETARY LEASE OR OCCUPANCY AGREEMENT

A proprietary lease or occupancy agreement in a stock cooperative defines the member or stockholder's rights and obligations in relation to the living unit. In a stock cooperative, this document serves generally the same purpose as the declaration, CC&Rs, or master deed in other associations.

The proprietary lease or occupancy agreement:

- Identifies the premises that the stockholder is permitted to occupy exclusively
- Defines the term of the lease and the rent (sometimes called maintenance) that is payable by the stockholder
- Establishes the powers and obligations of the cooperative's board of directors
- Defines the events which would result in the termination of the proprietary lease

ARTICLES OF INCORPORATION

Incorporation may or may not be a legal requirement for a community association. It is essential for cooperatives to be incorporated because they are based on the corporation concept. Planned communities are almost always set up as not-for-profit, non-stock corporations. Condominiums often are incorporated. However, they do not have to be because they exist under the authority of a state condominium statute.

A community association's corporate structure is established when a developer sets up the association. The developer files articles of incorporation—sometimes called a corporate charter—with the appropriate state corporation agency. Different states have different names for this agency.

The articles of incorporation:

- Bring the corporation into existence
- Define its basic purposes and powers
- Indicate whether stock will be issued
- Indicate whether there will be a board of directors—and if so, identify the initial board

There are a number of benefits to incorporating a community association.

Incorporation:

- Limits the liability of individual owners for acts of the community association
- May make it easier to deal with other parties, such as utility companies or vendors

BYLAWS

Bylaws are formally adopted governing regulations for the administration and management of a community association. Planned communities, condominiums, and cooperatives all have bylaws. Sometimes bylaws are developed as part of the declaration. At other times, they are adopted as soon as a corporation is established.

Bylaws address such topics as:

- Requirements for membership in the community association
- Requirements for membership meetings
- Voting rights of member owners
- Procedures for electing the board of directors
- Procedures for the board of directors to elect officers
- General powers and duties of the board
- Provision for indemnification of officers and directors—except in cases of gross negligence or willful misconduct. To indemnify and hold harmless means:
 - To exempt an individual or entity from responsibility for claims made against the organization
 - To reimburse the individual or entity for damages or expenses incurred as a result of such claims

RESOLUTIONS

Rules and regulations for all three types of community associations are also established by means of board resolutions. A resolution is a motion that follows a set format and is formally adopted by the board of directors. Resolutions may enact rules and regulations or formalize other types of board decisions.

There are four types of resolutions for a community association:

- 1. Policy resolutions.** These are resolutions that affect owners' rights and obligations. For example, rules for the use of common areas and recreational facilities, architectural guidelines, enforcement procedures, etc.
- 2. Administrative resolutions.** These are resolutions that address the internal operations of the community association. Examples include operating procedures, collection procedures, and where board meetings will be held.
- 3. Special resolutions.** These are resolutions stating board decisions that apply a policy or rule to an individual situation. For example, a decision about an alleged rule violation or authorization of a lawsuit constitutes a special resolution.

4. General resolutions. These are resolutions which involve routine events. Examples include adoption of the annual budget or approval of a contract.

The power of the board to enact rules and regulations is generally defined in the declaration and/or the bylaws. Sometimes, the board's right to enact rules is limited by the requirement that the members approve the rules.

Resolutions should be kept in a Book of Resolutions. This is an orderly, indexed record of the resolutions adopted by the board. In some communities, it includes the resolutions adopted by the architectural guidelines committee as approved by the board.



CAI RESOURCES

The Essentials of Community Association Volunteer Leadership, by Katharine Rosenberry, Esq.
The Homeowner and the Community Association, by Community Associations Institute



Community Rules, Regulations, and Fees

membership in community associations is mandatory. When you buy a house or unit in a community association, your real estate agent should provide you with a copy of the rules and regulations of the community and information on the association dues. It is an owner's responsibility to abide by the rules and regulations as set forth by the community association's governing documents.

PURPOSE OF RULES AND REGULATIONS

The fundamental purpose of community association rules is to provide a basis for protecting members' equity in the development and to provide the framework within which people can live in harmony in a group situation. Specific purposes of rules also include:

- Enforcing the community's CC&Rs, bylaws, and policies in a fair, diplomatic way
- Protecting, enhancing, and promoting the purposes of the association as stated in the legal documents
- Restricting and governing the use of the common areas and amenities
- Establishing architectural guidelines and controls for aesthetic value
- Establishing rules for the use of facilities by owners, guests, and tenants

- Amplifying, expanding, clarifying, and interpreting the broad restrictions in the association's governing documents
- Protecting and preserving the property and assets of the association and the owners

Most rules are merely expressions of unit owners being courteous and considerate of their neighbors, and respectful of their rights and investment in the community. For a purchaser, the rules establish the standards of life-style of that particular community. He or she should look elsewhere if this is not the standard that he or she wants and is willing to support, maintain, and enhance as an owner-member.

COMMUNITY FEES

All community associations have fees (assessments) that must be paid to the association. Depending on the association, the assessments may be paid monthly, quarterly, or annually. The fees may cover such costs as:

- Landscape and maintenance of common areas
- Snow removal
- Garbage collection
- Street lighting
- Fees for amenities (pool, tennis court, golf course, exercise room, etc.)
- Social activities
- Police patrol
- Insurance

"An increase in assessment fees may be necessary periodically to ensure that income covers expenses. Common reasons for assessment hikes include [increases in contractual operating costs], deferred maintenance, uninsured losses and reserve funding. Boards of directors also have limited authority to levy special assessments, a one-time charge to cover nonroutine expenses."—CLIFFORD J. TREESE, CPCU, ARM, CIRMS

Many associations are now starting plans where the fees can be electronically drafted from your checking or savings account. Consequently, owners always have the right to review the financial documents of the association and to ask the board of directors where their money is going.

A legal report—the annual budget—is usually approved at the annual meeting of the association. Many associations distribute the annual budget of the association or make it available through the treasurer of the association, as required by the governing documents.



CAI RESOURCES

Be Reasonable! By Kenneth M. Budd

Design Review, by Byron R. Hanke and Richard S. Ekimoto, ESQ.

Drafting Rules, by Gurdon H. Buck

Pet Policies, by Debra H. Lewin

The Pursuit of Parking, by Thomas J. Hindman, ESQ., and Loura K. Sanchez, ESQ.

Reinventing the Rules: A Step-By-Step Guide for Being Reasonable, by Lucia Anna Trigiani, ESQ.



Community Governance

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Community associations are composed of different groups of people working together. To govern a community association effectively, association leaders must understand the roles and responsibilities of these groups and how they interact. The groups are comprised of owners, board members, officers, and committees.

ROLE OF THE OWNERS

Although board members run community associations, governing documents and the law often reserve certain powers for the owners. For example, there are often provisions in the governing documents and the law stating that the owners must elect the board members. Also, some governing documents only permit owners to fill vacant positions on the board.

