

The Essentials of Community Association Management for Volunteer Leaders

Terminology- we will use certain terms today and in other courses and publications of CAI

CAI- Community Association Institute

Community Association – Use this term as an all-encompassing term for condominium, cooperative and planned communities

Common Interest Community – This term is used by the National Conference of Commissioners on Uniform State Laws

Common Interest Realty Association – This term is used by the American Institute of Certified Public Accountants (AICPA)

Community Association Manager- Is used instead of property manager

Community – Is recommended instead of complex, project, building or development

CAVL – Community Association Volunteer Leader and applies not only to board members and committee members but all owners that volunteer their time on behalf of the association.

CICAA -Common Interest Community Association Act

ICPA - Illinois Condominium Property Act

DCAL – Dedicated Community Association Leader

Why the need for informed leadership

The number of community associations has exploded in the past 40 years.

The estimated number of U.S. association-governed community residents has gone from 2.1 million in 1970 to 65.7 million in 2013

The number of people living in the community makes the need for leadership in the Community Association extremely important.

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Instructor

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AN OVERVIEW OF THE COURSE ACTIVITIES

I. Introductions and Welcome; 9:00 - 9:10 (10 minutes)

- a. Chapter representatives introduce themselves and welcome participants to the course.
- b. Basic logistics are covered: facilities, cell phones, etc.
- c. Agenda for the day is presented; including course content, breaks and other plans.

II. Overview of Community Associations; 9:10 - 9:50 (40 minutes)

The basic facts about community associations are presented, as well as the structure of the various types of community associations, a discussion of the governing documents, and the roles played by the board, committees, and homeowners. Participants answer three scenarios to gain awareness of the importance of the governing documents in community associations.

Break – 10 minutes

III. Five Step Approach to Solving Problems; 10:00 – 10:15 (15 minutes)

Since no one course can deal with all the issues and problems the leaders in a community association will face, the course introduces participants to an approach to solving problems. The unit uses maintenance as an example.

IV. Maintenance; 10:15 – 10:45 (30 minutes)

Participants use the Approach to Solving Problems to address some of the maintenance problems faced by community associations.

V. Rule Enforcement; 10:45 – 11:20 (35 minutes)

The rules of basic rule enforcement will be discussed as well as how to settle disputes obtain compliance in an equitable and professional manner.

Break – 10 minutes

VI. Finances; 11:30 – 12:10 (40 minutes)

The basics of financial statements are presented. Participants then review the financial statements for a community association and identify the financial problems of the association.

VI. Board Meetings; 12:10 – 12:40 (30 minutes)

A practical application to board meetings will be given through an exercise.

VIII. Conclusion; 12:45 – 1:00 (15 minutes)

Instructor makes concluding comments. Participants fill out evaluation forms and take a 20-question multiple choice quiz.



INTRODUCTION 9:00 – 9:10

Purpose of this course

1. Introduce Issues in Community Association Operation

To introduce you to issues that arise in the operation of community associations. These issues are presented through a combination of lecture and exercises.

2. Present Problem Solving Approach

To introduce an approach to solving problems. It isn't possible to address all the issues in any course so it is important for you to leave the course with an approach to solving any problem that may arise. We will introduce, and have you practice, a five-step approach to solving problems, that can be used to help address most any problem that arises in your community association.

3. Additional Knowledge Required

To alert you to the need for additional information, this course merely scratches the surface. You will need and want additional information. We urge you to refer to other DCAL course curriculum and the references listed there for more in-depth information and to take additional courses.

4. Introduce Community Associations Institute (CAI)

Introduce you to CAI, if you aren't already a member of the organization, and to let you know that CAI is great source of information. CAI is the leading source of education and research in the community association field.

5. Networking

Introduce you to other association leaders and enable you to share information. Networking is one of the best features of CAI!

Course Content

This course consists of six units. They are:

1. Overview of Common-Interest Communities

You will learn a bit about the industry, the legal foundation of the various types of community associations and the roles of the people who help make community associations function.

2. Approach to Solving Problems

Because it is impossible to introduce you to all the issues you will face in community associations we will present an approach to solve any issue you may face.

3. Maintenance

You will then apply that approach to a maintenance problem.

4. Rule Enforcement

Rule enforcement is one of the most emotionally charged areas you are likely to face as association leaders.

5. Finances

a. Board members often hire people such as accountants, attorneys, and managers to help them with the association's finances.

b. It is the board members, however, who are legally liable for the finances of the association.

Therefore, you are going to learn how to read financial statements and then identify the financial problems of a particular association.

c. If you already know how to read financial statements we 'have a role for you, too.

6. Board Meetings

You will watch a board meeting and then break into teams and identify all the errors.



OVERVIEW OF COMMON INTEREST COMMUNITIES

INTRODUCTION

In this unit, you will be introduced to:

1. Community association industry and Community Associations Institute (CAI)
2. Various types of community associations;
3. Legal documents or the governing documents of an association; and
4. Roles played by groups or individuals in community associations, such as the developer, board, and owner.
5. You will also have the opportunity to respond to three scenarios in a community association setting.

OVERVIEW OF THE INDUSTRY

Community Associations Institute (CAI)

1. CAI was created in 1973 to provide education and act as a clearinghouse of ideas and practices in the community association field.
2. CAI's membership consists of community associations, homeowners, community association managers, attorneys, accountants, developers, and other professionals.
3. CAI and its Foundation are the primary sources of education and research in the association field.
4. CAI is a great place to network and share ideas with people facing similar issues.

TYPES OF COMMUNITY ASSOCIATIONS (CAs)

The term common-interest community is an umbrella term. It includes condominiums, cooperatives, planned developments, and master associations.

ASK PARTICIPANTS

"How many of you live in a condominium, cooperative, planned community?"

CHARACTERISTICS OF COMMON-INTEREST COMMUNITIES

Owners:

1. Pay assessments.
2. Have to comply with restrictions designed to enhance property values and the quality of life.
3. Belong to a community association.
4. Share an interest with the other owners in common area.

Planned Community

In a planned community:

1. The association owns the common area.
2. Owners have a shared interest in the association.
3. Owners also own a lot or house.

Cooperative

In a cooperative:

1. A corporation owns the entire community.
2. Owners own stock in the corporation-that is their shared interest.
3. Owners have the right to occupy a unit or apartment.

Condominiums

In a condominium:

1. The individual owns a unit, plus
2. The individual owns a shared interest in the common area.
 - a. The shared interest is legally called a tenant in common-interest.
 - b. This means the owners, not the association, own the common area.
3. The interiors of the balconies can be either a part of the unit or part of the common area. If they are part of the common area they are probably exclusive use common area (sometimes called limited common elements).
 - a. This means they are common area, but are for the exclusive use of the owner of the unit.
 - b. The Declaration will state what owners may do in this area.

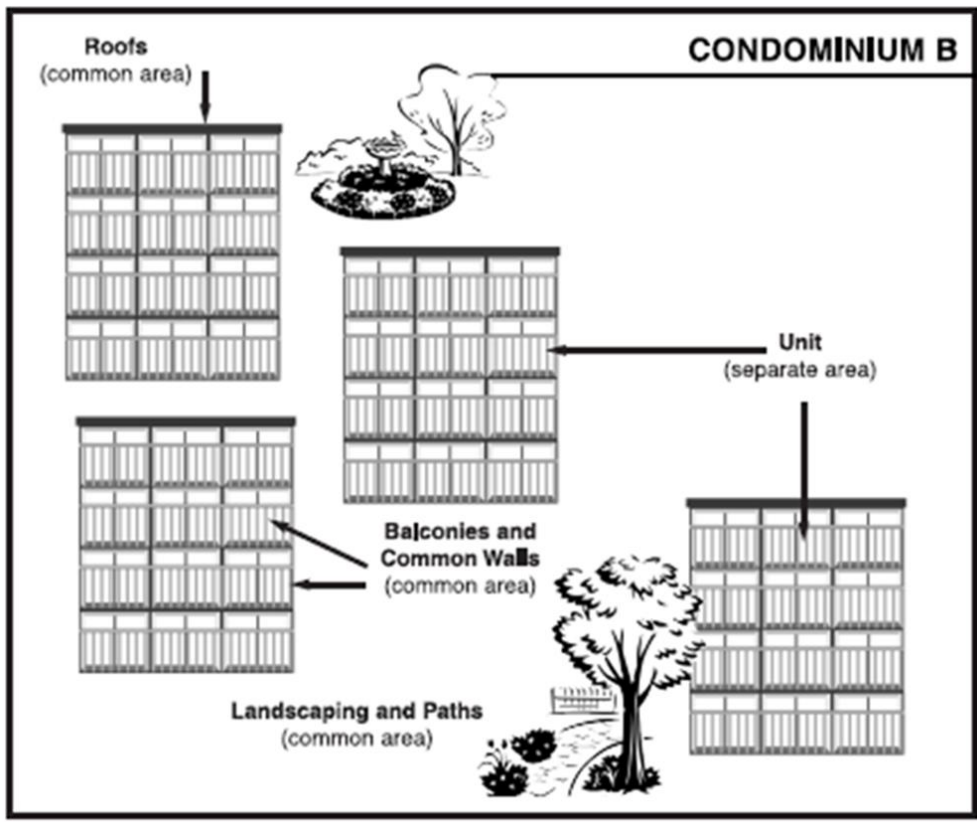
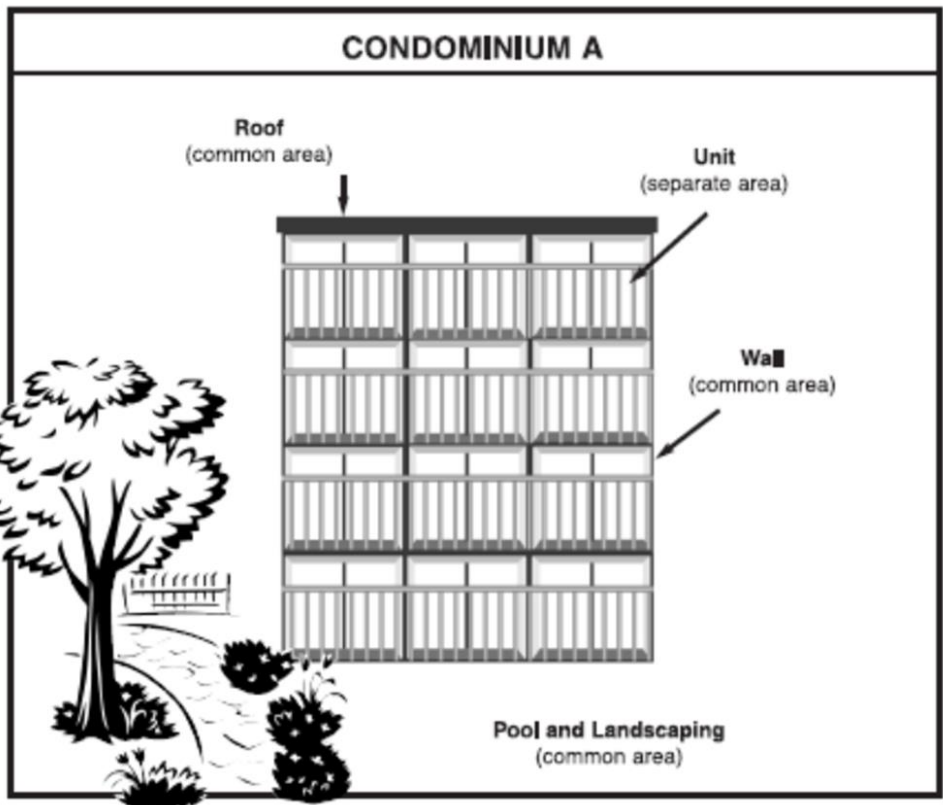
Patio Apartments, Townhomes, Garden Apartments

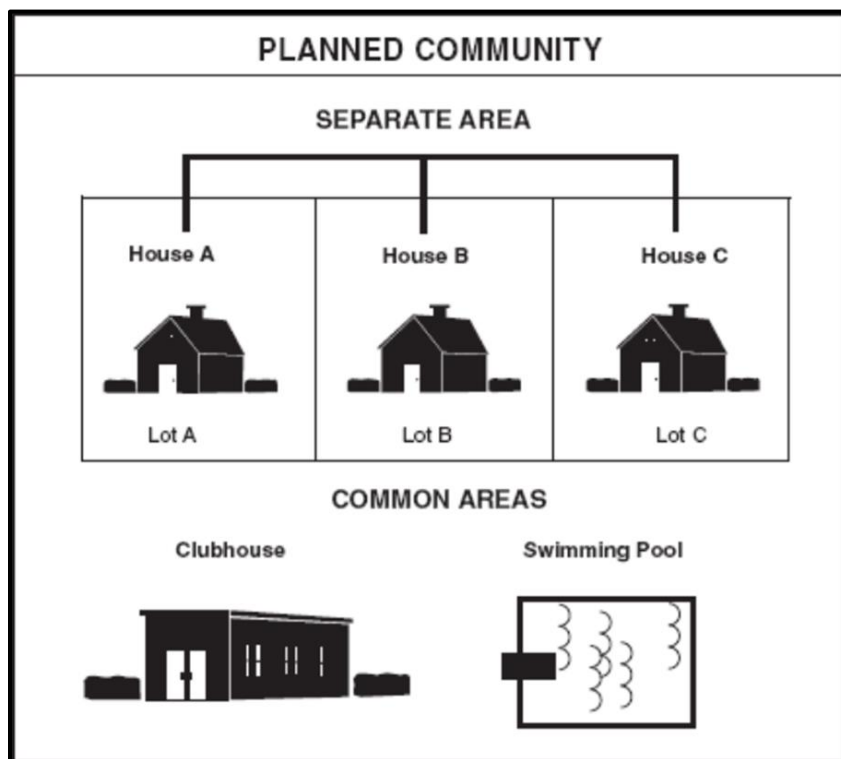
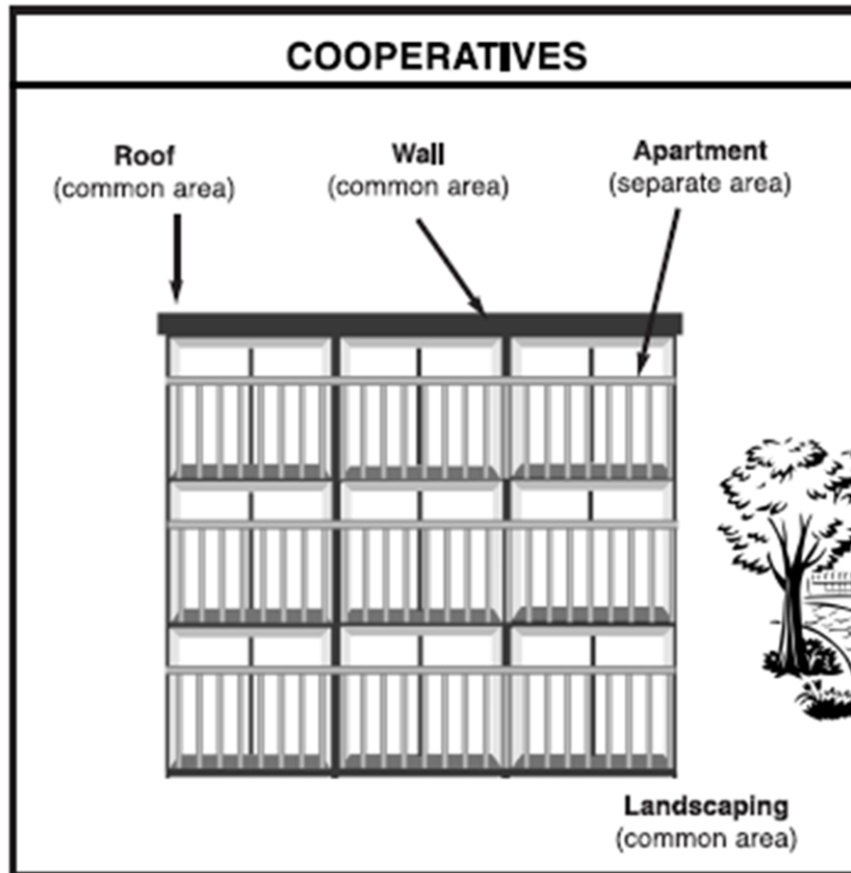
1. These are architectural and marketing terms, not legal terms. They don't tell you what type of community it is.
2. You will need to read the governing documents to determine whether you live in a condominium, cooperative, planned community, or master association.