It is the owners—not the board members—who generally have the power to amend the declaration (master deed) or proprietary lease. The owners also may have the power to amend particular provisions of the bylaws, such as those dealing with the assessments and sale of common property. This usually requires consent from a specified percentage of the owners.

Along with these rights come obligations. The owners are obligated to adhere to the restrictions imposed in the governing documents. If they do not, a court can force them to comply.

Owners are also obligated to share in the financial operation of the community by paying their assessments on time. If they do not, the association may file a lien on their home and they may lose their home through foreclosure.

Although the owners do not have a legal obligation to actively participate in the association, the association will not be able to function if no one participates. Therefore, it is important for the board to foster a sense of community spirit to encourage participation.

ROLE OF THE BOARD

The board manages the community. The board's authority to act on behalf of the association is not, however, unlimited. The governing documents—and sometimes the law—grant the board the authority and obligation to act. They also restrict the board's ability to act. Provisions that *permit* the board to act use words such as *may*. Provisions that *obligate* the board to act use words such as *shall*.

The role and scope of authority of the board may be broad or specific, depending on the association's governing documents and the law. Some governing documents and state law provide the board with the same authority as a corporation. Others precisely state the powers of the board.

Examples of the powers generally granted by the governing documents and state law to the board include:

- The authority to set goals, standards, and policies for the association
- Enforcing the governing documents
- Maintaining the property
- Maintaining the association's financial stability
- Purchasing adequate insurance
- Entering into contracts for services
- Creating and supervising committees
- Conducting annual meetings and board meetings

The board holds regular meetings as defined by the governing documents. Association members not on the board are always welcomed and encouraged to attend. The board also serves as advocates for members. They are available to listen to suggestions and concerns and answer any questions they may have.

BOARD OFFICERS

The board of directors is composed of community leaders who volunteer to serve the association. A board generally has at least four officers: president, vice-president, secretary, and treasurer.

The *president* is the chief executive officer of the association and represents the board before the membership. He or she generally sets meeting agendas and presides at all meetings of the board and membership. The president usually has the power to execute legal documents on behalf of the association. Finally, the president may have the right to either select or nominate committee chairs.

The *vice-president* performs all the duties of the president in his or her absence and typically shares some of the burden of the president. The vice-president is usually assigned as a liaison to specific staff, contractors, or committees.

The *secretary* has responsibility for ensuring that board and membership meeting agendas are prepared and distributed and that the minutes and materials referred to in those minutes are prepared. He or she also maintains, or makes sure the manager maintains, the Book of Resolutions and all official records, including official correspondence, contracts, and membership roster.

The *treasurer* works with appropriate staff, contractors, and committees to ensure that the annual operating budget is developed and submitted for board or membership approval (whichever is required), and that the records of all association financial transactions and roster of delinquent accounts is maintained. The treasurer recommends action regarding collections, receives and disburses funds as authorized, ensures the preparation of periodic financial reports, and authorizes an independent audit. If the association has a manager, he or she is likely to prepare the documents, but the treasurer is ultimately responsible for them.



CAI RESOURCES

The Board President, by Robert T. Dennistoun

The Board Secretary, by Anita Hagerty Schenk, PCAM, and P. Michael Nagle, ESQ.

The Board Treasurer, by Howard A. Goldklang, CPA, MBA

Community Association Leadership: A Guide for Volunteers, Revised Edition, edited by Anne M. Calmes

Community Association Management, Governance, & Services (GAP #1), by Clifford J. Treese, CPCU, ARM, CIRMS

Decision Making in Communities: Why Groups of Smart People Sometimes Make Bad Decisions, by Jasmine Martirossian

The Essentials of Community Association Volunteer Leadership, by Katharine Rosenberry, ESQ.

Homeowners Associations: A How to Guide for Leadership and Effective Participation, Seventh Edition, by John Paul Hanna and Grace Morioca



Community Management

Each community association must decide which form of management best meets its needs, unless otherwise specified in the governing documents. There are three different types of community association management:

- 1. Volunteer or self-management.** This is management of the association by the board itself or by committees under the direction of the board.
- 2. Association-employed manager.** This is a manager directly employed by the community.
- 3. Management company.** The manager is a representative of a management firm contracted by the community association.

Small associations generally tend to be self-managed communities. Self-managed community associations make up a majority of all associations in the United States. Such communities often lack the resources to acquire services from association-employed managers or professional community management firms. Volunteers in self-managed associations routinely invest significant contributions in terms of both time and effort to their communities.

Many larger associations choose to hire a management company to assist in maintaining their community. This is typically the case for mid-size to large communities. Management companies

specialize in managing community properties. They are usually experts in landscaping issues, budget maintenance, board of directors' development, newsletter preparation, governing document development, and more. In addition, management companies are accustomed to serving as a contact with repair contractors, developers, local politicians, city/county or state government agencies, and other offices with which community associations need to work.

Large communities routinely have an on-site manager, who may either be an employee of the community association or an employee of a management company. Smaller communities who employ a management company are assigned a community manager who primarily performs duties off-site.

COMMUNITY MANAGER

The role of a community association manager is to implement the decisions of the board of directors; administer the services, programs, and operations of the association *within the policies and guidelines set by the board*; fulfill the terms of his or her contract or agreement; and, in the case of a professional manager, provide information, training, and, often, leadership to an inexperienced board as it sets policies and makes decisions.

A manager's authority and responsibility are defined and limited by:

- Governing documents which define the authority of the board to enter into a contract (some governing documents also require the board to retain a professional manager)
- The manager's management contract or employment agreement with the board
- Actions of the board which delegate specific authority and duties to the manager

There are four general areas in which managers perform services. Managers of small associations may perform only a few of these services and managers of large-scale associations may perform all of them.

1. Fiscal service. Billing and collecting assessments, paying bills, preparing the payroll for onside personnel, preparing financial reports, budgets and reserve analysis, and maintaining financial records are some of the fiscal services managers can provide.

2. Administrative and clerical service. Administrative and clerical services include arranging and attending annual meetings, board meetings, and committee meetings; maintaining the membership roster, records, and files;

preparing and processing transfer information on resale; preparing and distributing resident information packets; typing and distributing the newsletter; preparing special mailings; preparing the board orientation packets; reviewing standard operating procedures; conducting an inventory of association property; providing after-hour answering and emergency service; recording and processing work orders; and assisting in the hiring, firing, and supervising of on-site personnel and contractors.

- 3. Building maintenance.** Managers occasionally provide building maintenance services such as janitorial, plumbing, and painting. More often, they are provided by on-site employees or outside contractors. The manager, however, can assist in the selection process and can monitor the work of the employees and contractors.
- 4. Grounds maintenance.** Grounds maintenance services include maintenance of landscaping, recreational facilities, snow removal, trash collection, and sweeping. Like building maintenance, ground maintenance is generally performed by on-site employees or outside contractors. Again, the manager can assist in hiring and evaluating the performance of the employees and contractors. The manager can also provide periodic grounds inspection reports.