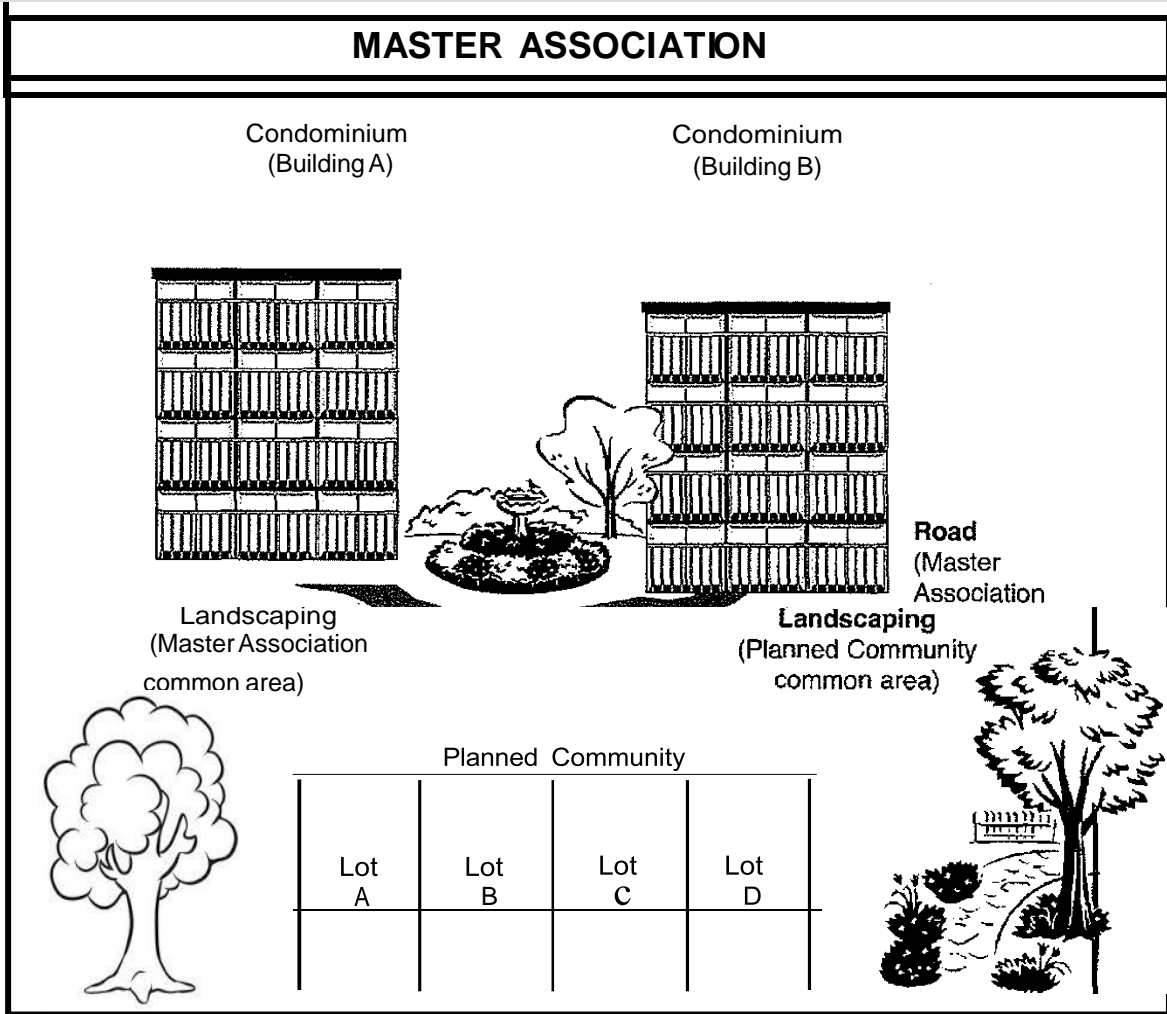
Master Association

A master association is a combination of two or more of the common-interest communities listed above. In a master association:

1. The owner is a member of his or her own condominium or planned community, and a member of the master association.
2. The master association often owns common area that is different from the common area owned by the condominiums or planned communities that make up the master association.







LEGAL FOUNDATION OF COMMUNITY ASSOCIATIONS

Legal Documents

The documents that form the legal foundation of the association are called the governing documents.

- A. In a condominium and planned community these documents generally consist of a:
 - 1. A Declaration which creates the plan or scheme for the community and provides most of the restrictions the owners have to follow-like rules regarding pets, architecture and assessments.
 - 2. Articles of Incorporation that create the corporation.
 - 3. Bylaws, which generally deal with the procedures for operating the association, such as provisions discussing election of the board and officers, meetings and voting procedures. The Bylaws also may restate some of the restrictions in the Declaration.
- B. A cooperative has the same basic documents but instead of a Declaration, the document that provides the framework for the cooperative is called a Proprietary Lease or Occupancy Agreement. The other documents are the same.
- C. There are additional documents an owner may receive that are not legally part of the governing documents, but are still very important. These include:
 - 1. The deed which conveys the property to the owner and refers to the Declaration.
 - 2. The share or stock certificate in a cooperative which shows membership in the association.

ROLES IN COMMUNITY ASSOCIATIONS

Community associations are composed of different groups of people working together. These groups and individuals include: developer, owners, board, officers of the board, and committees.

Developer

- A. Creates the community.
- B. Prepares the original documents.
 - 1. These documents must comply with requirements imposed by state and local law.
 - 2. Lenders also impose requirements. For example, if your documents contain a provision stating that the Declaration cannot be amended without lender approval or without approval of a certain percentage of the owners, the provision may have been required by the lenders.
- C. Creates initial association budget and keeps all records while the developer is in control of the association.
- D. Appoints first board.
- E. If wise, it educates owners about rights and obligations and trains leaders so the transition from developer to owner control is smooth.

TRANSFERRING CONTROL TO THE OWNERS

The developer must eventually transfer control to the owners. At this time, the developer should make sure the owner-controlled board has copies of the governing documents and a history of the creation of the development.

OWNERS

Governing documents generally give some rights and obligations exclusively to owners such as:

A. Rights

1. Electing the board.
2. Amending the Declaration or proprietary lease.
3. Increasing assessments beyond a particular point.

B. Obligations

1. Having to follow restrictions and rules.
2. Paying assessments.

BOARD

A. Responsibility-The board is responsible for managing the association. It may delegate its responsibility to others, like committee members or professionals, but the board is ultimately legally responsible for the operation of the association.

B. Scope of Authority-The scope of the board's authority is usually set forth in the governing documents and the law. The documents and law affect the board's authority to act in three ways. Sometimes they:

1. Permit the board to act or give it authority to act. When the documents say a board "may" act, they are giving the board authority to act. For example, the documents or law may state the board "may" purchase insurance, or create rules consistent with the governing documents.
2. Require the board to act. If the documents or the law state that the board "shall" act, it is obligated to do so. For example, the documents may state that the board "shall" purchase insurance.
 - a) If the board fails to do those things it is obligated to do, the board and even the individual board members may be liable.
 - b) So, when you get home, you should read your governing documents and pay particular attention whenever those documents use the word "shall."
3. Prohibit the board from acting. Some provisions in the governing documents and the law prohibit the board from acting.
 - a. For example, the governing documents may state a majority of the owners may amend the Declaration or Proprietary Lease. This means that the board does not have the authority to amend the governing documents on its own.
 - b. Another example is the federal Fair Housing Act that prohibits boards from enforcing age restrictions unless the community qualifies as a community for older persons.

C. Fiduciary Duty-Board members owe a fiduciary duty to the owners. This duty has two components: A duty of loyalty and a duty to exercise ordinary care.

1. Duty of Loyalty - This means that board members can't take unfair advantage of their position. For example, if a board member owns a landscape maintenance business, that board member cannot have the board enter into a contract with his or her company at a price that is unfair to the association.
 - a. Laws or the governing documents may prohibit/restrict the board from entering into the contract at any price, but this depends on the particular facts and the law.

2. Duty of Ordinary Care-This requires a board member to act as a reasonable person in conducting the affairs of the association.

For example, a board member who never comes to meetings is not acting reasonably. Board members not only have to attend meetings, they have to know what is going on.

They also must understand the financial affairs of the association. You will have an exercise later today that will help you understand your association's financial documents

OFFICERS OF THE BOARD

- A. The governing documents and state law determine the number of officers and their duties. *Their duties also will be determined by the size and complexity of the association.*

For Example: In a large association, the secretary may not actually take and maintain the minutes. The secretary; however, is responsible for making sure these tasks are performed.

- B. Community associations generally have at least three officers. Examples of their duties include:
 1. President - Presides at meetings, is the association representative, sets meeting agenda in connection with manager if one exists.
 2. Secretary - Either does the following or ensures that it is done: gives notice of meetings, distributes agendas for board meetings with attachments, takes minutes, maintains association records, and verifies proxies.
 3. Treasurer - Either does the following or ensures that it is done: works with appropriate staff, contractors and committees to develop budget, maintains records of financial transactions, receives, safeguards and disburses funds and prepares financial reports.

COMMITTEES

- A. Committees generally can only act under the authority of the board.
 1. Ideally, the responsibilities of the committee should be outlined in the governing documents.
 2. Occasionally, the governing documents will give the architectural committee independent authority. If they do not, however, the architectural committee also acts exclusively under the authority of the board.
- B. Purpose of Committees
 1. To assist board in meeting its responsibilities by gathering information, making recommendations and acting when the board gives them the authority to do so.
 2. To broaden the community's input in decision making by serving as a means of gathering resident input.

KNOWING WHO HAS THE AUTHORITY TO ACT

Scenario 1

The Declaration for the ABC Planned Community provides that owners must receive approval from the Architectural Committee before they can change the color of their house.

A unit owner comes to John, who is Chair of the Architectural Committee, and shows John the color he wishes to paint his house. He asks John if the color is okay. John says, "Yes" and the owner paints his house. The Architectural Committee notifies the owner that the color is not acceptable and that he must re-paint the house.

Response to Scenario 1:

1. The governing documents state that the architectural committee, not the chair, has the authority to approve the color. So John acted inappropriately.
2. However, when one court was presented with a similar situation, it decided that the owner didn't have to repaint his house. The court based its decision on the fact that the owner thought John had the authority, and John acted like he had the authority to act. Thus, the architectural committee was bound by John's decision.

Summary Points

All courts may not arrive at the same conclusion. This scenario, however, demonstrates how important it is for the volunteers to know precisely what authority they do, and do not, have.

This is an example of a person not having the authority to act on behalf of the association.

Scenario 2

It's the Friday evening before Memorial Day weekend and the pool is ready to open for the long weekend. The association manager makes a last-minute inspection of the pool facilities and discovers the lock on the main gate is not working. She cannot get a locksmith to make the repair that evening. Because of the holiday she can't get someone there until noon on Saturday. The manager calls Mary, the board president, and tells her the problem.

Upon hearing the information, Mary attempts to contact the other board members. Because of the holiday, however, they are not at home. Mary decides not to open the pool until after the repair is completed. Several owners express their unhappiness with the situation.

Response to Scenario 2:

1. One must refer to the governing documents' and the law to determine if Mary took the appropriate action. In this case, it is very likely that Mary acted appropriately.
2. Board members generally have the obligation to maintain the common areas. If they fail to perform that duty; they can be liable. They also have to act like ordinary prudent people.
3. Because the board has the obligation to maintain the common area, they probably have the obligation to close the pool. While normally board members cannot act unilaterally on behalf of the board, Mary acted appropriately in this case because there was a serious threat of danger.
4. If Mary had permitted the owners to use the pool and someone were injured, the injured person could have sued the board and Mary for breach of duty of ordinary care.
5. There also may be a city ordinance requiring this type of pool to have a locking gate. If there is an ordinance and Mary permitted the pool to open with knowledge that the lock was broken, it is possible the association and Mary could be charged with violating the law.

Summary Points

When one balances the owners' inconvenience against the potential risk of great harm and potential violation of an ordinance, it is apparent Mary actions were appropriate.

This is a situation where the board has not only the authority, but the obligation to act.

Scenario 3

Shortly after a new homeowner moves into a cooperative, a neighbor notices that the owner has a dog and notifies the board. The board sends a Notice of Violation to the owner and holds a Rule Enforcement Hearing. The owner doesn't show up, so the board imposes a fine.

Question: Did the board act appropriate?

Response to Scenario 3:

1. The board should have contacted the woman before it held a hearing. If they had, they would have discovered the dog is a seeing-eye dog.
2. The Federal Fair Housing Act states, among other things, that associations cannot discriminate on the basis of someone's handicap. Because a blind person needs a seeing-eye dog, the board acted improperly. It doesn't have the authority to force this owner to get rid of her dog.

Summary Point

This is a situation where the board is prohibited from acting.

Summary of the Scenarios

The first scenario is a situation where the board, and only the board, has the authority to act. The second scenario is one where the board has not only the authority to act, but the obligation to act. And the third scenario is one where the board is prohibited from acting.

CONCLUSION

1. One goal of this unit was to provide a framework so it will be easier to understand why certain provisions are contained in your governing documents.
2. Another goal was to make you realize that you have a legal obligation to know what is in the governing documents of your community association and to know the law.

So, hopefully, you will go home and read the governing documents of your community association to determine when they:

1. Permit the board to act.
2. Require the board to act.
3. Prohibit the board from acting.



APPROACH TO SOLVING PROBLEMS

INTRODUCTION

It would be impossible in a book or course to address all of the issues or problems faced by association leaders. So, it is important that association leaders have a means to address a variety of issues or problems-as they arise.

1. In this unit, we will introduce a five-step approach to solving problems that can be used to address most any issue or problem that arises. These problems include those faced by all communities, such as pets and parking issues, and those that arise from co-ownership, which can be unique to common-interest communities.
2. It is important to note that while the word "problem" is used, this does not mean that common-interest communities, or community associations, face more problems than other neighborhoods. Common problems in community associations, such as pets and parking, are also problems in traditional neighborhoods:

In fact, a person living in a common-interest community can have a better living environment than in a traditional neighborhood, for the same amount of money because expenses are shared.

ADVANTAGES OF A PROBLEM SOLVING APPROACH

Using a systematic approach, such as the one we will present, has some important advantages.

1. Approaching problems systematically will help to make them manageable. It is a way to begin, especially when an issue or problem seems too big to tackle or is very controversial.
2. Using a systematic approach and documenting every step of the approach will create a record which will help establish that the board members satisfied their duty of ordinary care should they ever be challenged in a lawsuit.

Five-Step Problem Solving Approach

1. Identify the Scope of the Problem
2. Determine who has the Authority and Obligation to Address the Problem
3. Consider Different Approaches to Solving the Problem, Evaluate the Human and Financial Resources, Formulate a Plan, and Implement it
4. Communicate the Plan to the Members
5. Monitor and Evaluate the Plan Using the Problem Solving Approach

Assume the landscaping is dying in a planned community. Let's apply the approach to this problem.

STEP ONE

1. Identify the Scope of the Problem
 - A. There are two steps that should be taken immediately.
2. Designate a person who is responsible for identifying the problem.
 - A. Give that person a reasonable deadline to report back to the board.
 - B. Assume you are the responsible person.

How would you identify the scope of the problem?

1. Visually inspect the landscaping.
2. Physically inspect the watering system to determine if the irrigation system is functioning properly.
3. Read the maintenance contracts.
4. Contact the landscape contractor or manager to discuss the problem.
5. Contact nursery to see if the landscaping is appropriate for its environment.
6. Ask residents near the landscaping if they know why the landscaping is dying.
7. Survey residents.

Contacting the residents has two benefits:

1. The residents may have valuable information. For example, they may know that the maintenance crew isn't watering the landscaping, or that the sprinkling system is not working properly.
2. The residents will be impressed that the board is doing something and including them in the process, as well as that the board is concerned of property values.
3. Results of Step 1: The landscaping is not being properly watered or fertilized by the landscape contractor.

Key Points about Step 1

1. Assigning one person who is responsible for investigating the problem helps to ensure that the task will get done. If everyone is responsible, no one is responsible.
2. Setting a deadline is critical. Otherwise, the investigation may go on forever, with no solution reached.

STEP TWO

2. Who has the Authority and Obligation to Address the Problem?

- a. The Declaration generally defines the common area and the area that is the separate property of an individual owner.
- b. The Bylaws generally state that the association has to maintain common areas and the owners have to maintain their separate areas.
- c. If the governing documents say the board "may" act, they are giving the board permission or the authority to act. If they say the board "shall" act, they are requiring the board to act. If the board doesn't act, the board members may be liable.
- d. Therefore,
 - i. If the dying landscaping is on an owner's individual lot, the owner will probably have the responsibility for replacing the landscaping.
 - ii. If the dying landscaping is part of the common area, the association will have not just the authority, but also probably the obligation, to take care of the problem.

Results of Step 2: The dying landscaping is part of the common area and the association has the obligation to take care of the problem.

Key Points about Step 2

1. Always refer to the governing documents of your community association. Never assume anything!
2. Also, you must know the law. A statute may apply to a problem you are facing.

STEP THREE

1. Consider Different Approaches to Solving the Problem, Evaluate the Human and Financial Resources, Formulate a Plan, and Implement it
 - a. Consider Different Approaches to Solving the Problem what should the board do?
 1. Fire the landscape contractor?
 2. Do a better job of monitoring the landscape contractor?
 3. Replace the dying landscaping?
 - b. Evaluate the Human and Financial Resources What resources will you need?
 1. Assume it will cost \$25,000 to replace the landscaping.
 2. Check to see if any money has been designated in the replacement fund. This fund is for long-term repair and replacement of the common area.
 3. Also, determine how much it will cost to maintain the landscaping once it is replaced and check the operating fund to see if there will be enough money.
 4. If there isn't, the board will have to raise regular assessments and maybe even levy a special assessment.
 1. Does the board have authority to raise assessments?
 2. It depends on the governing documents and law. The governing documents and law place limits on the board's authority to levy both regular and special assessments.
 5. The board should also consider the human resources needed. If the association doesn't have a functioning maintenance committee, it will probably need one to monitor the landscaping and grounds in the future.
 - c. Formulate a Plan
 - d. Implement It

Results of Step 3: The board decides to replace the landscaping and the landscape contractor.

Key Points about Step 3

1. Completely evaluate all the human and financial resources available. Is there a qualified employee or owner who can make the repairs, etc.? Do they have the proper equipment and liability insurance to take on the job?
2. If the board must raise assessments, they must know the provisions of the governing documents. It is critical that they precisely follow the procedures outlined in the governing documents.

STEP FOUR

4. Communicate the Plan to the Members
 - A. Communicating with the owners is one of the most important roles of Association volunteers, and the one most often neglected.
 1. The community is a better place to live when the owners know:
 - a. What is going on in their community;
 - b. The leaders respect them and their opinions; and
 - c. The leaders have the residents' best interest in mind.

2. Also, your job as an association volunteer is more rewarding because you are appreciated
- B. There are three types of communication: written, verbal and nonverbal. When we think of communication, we tend to just think of written and verbal communication. Nonverbal communication is often overlooked and is very important.
- C. Whether you use written or verbal communication depends on what you are trying to accomplish.
- D. The purpose of the communication will also determine the vehicle you use for communication.

Contact Residents

1. What to Communicate?
 - a. Tell them what the problem is.
 - b. How and when it will be corrected.
 - c. What the board is going to do to minimize any inconvenience to them.
2. How to Communicate?
 - a. Phone calls depending on the size of the association.
 - b. A note on residents' doors two days before the replacement is going to begin.
 - c. An article in the newsletter well in advance of the replacement of the landscaping.

How would you communicate the need to raise assessments?