Since professional community managers are called upon to perform and oversee a wide variety of jobs, an effective manager must have a solid understanding of the principles of human resources, contracting, accounting, psychology, insurance, physical plant maintenance, education, government relations, board management, basic construction, and law. Community volunteer leaders should seek managers who have earned professional certifications or designations to ensure they have achieved a specialized level of expertise to help their association run smoothly. The Certified Manager of Community Associations® (CMCA®) certification, administered by the National Board of Certification for Community Association Managers (NBC-CAM), and the Association Management Specialist™ (AMS™), Professional Community Association Manager® (PCAM®), Large-Scale Manager™ (LSM™), and Accredited Association Management Company™ (AAMC™) designations, administered by CAI, are credentials association members can look for that signify a specialized level of training and experience.

MANAGEMENT ETHICS

The term “ethics” refers to the specific choices to be made by an individual in his or her relationships with others. Professional ethics are the rules or standards that govern the conduct of members of a profession. The assumption is that the special expertise held by members of the profession holds them to a high standard of trust by others.

The manager of a community association has a professional duty to:

- Provide diligent and faithful service
- Give full disclosure of any matter that presents a potential conflict of interest for him or her
- Use reasonable care, diligence, and skill
- Avoid competing with the community association
- Avoid acting in conflict with the interests of the community association
- Avoid attempting to make any secret profits when acting on the community's behalf
- Account for anything of value he or she receives as a result of managing the association
- Avoid delegating more authority than he or she has received from the board
- Avoid acting on behalf of the community association after being terminated by the board

The most common ethical problem faced by community association managers is a conflict of interest or the appearance of one. For example, a manager or management firm acquires an interest in a company that is eligible to do business with the association—such as a landscape company. In this scenario, the manager or management firm should disclose the potential conflict of interest with the board of directors.

Managers who have obtained the CMCA certification, or the AMS, LSM, or PCAM designations, and management companies who have earned the AAMC designation, are committed to upholding the highest ethical standards. All must abide by the strict rules of conduct outlined by CAI's Professional Code of Ethics.



CAI RESOURCES

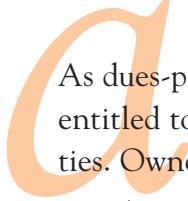
- Choosing a Management Company* (GAP #8), Fifth Edition, by Michael E. Packard, PCAM, CPM
Conflicts of Interest, by Tonia C. Sellers, ESQ., and Jay S. Lazega, ESQ.
The Essentials of Community Association Volunteer Leadership, by Katharine Rosenberry, ESQ.
On-Site Managers, by Thomas Burgess, PCAM, and Pam Washburn, PCAM
Self-Management: A Guide for the Small Community Association, Second Edition, Debra H. Lewin and Ellen Hirsch de Haan, ESQ., Editors



Rights and Responsibilities

“Members of the homeowners association have two responsibilities, one to themselves and to their individually owned property and one to the association and the community concept. Apathy by individual members can render the association ineffective and can destroy the community concept. To maintain the quality of life that accompanies a well-maintained residential community, each individual member must do his or her part. The success of the homeowners association will depend on how well each member meets and keeps the responsibilities that are established by the covenants creating the overall community concept.”

—THE HOMEOWNERS ASSOCIATION MANUAL, BY PETER M. DUNBAR, ESQ.,
AND MARC DUNBAR



As dues-paying members of the community association, owners are entitled to certain rights and, in return, have certain responsibilities. Owners have the *right* to:

1. A responsive and competent community association.
2. Honest, fair, and respectful treatment by community leaders and managers.

3. Participate in governing the community association by attending meetings, serving on committees, and standing for election.
4. Access appropriate association books and records.
5. Prudent expenditure of fees and other assessments.
6. Live in a community where the property is maintained according to established standards.
7. Fair treatment regarding financial and other association obligations, including the opportunity to discuss payment plans and options with the association before foreclosure is initiated.
8. Receive all documents that address rules and regulations governing the community association—if not prior to purchase and settlement by a real estate agent or attorney, then upon joining the community.
9. Appeal to appropriate community leaders those decisions affecting non-routine financial responsibilities or property rights.

Owners have the *responsibility* to:

1. Read and comply with the governing documents of the community.
2. Maintain their property according to established standards.
3. Treat association leaders honestly and with respect.
4. Vote in community elections and on other issues.
5. Pay association assessments and charges on time.
6. Contact association leaders or managers, if necessary, to discuss financial obligations and alternate payment arrangements.
7. Request reconsideration of material decisions that personally affect them.
8. Provide current contact information to association leaders or managers to help ensure they receive information from the community.
9. Ensure that those who reside on their property (e.g., tenants, relatives, friends) adhere to all rules and regulations.

An association's board of directors also exercises certain rights and responsibilities. Board members have the *right* to:

1. Expect owners and non-owner residents to meet their financial obligations to the community.
2. Expect residents to know and comply with the rules and regulations of the community and to stay informed by reading materials provided by the association.

3. Respectful and honest treatment from residents.
4. Conduct meetings in a positive and constructive atmosphere.
5. Receive support and constructive input from owners and non-owner residents.
6. Personal privacy at home and during leisure time in the community.
7. Take advantage of educational opportunities (e.g., publications, training workshops) that are directly related to their responsibilities, and as approved by the association.

Additionally, board members have the *responsibility* to:

1. Fulfill their fiduciary duties to the community and exercise discretion in a manner they reasonably believe to be in the best interests of the community.
2. Exercise sound business judgment and follow established management practices.
3. Balance the needs and obligations of the community as a whole with those of individual owners and non-owner residents.
4. Understand the association's governing documents and become educated with respect to applicable state and local laws, and to manage the community association accordingly.
5. Establish committees or use other methods to obtain input from owners and non-owner residents.
6. Conduct open, fair, and well-publicized elections.
7. Welcome and educate new members of the community—owners and non-owner residents alike.
8. Encourage input from residents on issues affecting them personally and the community as a whole.
9. Encourage events that foster neighborliness and a sense of community.
10. Conduct business in a transparent manner when feasible and appropriate.
11. Allow owners access to appropriate community records, when requested.
12. Collect all monies due from owners and non-owner residents.
13. Devise appropriate and reasonable arrangements, when needed and feasible, to facilitate the ability of individual residents to meet their financial obligations to the community.
14. Provide a process residents can use to appeal decisions affecting their non-routine financial responsibilities or property rights—where permitted by law and the association's governing documents.

15. Initiate foreclosure proceedings only as a measure of last resort.
16. Make covenants, conditions, and restrictions as understandable as possible, adding clarifying “lay” language or supplementary materials when drafting or revising the documents.
17. Provide complete and timely disclosure of personal and financial conflicts of interest related to actions of community leaders, e.g., officers, the board, and committees.

A FORM OF DEMOCRACY

Community associations are one of the most representative and responsive forms of democracy in America today. Residents of a community freely elect neighbors to serve on the board of directors of the community. Numerous other owners or residents serve on committees and help with special tasks as they arise.