1. What to Communicate?
 - a. Appropriate financial information giving the reason for the need for additional money; and
 - b. How it will be spent.
2. How to Communicate?
 - a. Will it be necessary to do more than send a letter or call?
 - b. Meetings.
 - c. Word of mouth
 - d. Newsletters

In addition to the steps listed above, it is imperative that the board precisely follows the procedures in the governing documents for raising assessments.

Key Points about Step 4

1. Never overlook the importance of communication; you can seldom communicate too often.
2. Choose a communication plan appropriate to the situation, e.g. a letter to all residents is not necessary for a problem that affects only two or three residents.

STEP FIVE

5. Monitor and Evaluate the Plan
 - A. After the landscaping has been replaced, check to see if contractors performed according to the contract.
 - B. This association needs to develop a long-term maintenance plan if it doesn't already have one. A long-term plan helps the association prevent maintenance problems and addresses them as soon as they arise.

Key Points about Step 5

The problem solving approach is not complete until the plan is monitored and evaluated. Even after a well thought out plan is implemented, it is still possible it will need adjustments.

CONCLUSION

This five-step problem solving approach will help you solve any problem that your association may face. In the next segment, you will get the opportunity to practice using this approach by applying it to a maintenance problem.



Maintenance Scenario

INTRODUCTION

Maintenance problems or issues are not unique to those living in community associations. Anyone who lives in a home has to be concerned about maintenance. In this unit, we will use the problem solving approach to address a maintenance problem.

Goals of the Unit

The goals of this unit are to:

1. Gain experience using the Approach to Solving Problems presented in the last segment
2. Identify the important questions to ask when addressing maintenance problems
3. Meet people from other associations
4. Share approaches to solving problems.

MAINTENANCE EXERCISE

1. A list of the five steps in the problem solving approach;
2. A maintenance scenario; and
3. Excerpts from the governing documents (Declaration and Bylaws) for the ABC Condominium.

You will have 5 minutes to read these materials and then, you will have 5 minutes to identify the additional facts you need to determine the scope of the problem.

Then, we will discuss the facts you listed. You will also be given all the additional facts you need to develop a plan.

Then you will have 10 minutes to use the problem solving approach to develop a plan and determine how you will communicate it to the owners. We will conclude this unit by spending the last 10 minutes comparing your approaches to the problem.

Use the Approach to Problem Solving to guide you through the problem solving process. Follow the five steps-systematically.

Maintenance Scenario

The ABC Condominium has 50 units in five buildings. It is 15 years old. Assessments are \$100 per unit per month. The association collects \$60,000 a year in regular assessments. (Everyone pays their assessments-we can pretend!)

The board members know that the roof of one building leaks.

You also have the selected provisions from the governing documents. Take a few minutes to read these.

At the end of 10 minutes, we will discuss the additional facts your teams identified. Go to work, review the material, and determine what else you need to know.

ADDITIONAL FACTS

"What additional facts do you need to determine the scope of the problem? Why do you need them?"

Roof

1. The roof needs to be replaced.
2. It is going to cost \$20,000 to replace the roof
3. The association does not have an employee who can replace the roof
4. The association does not have authority to borrow money.
5. The damage is not one person's fault and is not under warranty.

Available Funds

1. There is a total of \$20,000 in the replacement fund, sometimes called the reserve fund.

Note: Replacement funds should have separate categories. For example, there might be a category for the roof, another for landscaping and another for building maintenance. Assume in this case the total of all the categories is \$20,000.

2. There is no extra money in the operating budget to fix any of the problems.

Assessments

1. For additional information about assessments see the documents.

These are the additional facts. If given more time you probably would have come up with more questions. You don't usually have to solve problems like this in 10 minutes. *It is essential; however, to identify all the additional information you need when trying to determine the scope of any problem.*

ADDRESS THE REST OF THE STEPS

You now have 10 minutes to address the rest of the steps in the problem solving approach. Refer to the key points about each step we talked about in the last segment to help you through the five steps.

THE PROBLEM SOLVING APPROACH AND THE MAINTENANCE SCENARIO

General comments about the problem solving approach:

1. Keep a record of every step. This is a very important point. A record will provide a history and demonstrate that the board has satisfied its duty of ordinary care.
2. Designate a person who is responsible for completing the steps and reporting to the board. If everyone is responsible then no one will be.
3. Create a reasonable time line for solving the problem and stick to it. If the board doesn't set a deadline, the process can drag on which can result in the board breaching its duty of ordinary care.

STEP ONE**Identify the Scope of the Problem**

How would you identify the scope of the problem?

Roof

1. Visually inspect the roof. This may reveal that a couple of shingles are loose. Don't let an employee visually inspect unless it is absolutely safe to do so.
2. You may need an expert to evaluate the problem.

STEP TWO

Determine who has the Authority and Obligation to Address the Problem How would you determine who has the authority and obligation to address the problem?

- A. Read the governing documents and know state law.
 - 1. If documents say the board "may" act, they are giving the board the authority to act.
 - 2. If documents say the board "shall" act, they are requiring the board to act.
- B. What do the governing documents say regarding these maintenance problems?

MENTION SPECIFIC PROVISIONS

What do the Declaration and Bylaws say about the roof?

- 1. Article 1 of the Declaration says that the roof is part of the common area.
- 2. Article 3 of the Bylaws says that association "shall" or has the obligation to maintain the common property.

Note: Some governing documents make a distinction between exclusive use common area (limited common elements) and general common area. Some require the association to maintain the general common area, and the owner to maintain the exclusive use common area.

Summary: The association has to repair or replace the roof.

STEP THREE

Consider Different Approaches to Solving the Problem, Evaluate the Human and Financial Resources, Formulate a Plan and Implement it

What human and financial resources must the board consider when addressing each of the problems?

Roof

- 1. The association does not have an employee who can replace the roof. A contractor will need to be hired.
- 2. A new roof is going to cost \$20,000. Because the replacement fund only has \$20,000 in it, replacing the roof will completely deplete the fund.

Note: Replacement funds should have separate categories. For example, there might be a category for the roof, another for landscaping and another for building maintenance. Assume in this case the total of all the categories is \$20,000.

How do you determine who has the power to raise assessments?

- 1. Refer to the association's governing documents.
- 2. Look at state law.

What do the governing documents of ABC Condominium say regarding assessments? Can the board raise assessments to pay for the roof and fund the reserves?

1. The board can raise regular assessments 20% each year. The owners are paying \$100 per month or \$1200 per unit which equals \$60,000 per year. So the board can collect an additional 20% of \$60,000 or \$12,000 next year in regular assessments.
2. It can also raise a total of \$5,000 through special assessments.
3. Beyond that, they need the owners' approval.

To determine how much more money the board needs, it will have to determine the extent to which the replacement fund is underfunded and the association's long- term maintenance needs.

If the board needs the approval of the owners to raise assessments what plan should the board adopt?

Governing Documents and the law will state the procedures the board must follow.

1. The owners may have to vote at a meeting at which there is a quorum.
2. They may be able to raise assessments by ballot or proxy.
3. In order to raise assessments, the board must follow the provisions in the documents and the law precisely.

Summary: What plan would your board adopt?

STEP FOUR

Communicate the Plan to the Owners

One of the most important roles of the board is communicating the problem and plan to the owners. Often the board fails to adequately perform this role.

What needs to be communicated to the owners?

Roof

What?

1. The fact that the roof is leaking.
2. The contractor who will fix the roof.
3. The date by which that contractor said the job will be done.
4. The accommodations made to alleviate the inconvenience to the owners while the roof is being replaced.
5. The fact that repairing the roof will wipe out the reserves, and there won't be money for the taking care of other necessary long-term problems.

When?

1. As soon as the board knows the details of the problem, it should inform the owners.
2. This type of problem may require more than one communication- updates will probably be required.

How?

1. Letter-informative and easy to understand.
2. Phone call-to those who complained so they will know board is responsive.
3. Door hanger note on door two days before the re-roofing is going to occur.

Assessments

What?

1. The re-roofing will wipe out the replacement account.
2. The long term needs that require funds to be in the replacement account
3. A plan for replenishing the reserves.
4. The fact that adequate reserves will enhance property values and guarantee repairs will be done as needed.

When?

How?

1. Place article in the newsletter
2. Special meeting or in connection with other meeting
3. Target key association leaders to enlist their support
4. Send a letter to the owners explaining the problem

STEP FIVE**Monitor and Evaluate the Planned Roof Project**

The roof needs to be checked to make sure the contractor completed the work satisfactorily and that it doesn't leak after it is repaired.

Long term

The board needs to monitor its long term plan for funding reserves. This will be particularly important when creating a budget for the next fiscal year.

CONCLUSION

1. The board, with the support of the volunteers, must maintain the community to enhance property values, foster a sense of community, and fulfill its duty of ordinary care.
2. A well-maintained community enhances property values and a sense of community pride. A study reinforces this point.

A condominium with a parking garage tried an experiment. The board substantially reduced the level of maintenance for the parking garage while maintaining the same level of maintenance throughout the rest of the community. When this happened, the residents thought the maintenance in the entire community was reduced, although it wasn't. The owners developed a negative attitude about the community and the owners failed to maintain the property as they had previously.