Board members and committee members are volunteer leaders who meet regularly to discuss pertinent details about running their community. A board meeting at a community association is comparable to a town council meeting of a municipality.

The basic authority in a community association lies with the owners. However, the owners elect a board of directors to act on their behalf. Usually the governing documents delegate almost all of the association’s decision-making powers to a board.

This leaves the owners with very few *direct* powers. Typically, owners have only the *voting* power to:

- Elect and remove directors
- Amend any of the governing documents, except board resolutions

Occasionally, owners will approve the annual budget for their association. But all other decisions are usually left to the board. As a result, if owners are unsatisfied with a board decision, they usually do not have the direct authority to “veto” or “undo” its action. Under such conditions, their only remedy is to elect a new board to represent them. On the other hand, the board has an obligation to listen to the owners’ concerns and to take those concerns into consideration in making its decisions.

Formal means for obtaining owner input include the:

- Resident/owner forum at board meetings
- Participation of owners on committees
- Annual membership meeting

Other means of owner input include owner surveys and letters and suggestions from owners. Just as a board has the responsibility to encourage owner input via these means, owners have the responsibility to use them to make their views known.

Volunteers from community associations are clearly in charge of the operation and governance of their associations. These people are almost always unpaid volunteers, who devote their personal time to managing the affairs of their community.



CAI RESOURCES

The Homeowners Association Manual, Fifth Edition, by Peter M. Dunbar, ESQ., and Marc Dunbar

Rights and Responsibilities for Better Communities, by Community Associations Institute, www.caionline.org/rightsandresponsibilities/rights.pdf



Building Community

"Common areas do not automatically create a sense of community. Nurturing the community spirit is probably the greatest challenge facing community associations today."—CLIFFORD TREESE, CPCU, ARM, CIRMS

A community association combines the characteristics of a local government, a business, *and* a community. All three are necessary; the challenge is to balance their respective demands on owners and leaders alike.

It is easy to focus attention on the governance and business aspect of operating associations because of their immediacy. However, a strong sense of community among residents and clear lines of communication focus everyone's attention on the positive benefits of being a part of the community and encourage participation in association activities. As a result, governance and business operations become less problematic.

COMMUNITY SPIRIT

Fostering community spirit is an essential component to building vibrant, responsive, and healthy community associations. Building community spirit requires soliciting the opinions and input of residents and offering community harmony and spirit-enhancing pro-

grams that residents will enjoy. Resident involvement in community associations is increased when owners are actively involved in each of the stages of program development.

Community spirit means pride in a community. And spirited communities, like safe neighborhoods, have higher resale values. Community spirit also creates an emotional equity that sets communities apart from the rest.

To promote community spirit in your community, try one of the following activities:

- **Create a neighborhood assistance program.** Residents may wish to establish and participate in a neighborhood assistance program—such a program offers owners varying types of support. Services may include transportation for medical appointments and rides to the airport, meals for families with an illness or death in the family, loaner items for medical equipment such as canes and crutches, loaner items for grandparents with visiting grandchildren such as cribs and high chairs, and handyman services for small jobs.
- **Print a community t-shirt.** Print community t-shirts and sell them for \$10 each. Place the community's logo on the front of the shirt and select a community motto to print on the back. Not only will this increase community spirit, but it also generates additional revenue for the association and serves as a great marketing tool.
- **Hold a clothing drive.** Collect residents' extra clothing items and distribute them to charitable organizations in your area.
- **Build and install park benches along walking trails and ponds.** Find the craftsmen in your community and have them build community park benches with materials provided by your association. This saves money and is a great community spirit project both for the volunteers and the enjoyment of the residents. Rent an auger for easy installation and don't forget to call your local utility companies to help you mark underground utilities!
- **Discover ways in your community to support local charities and schools.** A measure of success and contentment can be evaluated in the level of dedication to giving back to the greater community. Sharing your time, talents, and financial resources as individuals, small groups, and as a corporate entity is a true reflection of community spirit.
- **Recognize children.** Use your newsletter to highlight the accomplishments in academics and athletics for the teenagers in your community. Coordinate

with high schools and your neighborhood parents to get a list of national honor students, first honor students, varsity athletes, and other special honors.

- **Sponsor a safety seminar.** Offer a safety seminar to educate parents and grandparents on important issues including bicycle safety, proper medical and medicine alert responses, and establishing Neighborhood Watch programs.
- **Promote health and well-being.** Use your community center to host a blood drive and/or blood pressure and cholesterol screening. Call your local hospital for area coordinators and services. Provide lemonade and cookies.
- **Conduct a resident survey.** Conduct a survey of membership opinions on community service and any other relevant issues facing your community. The results of such a survey will help your board and management to budget services. If your association can't hire an outside firm to conduct the survey, go door to door, send the survey via snail- or email, or conduct it on your association's website.
- **Facilitate neighborhood block parties.** Use your newsletter to encourage each neighborhood in your community association to have an annual block party. This is a great way to meet new neighbors and foster community spirit. One or two families can be the "block heads" that coordinate the time and date; determine the needs for salads, entrees, and desserts; provide a few portable tables; secure the cul-de-sac from traffic; open their homes for restrooms; and dispose of trash. Potluck with a dish that serves six to eight usually works well. Individuals can bring their own lawn chairs.

Schedule a poolside movie night

Turn your aquatic center into a movie theater where people can relax on a lounge chair or float on a raft while watching a movie.

- **Choose a signature shrub or tree and celebrate each Arbor Day.** Choose a shrub or tree as your association's signature plant, and each Arbor Day, plant a dozen in a ceremony keyed to your association's environment with adults and children participating. Negotiate a price with a landscape company to install these plants in resident yards on request and use the monthly newsletter as a reminder.
- **Publicize upcoming events via email and the Web.** More and more community association members have websites and email addresses—why not use

them? They're an inexpensive way to promote upcoming special events and meetings. Additionally, residents can reply to the emails and board members can obtain instant feedback!

- **Publish event photos.** What better way to promote community spirit than to show non-participants all the fun that they're missing?

All of the above-mentioned activities are great in theory, but how do you really get residents involved? Here are some tips:

1. **Hook residents from the get-go.** When new owners move in, have a committee of neighbors personally welcome them to the community. Find out a little about the new residents and their interests. Let them know about the

community and how it works. Follow-up with a phone call approximately four- to six-weeks later just to check in and to see if they have any questions. This is also a great time to have them fill out a questionnaire to find out the activities in which they would like to participate. Ask those who give you new and exciting ideas if they want to help organize the activity.

Send thank-you notes

When someone volunteers—in any capacity—ensure that they receive a thank you note, preferably from a board member. Knowing that the board or manager appreciates their involvement goes a long way.

2. **Create activities for new residents.** Establish a “newcomers club” where new residents mingle each month with other new residents. Provide information at each monthly meeting, with rotating subjects, to help indoctrinate the members into the area. This will be a great social opportunity for those with the common bond of being newcomers. Make an effort to integrate the newcomers into the mainstream activities. Officially present discharge papers to “newcomers club” members after their two-year eligibility is up.

3. **Give away freebies.** Everyone likes to get something for nothing. Solicit a donation of goods or services as give-a-ways for your next event. The sponsor will gain visibility within your community and you'll draw more people to the activity. When residents attend the activity, they can mingle and learn more about the association and its benefits.

4. **Board office hours.** One or more members of the board should be available at least once every month to address residents' concerns or questions. The office hours and location should be published and well-known. The association's governing documents, resolutions, and meeting minutes should be

available just in case residents want to see them. This interaction will show residents that the board cares about the community and that it is open to new ideas. It also personalizes the board and puts faces with sometimes-infamous names.

- 5. Hold quarterly town hall meetings.** Community associations can hold quarterly town hall meetings dedicated to information sharing. Board members ought to present an agenda of current issues and conduct a question and answer forum. Town hall meetings are often very well attended.
- 6. Sponsor association participation in community-wide events.** Don't limit involvement to the boundaries of your association. Encourage resident participation in local organizations such as the Boys and Girls Club, the YMCA, or Rotary Club. Send local officials and organizations your association's newsletter and upcoming programs so that they know about your association—and that your residents are ready to participate in their events.
- 7. Support community awareness in local politics.** Use your community clubhouse or designated meeting space to host a "candidates' night" in October of an election year. This is a great way for residents to meet the candidates in either a night dedicated to each political party or in a debate forum. The candidates will eagerly provide refreshments for this opportunity. Allow an insert, paid by the candidates, in your November or October newsletter in a standardized information format that includes a 3x5 inch picture along with the candidate's short bio and campaign focus points. Appoint a group of volunteers that are willing to rotate attendance at each local government meeting as liaisons for the association. The liaisons demonstrate your community's interest in governmental affairs, get early leads on issues, and report back to the board.
- 8. Establish standing committees with meaningful responsibilities and clear charters.** If residents have defined roles and responsibilities with clear goals in sight, they're more apt to participate. Also, hold your social events at locations where people are already gathered. Have a pool party or a volleyball contest during operating hours. People who weren't originally planning on attending might get involved!

Look for a reason to celebrate

Celebrate your association's successes. Celebrate holidays—big and small, traditional and quirky. It's a great way to meet neighbors and get people enthusiastic about the community.

More than a destination at the end of the day, a community is a place you want to call home and where you feel at home. There is a difference between living in a community and being part of that community. Being part of that community means sharing with your neighbors a common desire to promote harmony, contentment, and community spirit. Initiating programs and activities like the ones outlined here go a long way toward nurturing a community where residents feel connected with one another and a sense of ownership in the operation of the association.



CAI RESOURCES

Best Practices Report #5: Community Harmony and Spirit, by the Foundation for Community Association Research

Building Community: Proven Strategies for Turning Homeowners into Neighbors, by Community Associations Institute

Communications for Community Associations (GAP #15), Fourth Edition, by Debra H. Lewin

Community First! Emerging Visions Reshaping America's Condominium and Homeowner Associations, Bill Overton, PCAM, Editor

Conflict Resolution, by Mary Avgerinos

Volunteers: How Community Associations Thrive, Debra H. Lewin, Editor

Thought/Discussion Questions

Use the following questions—based on concepts outlined in *An Introduction to Community Association Living*—to develop a better understanding of the operation of your community.

1. Find out whether your local government imposes requirements in terms of codes, laws, and/or taxes that your community association must meet.
2. Find out which state statutes, if any, apply to your community association.
3. Look at a copy of any recorded map, plat, or plan for your community association. What can you learn from it?
4. Review your community's declaration, CC&Rs, or master deed, if it has one. What does it tell you about:
 - Ownership of different portions of the association?
 - Owner-to-owner relationships and community-to-owner relationships?
 - Administration of the community?
 - The transition of control of your association from the developer to the owners?
5. Review your community association's proprietary lease or occupancy agreement, if it is a cooperative. What does it tell you about member/stockholder and corporate rights and obligations?
6. Review your association's articles of incorporation, if it is incorporated. What general topics do the articles address?
7. Review your association's bylaws. What general topics do the bylaws address?
8. Find out where your association keeps its resolutions.
 - How are they organized?
 - Can you find examples of each of the four types of resolutions a community association can adopt?

9. Review your association's governing documents, including its resolutions. What management-related authority and responsibilities, if any, do they assign to:
 - Your community?
 - Its board of directors?
 - Its committees?
10. What steps does your association take to encourage owner input in board decisions?
- 11a. What steps does your association take to ensure effective communication between the board and volunteer committees?
- 11b. What recommendations can you make to your volunteer leaders to improve your community's committees?
- 12a. Do you know anyone who has faced a conflict of interest or the appearance of conflict in exercising his or her association responsibilities? How did he or she handle it?
- 12b. After reading this primer, would you have handled the situation any differently?

Activity: Community Association True or False

- | | | |
|---|------|-------|
| 1. There are nearly 300,000 community associations in the United States. | True | False |
| 2. More than 1.7 million people serve on community association governing boards, with almost 400,000 more involved as committee members. | True | False |
| 3. Assuming the typical board or committee member spends just one hour a week on association business, volunteer leaders dedicate more than 110 million hours of service to their communities every year. | True | False |
| 4. Close to one in ten housing starts since 2000 have been in association-governed communities, including condominiums converted from existing rental units. | True | False |
| 5. The value of the homes in all community associations is estimated at \$4 trillion, approximately 20 percent of the value of all U.S. residential real estate. | True | False |
| 6. Cooperatives are the most common of the three types of community associations. | True | False |
| 7. Community associations are found in countries around the world, not just the United States. | True | False |
| 8. Planned communities were first developed in the 1800s. | True | False |
| 9. 72% of community association residents have never attended a community board meeting. | True | False |
| 10. 71% of community association residents are very or extremely satisfied with their community. | True | False |

STATISTICS FOR THIS ACTIVITY WERE EXCERPTED FROM:

U.S. Census publications, the American Housing Survey, IRS Statistics of Income Reports, consultation with CAI professional members, and state-specific data from California and Florida and related trade organizations; and *The 2005 Nationwide Survey of Homeowner Satisfaction*, sponsored by the Foundation for Community Association Research, conducted by Zogby International in August 2005.

Answers: 1. True 2. True 3. True 4. False 5. True 6. False 7. True 8. True 9. False 10. True

References

The following publications are excellent resources for those new to community association living or those interested in obtaining additional information about community associations. For further information on any of these publications, call CAI for a bookstore catalog at (888) 224-4321 or visit the bookstore online at www.caionline.org/bookstore.cfm.

Be Reasonable! by Kenneth M. Budd. A compendium of expert opinions from over 30 leading community association attorneys, managers, and directors. Learn effective strategies for drafting and enacting reasonable rules, identifying unreasonable rules and restrictions, and working with owners. Find out about reasonable enforcement procedures—from making exceptions to providing due process. Practical applications are illustrated through discussion of court cases and real-life controversies.