Once the garage was again maintained, the owners believed that the maintenance in the entire community had improved and their attitude toward the community improved dramatically.

Therefore, it is important for the board to adequately maintain the common areas and solve maintenance problems as they arise.



Rule Enforcement

INTRODUCTION

Rule enforcement is one of the most volatile areas facing association leaders. It is important for association leaders to be able to settle disputes and obtain compliance in an equitable and professional manner. A board should only hold a hearing to enforce restrictions if all other efforts have failed.

- A. Board should only hold a hearing to enforce rules and regulation infractions if all other efforts have failed
- B. Rules (aka restrictions) are found in the association's governing documents of common-interest communities.
 - i. Rules are designed to enhance property values and the quality of life within the community
 - ii. Rules/Regulations vary among communities
Examples include architectural, use, pet and parking restrictions
- C. 3 types of Rules and Restrictions
 1. Restrictions written into the Declaration and By-laws by the Developer
 2. Restrictions added to the governing documents by virtue of an amended Declaration
 3. Restrictions created by the Board
 - i. Board created restrictions or rules usually published as Rules & Regulations
 - ii. Rules are only valid if the Board:
 1. Has authority to create them pursuant to the association's governing documents
 2. Rules and Regulations created are consistent with the association's other governing documents
- D. Enforcement of Rules and Regulations
 1. Both can be enforced through internal enforcement procedures by the owners and need not be conducted by an attorney or the Court.
 2. Enforcement of rules and regulations are a necessary evil of community association living
 - i. Need unit owners to willingly abide by rules and regulations to minimize hard feelings when violations occur and tempers fly
 - ii. Hardball tactics are not always effective
 - iii. Remember – you are all neighbors!
 - iv. Polite conversation should be the first step, as this may resolve issues without further action
- E. Legal requirements for rule and regulation enforcement proceedings
 1. Hearings must be conducted according to the association's governing documents
 2. Procedures must be fair and reasonable and should be applied fairly. All unit owners must be treated fairly and equally.
 3. Board must give the unit owner an opportunity to be heard and present his/her side of the case.

4. If the Board's actions are not fair and/or the procedures outlined in the governing documents are not followed precisely:
 - i. Board's actions will likely be invalid
 - ii. In some cases, the board members may be liable for damages
- F. Board behavior during hearings
 1. Hearings should be conducted professionally
 2. Board members and unit owners should be polite and objective
 3. There should never be a need to be rude or argue
- G. Samples of Notice and Violation Outcome Notices (See accompanying samples included)
 1. Caveat: you must refer to your association governing documents for the specific requirements as to notice required and procedures for hearing.

CONCLUSION

Important Points to remember about rule enforcement

1. Read the governing documents and know what behavior violates the governing documents.
2. Under most circumstances, do not hold a hearing until the alleged violator has been given an opportunity to correct the problem. Remember, the goal is amicable compliance, not punishment. In the ideal world, the board would never have to hold a rule enforcement hearing because the owners are complying with the restrictions.
3. If a hearing has to be held, follow the procedures in the governing documents precisely. These include procedures before, during and at the conclusion of the hearing such as:
 - a. Give proper notice.
 - b. Give the parties an opportunity to be heard.
 - c. Be professional and polite.
 - d. Conduct the hearing in an orderly manner – don't engage in or permit arguments.
 - e. If the procedures require a written decision, write one and give the reasons.
 - f. Penalties have to be in compliance with the governing documents and must be reasonable.
4. If you only remember one thing: Be a good neighbor, read the governing documents, and follow the procedures in them precisely.

ASSOCIATION LETTERHEAD

DATE

UNIT OWNER NAME

UNIT OWNER ADDRESS

UNIT OWNER CITY, STATE, ZIP

RE: VIOLATION NOTICE

Dear UNIT OWNER NAME:

Periodic inspections are performed throughout the community for possible infractions to the Declaration, By-Laws, and Rules and Regulations of the NAME OF ASSOCIATION. It was noted on DATE, that your unit was in violation of the above governing documents as follows:

Condition: DESCRIPTION OF VIOLATION

You have # OF DAYS days from the date of this letter to bring this violation into compliance. If you have already complied with this notice, we would like to thank you in advance and advise you there is no need to contact us.

Please do remember that failure to comply with the Declaration, By-Laws, and Rules and Regulations of your Association may result in fines being assessed to your account. Please take a moment to review your documentation so you are aware of the restrictions within your community. We thank you in advance for your cooperation.

If you have any questions, please contact the Board at PHONE NUMBER or E-MAIL ADDRESS FOR BOARD CONTACT.

Sincerely,

NAME OF ASSOCIATION

BOARD OF DIRECTORS

(must be signed by authorized representative of Board)

ASSOCIATION LETTERHEADDATEUNIT OWNER NAMEUNIT OWNER ADDRESSUNIT OWNER CITY, STATE, ZIP**RE: HEARING OUTCOME**Dear UNIT OWNER NAME:

This letter is to inform you that the Board of Directors of NAME OF ASSOCIATION have reached a decision regarding the violation hearing conducted during the executive session of the DATE OF MEETING/HEARING Board of Directors Meeting.

The Board determined the following with respect to the DESCRIPTION OF VIOLATION: PROVIDE UNIT OWNER WITH AMOUNT OF FINE AND ADVISE OF ADDITIONAL INFORMATION (INCLUDEING WHETHER SUCH WILL CONTINUE TO BE IMPOSED UNTIL THE VIOLATION IS RESOLVED.)

If you have any questions, please contact the Board at PHONE NUMBER or E-MAIL ADDRESS FOR BOARD CONTACT.

Sincerely,

NAME OF ASSOCIATION

BOARD OF DIRECTORS

(must be signed by authorized representative of Board)

ASSOCIATION LETTERHEADDATEUNIT OWNER NAMEUNIT OWNER ADDRESSUNIT OWNER CITY, STATE, ZIP**RE: NOTICE OF HEARING**Dear UNIT OWNER NAME:

The Board of Directors of NAME OF ASSOCIATION is requesting you attend a hearing with respect to violation notices regarding DESCRIPTION OF VIOLATION.

Your hearing on this matter is scheduled for DATE, TIME, LOCATION.

Please plan to attend the hearing to discuss this matter. The Board will hold the hearing at the end of the regular Board of Directors meeting during Executive Session to discuss these violations, with or without your presence, and the Board will determine whether or not you should be fined for your continual violations of the Rules and Regulations of the NAME OF ASSOCIATION.

If you have any questions, please contact the Board at PHONE NUMBER or E-MAIL ADDRESS FOR BOARD CONTACT.

Sincerely,

NAME OF ASSOCIATION

BOARD OF DIRECTORS

(must be signed by authorized representative of Board)



FINANCES

PURPOSE

The purpose of this unit is to:

1. Help you understand the terminology used when discussing basic financial statements.
2. Help you read and understand basic financial statements.
3. Increase your comfort level with financial statements.
4. Have you gain experience interpreting financial statements and determine what to do when the statements indicate the association is in financial trouble.

INTRODUCTION

Some of you may be thinking why should I bother to learn about finances when our community association has a manager or treasurer whose job it is to take care of the finances?

The reality is:

1. Board members are legally responsible for the finances of the association. Board members must understand the financial management system and financial documents so they know if the manager or treasurer is performing his or her functions appropriately.
2. If the board doesn't understand the association's financial problems it is breaching its duty of ordinary care.
3. Also, as owners, you should want to know the financial status of your association and to make sure your association stays solvent.

Some might be thinking-I hated math in school, I don't like working with numbers and I can't understand financial records.

Of course you can!

In presenting the following material, we will go line by line for each document, and I promise you will have a much greater understanding of financial statements by the end of the unit.

During this unit, you will be provided with some of the basics concerning financial statements. Each line of the financial statements will be explained. A cooperative is used as the example, but this could just as easily be a condominium or planned community.

Good. You will be a great help in identifying the problems with the sample reports later in this exercise. But, please don't reveal the problems you see too soon. It is important for every person on the team to have a chance to identify the financial problems based on the information contained in the financial reports.

PHASES OF FINANCIAL MANAGEMENT SYSTEM

A community association's financial management system can be thought of as having three stages: a planning stage, an operation stage and an evaluation stage. Each stage has financial documents associated with it.

1. The Planning Stage has the budget. The annual operating budget is a plan that reflects the needs, policies and goals of the association for a certain period of time, typically a year. It identifies the income the association anticipates receiving in that year and the expenses it expects to incur.
2. The Operation Stage has financial records like balance sheets, income and expense statements, budget variance reports and bank reconciliation statements. These statements reveal the association's current financial position.
3. The Evaluation Stage has documents called a compilation, review, and audit.

We are only going to discuss the documents generated during the Operation Stage. This stage involves the day-to-day financial activity of the association. It is the stage in which income is received and bills are paid.

ACCOUNTING METHODS

In order to understand the financial statements, it is necessary to understand the three basic types of accounting procedures:

1. Cash method
2. Accrual method
3. Modified cash-accrual method

Note: CAI is not advocating that you adopt any particular method. However, it is important you know which method your association uses, so that you know what information your statements do and do not reveal.