Best Practices Report #5: Community Harmony and Spirit, by the Foundation for Community Association Research. This publication is part of a series of reports that the Foundation has developed to provide function-specific best practices in the community association industry. Offers practical advice on how to foster community harmony and spirit and provides innovative methods for increasing resident involvement in association activities. Includes case studies of community associations with demonstrated successes.

The Board President, by Robert T. Dennistoun. Useful both to newly elected presidents and anyone who now holds the title. Defines the dual role of the president and offers invaluable advice and suggestions on the president's relationships with the board, other association officers, and the residents. Helps to develop goals, set priorities, and to communicate them to the stakeholders. Also contains tips on governance topics such as using committees effectively, long-range goal planning, and promoting volunteerism and cooperation within the community.

The Board Secretary, by Anita Hagerty Schenk, PCAM, and P. Michael Nagle, ESQ. Filled with advice on every aspect of the work of corporate, recording, and corresponding secretaries. Covers such subjects as meeting preparation, maintaining lists, how to establish an effective filing system, and how long to keep documents. Answers many legal questions you may have. Includes samples of agendas, minutes, and forms.

The Board Treasurer, by Howard A. Goldklang, CPA, MBA. Outlines in detail the duties of the treasurer and offers advice on most types of letters, reports, and tax documents treasurers are required to produce. Also contains suggestions for working with the board and residents, including tips on dealing with delinquencies and record retention.

Building Community: Proven Strategies for Turning Homeowners into Neighbors, by Community Associations Institute. This publication aims to build stronger, more active, more caring communities by offering advice from the nation's top experts on community associations and the people who lead them. These experts discuss such essential topics as strategic planning, market research techniques, how to increase morale and encourage attendance, how to create community spirit, model governance, how good rules promote community spirit, and alternative dispute resolution.

Choosing a Management Company (GAP #8), by Michael E. Packard, PCAM, CPM. Published by Community Associations Institute. Contains criteria for selecting a company as well as useful tips on bid specifications, identification of potential candidates, requests for proposals, onsite meetings, the interview process, and analysis of proposals. Also offers a section on working with your management company.

Communications for Community Associations (GAP #15), Fourth Edition, by Debra H. Lewin. Contains all-new sections on personal communications, public relations, communicating with policy makers, and communications technology. Includes updated and expanded chapters on newsletters, meetings, annual reports, directories, and surveys. Describes how to build a positive and powerful relationship with your owners through relevant hints and how-to's.

Community Association Leadership: A Guide for Volunteers, by Anne M. Calmes, Editor. CAI bestseller that will help you accomplish two goals necessary in any association: attracting more residents to association volunteer work and enabling them to perform better by gaining a thorough understanding of committee work and the volunteer's role.

Community Association Legal Counsel: How to Select and Use an Attorney (GAP #13), by Thomas J. Hindman, ESQ., and Loura K. Sanchez, ESQ. Loaded with important advice on how to get the best out of your association attorney as well as what to consider when searching for a new one. Offers guidance for working out various fee structures and includes a five-part appendix consisting of a sample request for proposal, interview questions, evaluation criteria, billing statement, plus the American Bar Association Model Rule of Professional Conduct.

Community Association Management, Governance, & Services (GAP #1), by Clifford Treese, CPCU, ARM, CIRMS. Published by Community Associations Institute. A primer for new volunteer leaders as well as new managers. Describes the operational duties of management including meetings, elections, compliance with rules, and how to work with professionals.

Community First! Emerging Visions Reshaping America's Condominium and Homeowner Associations, Bill Overton, CMCA, PCAM, Editor. Breaks new ground by reorienting associations toward a higher mission and enhancing a sense of community. Describes how the "building community" concept can be adopted and put into practice by developers, lawyers, community association managers, owners, public officials, and others. Offers a broad vision of communities and much food for thought. Stirs debate and, where appropriate, creates a new standard—a new model—for this important segment of America's future.

Condominium and Homeowner Association Practice: Community Association Law, Third Edition, by Wayne S. Hyatt, ESQ. Contains a comprehensive overview of the basics of community association ownership, including creating associations, governance, financing, design standards, enforcement, liability, and amending documents. Explains the practical aspects of the development and sales process, including the theory and practice of drafting, the developer's role, and the transition process. Describes the lawyer's role in representing the association. Appendices include a document drafting checklist, a sample table of contents for the declaration of a condominium association, and a sample table of contents for the bylaws of a condominium association.

Conflict Resolution, by Mary Avgerinos. Provides associations with an alternative to the traditional justice system and has been embraced by attorneys and judges alike. Learn techniques for avoiding disputes as well as managing them when they come up. Covers the key ADR techniques such as negotiation, mediation, and arbitration, and also covers how you can build consensus to support your point of view. Provides samples of many useful letters, documents, and agreements.

Conflicts of Interest, by Tonia C. Sellers, ESQ., and Jay S. Lazega, ESQ. Published by Community Associations Institute. Provides standards for both boards and managers. Highlights areas of activity in which actual or potential conflict may arise and suggests actions to take when a conflict does arise. Covered are fiduciary duty obligations, conduct of the directors, managerial conflicts, ethics policies, board conflicts, and a host of other topics. Also contains sample policies, resolutions, code of ethics, and cases.

Decision Making in Communities: Why Groups of Smart People Sometimes Make Bad Decisions, by Jasmine Martirossian. Presents a fascinating look at the unseen forces that affect groups of people in community associations—including boards, management teams, and committees—and the decisions they make.

Design Review, by Byron R. Hanke and Richard Ekimoto, ESQ. Contains policy considerations, architectural review criteria and enforcement advice, and even suggests a design committee program. Also included: sample design guidelines to help you develop or update your own association manual.

Drafting Rules, by Gurdon H. Buck. Will not only help ensure compliance with rules, but will also provide input for rules you may have overlooked. Covers the legal basis for rule making, offers guidelines, and contains an appendix with sample community association rules that cover practically everything from rubbish to the swimming pool.

The Essentials of Community Association Volunteer Leadership, by Katharine Rosenberry, ESQ. Published by Community Associations Institute. Designed for owners interested in moving into a leadership position or playing a more active volunteer role in their community association. (To obtain a copy of this publication contact your local CAI chapter.)

The Homeowner and the Community Association. Published by Community Associations Institute. This brochure describes how an association functions as a business, a community, and a form of governance; defines the roles and responsibilities of owners and boards; and explains assessments, governing documents, architectural controls, management, and insurance.

The Homeowners Association Manual, Fifth Edition, by Peter M. Dunbar, ESQ., and Marc Dunbar. The first complete practical guide for the operation of community associations. It's an excellent overall guide for leaders and board members of single-family, townhome, condominium, mobile, and master planned community associations.

Homeowners Associations: A How to Guide for Leadership and Effective Participation, Seventh Edition, by John Paul Hanna, ESQ., and Grace Morioca. Covers all aspects of efficient association management including: adopting a budget, consulting professionals, billing for assessments, planning for reserves, using liens to collect fines, handling construction defects, actions against developers, filing taxes, dealing with disability regulations, managing toxic materials, and maintenance of roofs, fences, and balconies.

On-Site Managers, by Thomas Burgess, PCAM, and Pam Washburn, PCAM. Published by Community Associations Institute. Valuable resource for determining job criteria, finding and screening candidates, as well as investigating leading candidates. Appendices also include a sample employment agreement and the CAI Professional Manager Code of Ethics.

Pet Policies, by Debra H. Lewin. “A blueprint for how to deal with one of the most troublesome issues.” Written in a straightforward style, offers practical suggestions, helpful alternatives, and practical information on societal changes that impact your association’s approach to pets.

The Pursuit of Parking, by Thomas J. Hindman, ESQ., and Loura K. Sanchez, ESQ. Helps solve most parking problems via sample rules, provisions, agreements, letters to residents, and even violation notices. Contains expert advice on how to overcome one of the biggest hurdles in parking—communicating with the residents.

Reinventing the Rules: A Step-By-Step Guide for Being Reasonable, by Lucia Anna Trigiani, ESQ. Describes in detail the challenge that must be met to put our communities first—by looking at rules from a new perspective. This publication asks owners to think in new terms, look at rules old and new and ask—are they reasonable?

Rights and Responsibilities for Better Communities, by Community Associations Institute. By encouraging community associations to adopt Rights and Responsibilities for Better Communities, CAI strives to promote harmony, community, responsible citizenship, and effective leadership. Have your board vote to adopt a resolution endorsing Rights and Responsibilities. Once you have adopted Rights and Responsibilities, please share the good news with CAI. The Institute will add your association’s name to the online list of communities that have adopted the principles. Visit www.caionline.org or call 888-224-4321 for more information.

Self-Management: A Guide for the Small Community Association, Second Edition, Debra H. Lewin and Ellen Hirsch de Haan, ESQ., Editors. Addresses the unique role of the self-managing board, and presents significant information on financial management, insurance, meetings, communications, and taking over from the developer. Provides information on governing documents, compliance with rules, working with professionals, maintenance, public policy, and important legal considerations like fair housing and fair debt collection. Appendices include model documents, sample forms, and helpful checklists.

Volunteers: How Community Associations Thrive, Debra H. Lewin, Editor. Covers goal setting, creating and maintaining enthusiasm, recruiting volunteers, forming committees, and improving your communications with residents. Appendices include a board burnout test, tips on motivating board members, advice for new board members, sample goal sheet, and a committee meeting report.

The 2005 Nationwide Survey of Homeowner Satisfaction. CAI’s Foundation for Community Association Research commissioned a national survey of owners to determine opinions on overall community satisfaction, governance, safety, rule enforcement, and programming. The results are compiled in this volume with both table and text descriptions of the results. Includes demographic comparisons between community association and non-community association owners.

About CAI

America's advocate for responsible communities

Community Associations Institute (CAI) is a national organization dedicated to fostering vibrant, competent, harmonious community associations. For more than 30 years, CAI has been the leader in providing education and resources to the volunteer homeowners who govern community associations and the professionals who support them. Our members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to associations.

Working closely with more than 50 state, regional, and local chapters nationwide, we bring together experts to provide the latest information on community association management and governance. We serve our members with books, seminars and workshops, research, continuing education, and periodicals, including *Common Ground* magazine and specialized newsletters on community association management, governance, and law.

CAI also advocates for legislative and regulatory policies that support responsible governance and effective management. We represent the interests of our members before the U.S. Congress, federal agencies, and other policy-setting bodies on issues such as taxes, insurance, bankruptcy reform, and fair housing. In addition, state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as assessment collection, foreclosure, and construction defects.

ABOUT CCAV

CAI's Center for Community Association Volunteers (CCAV) is a specialized member group committed to providing the information, tools, and support homeowners need to be effective, efficient, and respected leaders in their communities.

CCAV is an automatic benefit of CAI membership for all homeowner members of CAI—association board members, committee members, and others who have a special interest in the well-being of their communities. CCAV is another way CAI can help you achieve the results, respect, and recognition you deserve. More information is available at www.caionline.org/about/ccav.cfm.

Model Code of Ethics for Community Association Board Members

This model code of ethics is not meant to address every potential ethical dilemma encountered by a community association board member, but is offered as a basic framework that can be modified and adopted by any common-interest community.

Board members should:

- Strive at all times to serve the best interests of the association as a whole regardless of their personal interests.
- Use sound judgment to make the best possible business decisions for the association, taking into consideration all available information, circumstances and resources.
- Act within the boundaries of their authority as defined by law and the governing documents of the association.
- Provide opportunities for residents to comment on decisions facing the association.
- Perform their duties without bias for or against any individual or group of owners or non-owner residents.
- Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the association.
- Conduct open, fair and well-publicized elections.
- Always speak with one voice, supporting all duly-adopted board decisions even if the board member was in the minority regarding actions that may not have obtained unanimous consent.

Board members should not:

- Reveal confidential information provided by contractors or share information with those bidding for association contracts unless specifically authorized by the board.
- Make unauthorized promises to a contractor or bidder.
- Advocate or support any action or activity that violates a law or regulatory requirement.
- Use their positions or decision-making authority for personal gain or to seek advantage over another owner or non-owner resident.
- Spend unauthorized association funds for their own personal use or benefit.
- Accept any gifts—directly or indirectly—from owners, residents, contractors or suppliers.
- Misrepresent known facts in any issue involving association business.
- Divulge personal information about any association owner, resident or employee that was obtained in the performance of board duties.
- Make personal attacks on colleagues, staff or residents.
- Harass, threaten or attempt through any means to control or instill fear in any board member, owner, resident, employee or contractor.
- Reveal to any owner, resident or other third party the discussions, decisions and comments made at any meeting of the board properly closed or held in executive session.

Community Association Fundamentals

EACH COMMON-INTEREST COMMUNITY has its own history, personality, attributes and challenges, but all associations share common characteristics and core principles. CAI developed the Community Association Fundamentals to foster a better conceptual understanding of how associations function and the roles of residents and association leaders.

We hope this primer will help people recognize the core principles at the heart of the community association model and, even more importantly, inspire effective, enlightened leadership and responsible, engaged citizenship.

1. Associations ensure that the collective rights and interests of homeowners are respected and preserved.
2. Associations are the most local form of representative democracy, with leaders elected by their neighbors to govern in the best interest of all residents.
3. Associations provide services and amenities to residents, protect property values and meet the established expectations of homeowners.
4. Associations succeed when they cultivate a true sense of community, active homeowner involvement and a culture of building consensus.
5. Association homeowners have the right to elect their community leaders and to use the democratic process to determine the policies that will protect their investments.
6. Association homeowners choose where to live and accept a contractual responsibility to abide by established policies and meet their financial obligations to the association.
7. Association leaders protect the community's financial health by using established management practices and sound business principles.
8. Association leaders have a legal and ethical obligation to adhere to the association's governing documents and abide by all applicable laws.
9. Association leaders seek an effective balance between the preferences of individual residents and the collective rights of homeowners.
10. Association leaders and residents should be reasonable, flexible and open to the possibility—and benefits—of compromise.