A. Cash

This method is the simplest. It is similar to the method we use when keeping our checkbook. Income is recorded when it is received and expenses are recorded when a check is written, or a bill is paid. Although it is simple, it has two disadvantages.

1. It doesn't give a complete picture of the financial status of the association. For example, if the association has incurred expenses, but hasn't yet paid them, it will look like the association has more money than it has.

Example: Assume that the total amount of money you have is \$2,000, but you have \$3,000 worth of unpaid bills sitting on the kitchen counter. If you use a cash method to prepare your financial statement, it would look like you have \$2,000. It won't reflect that you owe \$3,000. Therefore, while at this moment technically you have \$2,000, this type of financial statement wouldn't give a complete picture of your financial position.

2. Also, because statements using this method reflect income as it is received, they don't show what assessments are delinquent. Therefore, if the cash method is used the association must receive an additional document that shows the board the extent of delinquent assessments. This additional document is called an accounts receivable report.

B. Accrual

The accrual method keeps track of revenues as they are earned (as opposed to when they are received) and expenses as they are incurred (as opposed to when they are paid.)

Example: If an accrual method were used in the above situation, the \$3000 in bills would be reflected as they were incurred. Your financial statement would reflect that you are \$1000 in the hole. \$2,000 cash - \$3,000 bills = (\$1,000).

This method complies with Generally Accepted Accounting Principles (GAAP) and gives a more accurate picture of the association's finances, but it is more complex. Statements using this method record income when the assessments are due.

The accrual method also does not reflect potential bad debts. Balance sheets and income and expense statements using this method assume all assessments are collected when they are due. So again, the association needs the accounts receivable report to find out the state of delinquent assessments.

To Recap: Cash vs. Accrual Accounting

1. The cash method shows which assessments have been paid, but not which assessments are delinquent.
2. The accrual method shows which assessments have accrued, but not which are delinquent.
3. In both cases, the association needs additional information to tell them the amount of delinquent assessments.

C. Modified Cash and Accrual Method

Another accounting method is a modified accrual-cash method. There are variations of this method, but the most common is to track income using an accrual

Method - recording income when it is owed to the association and record expenses using a cash method - recording expenses when they are actually paid.

Key Point: The most important point is that you must understand which method your association is using so that you will know what additional information you need to get a complete financial picture.

MONTHLY FINANCIAL STATEMENTS

The monthly financial statements consist at a minimum of a balance sheet, an income and expense statement, and a budget variance report if the budget variance is not shown on the income and expense statement.

Samples of all of these are in your class materials. Your association may also receive other documents that will be mentioned briefly and are discussed in greater detail.

BALANCE SHEETS FOR XYZ CONDOMINIUM FOR NOVEMBER

You have financial statements for the XYZ Condominium. The condominium consists of 100 units. The regular assessments are \$150 per month per unit. You have two balance sheets. Find them in your class materials and spread them out in front of you. The first balance sheet uses the accrual method and the second balance sheet uses the cash method. Both reflect the financial state of the XYZ Condominium as of November 30, 20XX. These balance sheets should be read one column at a time from top to bottom, instead of from left to right.

XYZ Condominium Balance Sheet November 20XX Accrual Method			
ASSETS	Operating Fund	Replacement Fund	Total All Funds
Cash: Operations- Security Bank Account #123456	\$16,625.00	\$0.00	\$16,625.00
Cash: Replacement Savings	\$0.00	\$50,041.67	\$50,041.67
Accounts Receivable	\$26,500.00	\$0.00	\$26,500.00
Interfund Balance	\$(10,000.00)	\$10,000.00	\$0.00
TOTAL ASSETS	\$33,125.00	\$60,041.67	\$93,166.67
LIABILITIES			
Accounts Payable	\$30,605.83	\$0.00	\$30,605.83
FUND BALANCES			
Operating Fund Balance	\$ 2,519.17	\$ 0.00	\$ 2,519.17
Replacement Fund Balance	\$0.00	\$60,041.67	\$60,041.67
TOTAL FUND BALANCES	\$2,519.17	\$60,041.67	\$62,560.84
TOTAL LIABILITIES AND FUND BALANCES	<u>\$33,125.00</u>	<u>\$60,041.67</u>	<u>\$93,166.67</u>

XYZ Condominium Balance Sheet November 20XX Cash Method			
ASSETS	Operating Fund	Replacement Fund	Total All Funds
Checking Operations- Security Bank Account #123456	\$16,625.00	\$0.00	\$16,625.00
Cash Replacement Savings	\$0.00	\$50,041.67	50,041.67
TOTAL ASSETS	\$16,625.00	\$50,041.67	\$66,666.67
LIABILITIES	\$0.00	\$0.00	\$0.00
FUND BALANCES			
Operating Fund Balance	\$16,625.00	0.00	\$16,625.00
Replacement Fund Balance	0.00	\$50,041.67	\$50,041.67
TOTAL FUND BALANCES	\$16,625.00	\$50,041.67	\$66,666.67
TOTAL LIABILITIES AND FUND BALANCES	<u>\$16,625.00</u>	<u>\$50,041.67</u>	<u>\$66,666.67</u>

Accrual Method Balance Sheet

1. Assets

In the first balance sheet, which uses the accrual method, the association has \$16,625 in its checking account. People owed the association \$26,500 for the month (accounts receivable). This amount reflects the total assessments due at November 30.

The interfund balance reflects the fact the association borrowed \$10,000 from its replacement fund to put in its operating fund. The \$10,000 in the operating fund column has brackets around it because it isn't really an asset. It is borrowed money.

2. Liabilities

The liabilities on this balance sheet are the accounts payable or money that the association owes. The liabilities are \$30,605.83.

3. Operating Fund

The operating fund balance (sometimes called the unappropriated members equity) is the difference between the assets and liabilities in the operating fund. This is the net operating fund.

In this case, the total assets in the operating fund are \$33, 125 (checking account + accounts receivable - interfund balance or \$16,625 + 26,500 - 10,000 = \$33,125) and the total liabilities are \$30,605.83. The difference is \$2,519.17.

4. Replacement Fund
The association has \$60,041.67 in its replacement fund. This is sometimes called the appropriated members' equity because it is designated for a particular fund and for particular purposes. The association has not made any expenditure and has not incurred any debt in the replacement fund. This is unusual.
5. Total Fund Balance
\$2,519.17 (the operating fund balance) plus \$60,041.67 (the replacement fund balance) equals \$62,560.84, the total fund balance. The total fund balance is sometimes called the total members' equity. This is the net worth of the association.
The other numbers at the bottom of the balance sheet, the Total Liabilities and Fund Balances, don't present new information. They are on the balance sheet just because assets have to equal liabilities.

Cash Method Balance Sheet

1. Assets and Liabilities
The cash method, like the accrual method, identifies the money in the association's checking account. This is \$16,625. The cash method balance sheet, however, does not identify the money that people owe to the association, or that the association owes to others.
2. Operating Fund Balance
The operating fund balance is the difference between the assets and liabilities in the operating fund. The operating fund balance using the cash method is \$16,625.
3. Replacement Fund
The replacement fund on the cash balance sheet is \$50,041.67. It is \$10,000 less than on the accrual method balance sheet because the association has borrowed \$10,000 from the replacement fund. There should be \$60,041.67 in the replacement fund.
Although in this case the cash method balance sheet does not reflect the money the association owes to the replacement fund, it may on some cash balance sheets. The association leaders should ask the person who prepared the statement whether the association owes any money to the replacement fund.
4. Total Fund Balance
The total fund balance, or net worth of the association, looks different on the two balance sheets. Using the cash method, it is \$66,666.67. Using the accrual method, it is \$62,560.84.
Thus, the balance sheet that uses the cash method makes the association look like it is in better financial shape than it actually is. It doesn't show the debts that the association has incurred, but has not yet paid.

Both of these balance sheets are unrealistically simplistic. One can apply the same principles, however, to a more complex balance sheet. Association leaders are encouraged to compare these balance sheets to those used by their associations.

You have two income and expense statements. One uses the accrual method and one uses the cash method. Find them in your class material and spread them out in front of you.

Examples of income and expense statements appear on the next pages. In this example, it is assumed that on January 1, 20XX the association had collected all income it was owed from the previous year and had paid all its expenses. While this is unlikely to be true for an association, the assumption is made to make it easier to explain the income and expense statements.