For more information on CAI, visit www.caionline.org or call (888) 224-4321 (M–F, 9–6:30 ET).



Governance Guidelines

There are basic expectations that apply to virtually any common-interest community. With this in mind, the Center for Community Association Volunteers developed the Community Association Governance Guidelines—12 principles that can help association board members increase harmony, reduce conflict and build stronger, more successful communities.

- **ANNUAL MEETINGS.** Conduct at least one membership meeting annually, providing at least two weeks notice to homeowners and more than two weeks if specified in the governing documents or dictated by state statute.
- **ASSESSMENTS.** Collect assessments and other fees from homeowners in a timely and equitable manner and in accordance with state statutes and board-approved procedures.
- **COMMUNICATION.** Provide at least one form of regular communication with residents, and use it to report substantive actions taken by the board.
- **CONFLICTS OF INTEREST.** Disclose all personal and financial conflicts of interest before assuming a board position and, once on the board, before participating in any board decisions.
- **ELECTIONS.** Hold fair and open elections in strict conformance with governing documents, giving all candidates an equal opportunity to express their views and permitting each candidate to have a representative observe the vote-counting process.
- **FINANCIAL TRANSPARENCY.** Share critical information and rationale with residents about budgets, reserve funding, special assessments and other issues that could impact their financial obligations to the association. Give members an opportunity—before final decisions are made—to ask questions of a representative who is fully familiar with these financial issues.
- **FORECLOSURE.** Initiate lien and foreclosure proceedings only as a last step in a well-defined debt-collection procedure—and only after other, less-disruptive measures have failed to resolve a serious delinquency issue in a specified period of time.

■ GOVERNANCE AND THE LAW.

Govern and manage the community in accordance with all applicable laws and regulations. Conduct reviews of governing documents to ensure legal compliance and to determine whether amendments are necessary.

- **GRIEVANCES AND APPEALS.** Allow residents to bring grievances before the board or a board-appointed committee, and follow well-publicized procedures that give residents the opportunity to correct violations before imposing fines or other sanctions.

- **RECORDS.** Allow homeowners reasonable access to appropriate community records, including annual budgets and board meeting minutes.

- **RESERVE FUNDING.** Account for anticipated long-term expenditures as part of the annual budget-development process, commissioning a reserve study when professional expertise is warranted.

- **RULES.** Enforce all rules, including architectural guidelines, uniformly, but only after seeking compliance on a voluntary basis. Distribute proposals for new rules and guidelines to all homeowners and non-owner residents. Advise them when the board will consider new rules and encourage input. Once adopted, new rules and effective dates should be distributed to every owner and resident.

Note: Laws governing common-interest communities vary considerably from state to state. Association boards should consult with attorneys to ensure their association is governed in accordance with all federal, state and local laws and regulations.

Rights and Responsibilities for Better Communities

Principles for Homeowners and Community Leaders

More than a destination at the end of the day, a community is a place people want to call home and where they feel at home. This goal is best achieved when homeowners, non-owner residents and association leaders recognize and accept their rights and responsibilities. This entails striking a reasonable balance between the preferences of individual homeowners and the best interests of the community as a whole. It is with this challenge in mind that Community Associations Institute (CAI) developed Rights and Responsibilities for Better Communities.

Rights and Responsibilities can serve as an important guidepost for all those involved in the community—board and committee members, community managers, homeowners and non-owner residents.

Homeowners Have the Right To:

- A responsive and competent community association.
- Honest, fair and respectful treatment by community leaders and managers.
- Participate in governing the community association by attending meetings, serving on committees and standing for election.
- Access appropriate association books and records.
- Prudent expenditure of fees and other assessments.
- Live in a community where the property is maintained according to established standards.
- Fair treatment regarding financial and other association obligations, including the opportunity to discuss payment plans and options with the association before foreclosure is initiated.
- Receive all documents that address rules and regulations governing the community association—if not prior to purchase and settlement by a real estate agent or attorney, then upon joining the community.
- Appeal to appropriate community leaders those decisions affecting non-routine financial responsibilities or property rights.

Homeowners Have the Responsibility To:

- Read and comply with the governing documents of the community.
- Maintain their property according to established standards.
- Treat association leaders honestly and with respect.
- Vote in community elections and on other issues.
- Pay association assessments and charges on time.
- Contact association leaders or managers, if necessary, to discuss financial obligations and alternative payment arrangements.
- Request reconsideration of material decisions that personally affect them.
- Provide current contact information to association leaders or managers to help ensure they receive information from the community.
- Ensure that those who reside on their property (e.g., tenants, relatives, friends) adhere to all rules and regulations.

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Community Leaders Have the Right To:

- Expect owners and non-owner residents to meet their financial obligations to the community.
- Expect residents to know and comply with the rules and regulations of the community and to stay informed by reading materials provided by the association.
- Respectful and honest treatment from residents.
- Conduct meetings in a positive and constructive atmosphere.
- Receive support and constructive input from owners and non-owner residents.
- Personal privacy at home and during leisure time in the community.
- Take advantage of educational opportunities (e.g., publications, training workshops) that are directly related to their responsibilities, and as approved by the association.

Community Leaders Have the Responsibility To:

- Fulfill their fiduciary duties to the community and exercise discretion in a manner they reasonably believe to be in the best interests of the community.
- Exercise sound business judgment and follow established management practices.
- Balance the needs and obligations of the community as a whole with those of individual homeowners and residents.
- Understand the association's governing documents and become educated with respect to applicable state and local laws, and to manage the community association accordingly.
- Establish committees or use other methods to obtain input from owners and non-owner residents.
- Conduct open, fair and well-publicized elections.
- Welcome and educate new members of the community—owners and non-owner residents alike.
- Encourage input from residents on issues affecting them personally and the community as a whole.
- Encourage events that foster neighborliness and a sense of community.
- Conduct business in a transparent manner when feasible and appropriate.
- Allow homeowners access to appropriate community records, when requested.
- Collect all monies due from owners and non-owner residents.
- Devise appropriate and reasonable arrangements, when needed and as feasible, to facilitate the ability of individual homeowners to meet their financial obligations to the community.
- Provide a process residents can use to appeal decisions affecting their non-routine financial responsibilities or property rights—where permitted by law and the association's governing documents.
- Initiate foreclosure proceedings only as a measure of last resort.
- Make covenants, conditions and restrictions as understandable as possible, adding clarifying "lay" language or supplementary materials when drafting or revising the documents.
- Provide complete and timely disclosure of personal and financial conflicts of interest related to the actions of community leaders, e.g., officers, the board and committees. (Community associations may want to develop a code of ethics.)

Sponsored by CAI's President's Club

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