XYZ Condominium			
Income and Expense Statement			
For the eleven months ended November 30, 20XX (Accrual Method)			
REVENUES	Operating Fund	Replacement Fund	Total All Funds
Assessments	\$165,000.00	\$0.00	\$165,000.00
Interest on Invested Funds	\$1,146.79	\$0.00	\$1,146.79
User Fees	\$5,500.00	\$0.00	\$5,500.00
TOTAL REVENUES	\$171,646.79	\$0.00	\$171,646.79
OPERATING EXPENDITURES			
Administrative	\$7,961.25	\$0.00	\$7,961.25
Building Maintenance	\$93,623.75	\$0.00	\$93,623.75
Landscape Maintenance	\$16,341.67	\$0.00	\$16,341.67
Recreational Facilities	\$10,041.67	\$0.00	\$10,041.67
Insurance	\$28,100.00	\$0.00	\$28,100.00
Social Activities	\$4,537.50	\$0.00	\$4,537.50
TOTAL OPERATING EXPENDITURES	\$160,605.84	\$0.00	\$160,605.84
TRANSFERS IN (OUT)			
TO OTHER FUNDS-RESERVES ALLOCATION			
Replacement Fund Contributions			
Exterior/Interior Building			
Maintenance	\$(18,333.33)	\$18,333.33	\$0.00
Recreational Facilities	\$(3,208.33)	\$3,208.33	\$0.00
Sidewalks and Entryway	\$(5,500.00)	\$5,500.00	\$0.00
TOTAL RESERVES ALLOCATIONS	\$(27,041.66)	\$27,041.66	\$0.00
NET INCREASE (DECREASE)			
IN FUND BALANCES	\$(16,000.71)	\$27,041.66	\$11,040.95

**XYZ Condominium
Income and Expense Statement
For the eleven months ended November 30, 20XX (Cash Method)**

REVENUES	Operating Fund	Replacement Fund	Total All Funds
Assessments	\$148,500.00	\$0.00	\$148,500.00
Interest on Invested Funds	\$1,146.79	\$0.00	\$1,146.79
User Fees	\$5,500.00	\$0.00	\$5,500.00
TOTAL REVENUES	\$155,146.79		\$155,146.79
OPERATING EXPENDITURES			
Administrative	\$6,961.25	\$0.00	\$6,961.25
Building Maintenance	\$78,017.92	\$0.00	\$78,017.92
Landscape Maintenance	\$11,341.67	\$0.00	\$11,341.67
Recreational Facilities	\$9,041.67	\$0.00	\$9,041.67
Insurance	\$21,100.00	\$0.00	\$21,100.00
Social Activities	\$3,537.50	\$0.00	\$3,537.50
TOTAL OPERATING EXPENDITURES	\$130,000.01		\$130,000.01
TRANSFERS IN (OUT) TO OTHER FUNDS-RESERVES ALLOCATION			
Replacement Fund Contributions			
Exterior/Interior Building Maintenance	\$(18,333.33)	\$18,333.33	\$0.00
Recreational Facilities	\$(3,208.33)	\$3,208.33	\$0.00
Sidewalks and Entryway	\$(5,500.00)	\$5,500.00	\$0.00
TOTAL RESERVES ALLOCATIONS	\$(27,041.66)	\$27,041.66	\$0.00

Accrual Method Income and Expense Statement

1. Income

The accrual method income and expense statement shows that \$165,000 in assessments came due between January 1, 20XX and November 30, 20XX. The statement does not show, however, whether the association has collected these assessments. It is therefore, necessary for the board to receive an additional report that lists delinquent accounts. This is called an accounts receivable report. The accounts receivable balance is found in the asset portion of the balance sheet.

The statement also reflects that the association accumulated \$1,146.79 in interest and \$5,500 in user fees by the end of November for a total of \$171,646.79.

2. Expenses

The operating expenditures total \$160,605.83. These expenditures are really expense categories. For example, administrative expenses could be broken down into duplicating, postage, and clerical supplies.

3. Operating Fund

The association has a total of (\$27,041.66) in its operating fund for its replacement fund contribution. The parenthesis around the numbers in the operating fund mean those numbers are negative. This reflects the fact that the money was subtracted from the operating fund and is in the replacement fund.

4. Replacement Fund

The statement shows that no expenditures have been made from the replacement account in this calendar year. If the community is new or has limited facilities, this may not be unusual. On the other hand, if the community is old or has extensive facilities, it is unusual and the board in such a community should check to make sure there is not an error in the statement. It is possible that the association has paid reserve fund expenses from the operating fund.

Cash Method Income and Expense Statement

1. Income

The cash method income and expense statement shows what the association has actually collected and spent. The total money or assets using this method is \$155,146.79.

2. Expenses

The total money spent for operating expenditures is \$130,000.01. Look at the individual expenditures such as administrative, building maintenance, land- scape maintenance, etc. These equal \$130,000.01.

3. Operating and Replacement Fund

\$27,041.66 has been transferred from the operating fund to the replacement fund. Again, the statement indicates that the association has not spent any of the money in the replacement fund.

The difference between the two statements is best demonstrated by the difference in the net increase (decrease) in fund balances at the bottom of the operating fund column.

1. After subtracting expenses from income using the cash method the association is \$1,894.88 in the hole.
2. Using the accrual method it is \$16,000.70 in the hole.
3. Thus, if an association uses the cash method it must also receive a report identifying money it owes but has not yet paid. This is an accounts payable report.

An association can only meaningfully compare its budgeted income and expenses to its actual income and expenses if it uses an accrual method of accounting. If a cash method is used, the association will need another report describing the extent to which income and expenses are consistent with the budget.

A sample Budget Variance Report is shown on the next page.

Columns

You will notice on the left: hand column the term "Budgeted Annual." This column is the budget the association adopted for eleven months of this fiscal year.

The budget variance report compares the budgeted income and expenses to the actual income and expenses for the first 11 months.

See ANNUAL BUDGET VARIANCE REPORT ON NEXT PAGE

**XYZ CONDOMINIUM
ANNUAL BUDGET VARIANCE REPORT
(OPERATING FUND)**

January 1 – November 30, 20XX (Accrual Method)

REVENUES	Budget to Nov. 30	Actual to Nov. 30	Variance Funds
Assessments	\$165,000.00	\$165,000.00	\$0.00
Interest on Invested Funds	\$3,666.67	\$1,146.79	\$(2,519.87)
User Fees	\$5,500.00	\$5,500.00	\$0
TOTAL REVENUES	\$174,166.66	\$171,646.79	\$(2,519.87)
OPERATING EXPENDITURES			
Administrative	\$8,845.83	\$7,961.25	\$884.58
Building Maintenance	\$85,112.50	\$93,623.75	\$(8,511.25)
Landscape Maintenance	\$14,666.67	\$16,341.67	\$(1,675.00)
Recreational Facilities	\$9,625.00	\$10,041.67	\$(416.67)
Insurance	\$23,833.33	\$28,100.00	\$(4,266.67)
Social Activities	\$5,041.67	\$4,537.50	\$504.17
TOTAL OPERATING EXPENDITURES	\$147,125.00	\$160,605.84	\$(13,480.84)
RESERVES ALLOCATION			
Replacement Fund Contributions			
Exterior/Interior Building Maintenance	\$18,333.33	\$18,333.33	\$0.00
Recreational Facilities	\$3,208.33	\$3,208.33	\$0.00
Sidewalks and Entryway	\$5,500.00	\$5,500.00	\$0.00
TOTAL RESERVES ALLOCATIONS	\$27,041.66	\$27,041.66	\$0.00
TOTAL OPERATING EXPENDITURES & RESERVES ALLOCATIONS	\$174,166.66	\$187,647.50	\$(13,480.84)
NET INCREASE (DECREASE) IN FUND BALANCE	\$0	(\$16,000.71)	(\$16,000.71)

Annual Budget Variance Report

1. In accrual basis and modified cash-accrual basis financial statements, the actual assessment total should agree with the budgeted amount because Income is recorded as it is billed to owners. For the eleven months, this is \$165,000.00
2. The interest earned on investments is only \$1,146.
 - a. The budget variance is \$2519.87 short.
 - b. Because the association has approximately \$50,000 in its savings account, it must have anticipated receiving approximately 8% interest on its money. This apparently was unrealistic in this fiscal year.
3. The total income to date is \$171,648.79.

Expenses

1. The association expenses for administrative services and social activities were less than budgeted.
2. The association, however, spent more than it budgeted for building maintenance, landscape maintenance, and insurance. The net variance is \$13,480.84.
3. The reserves have been funded for this year.
4. The bottom line of first column is the total operating expenditures and reserves allocations for the year. The net variance is \$16,000.71.

REVIEWING THE PROBLEMS

The association has overestimated income and underestimated expenses.

Income

1. It didn't budget enough income to cover expenses.
 - a. Sometimes associations budget a flat percentage increase for assessments without looking at expenses.
 - b. Sometimes they don't budget enough because they fear the people can't pay more, but they don't correspondingly cut expenses.
 - c. This association is going to have to raise regular assessments next year, and they may even have to levy a special assessment this year.
2. It did not budget for any bad debts, but may have them.

It has not collected all the assessments that are owed. It should have collected \$165,000 in assessments. The cash method income and expense statement shows that it has actually only collected \$148,500.00.
3. The income on investments is also less than budgeted.
 - a. The association has \$50,000 in a savings account. Because it expected to receive about \$4000 in income, it budgeted interest on the savings account at about eight percent. This was unrealistic.
 - b. Also, with better planning it may be able to invest a portion of this money in government-insured longer-term investments that will have a higher yield.
4. This association is borrowing from its reserves.
 - a. When associations do not have enough funds in their operating account, they sometimes decide not to fund reserves or borrow from reserves. In this case, the association funded reserves but then borrowed from them.
 - b. This association is borrowing from its reserves, which is generally inappropriate. If it has adequately identified its long-term needs, money may not be available to meet those needs.

- c. The need for long-term repair and maintenance exists whether or not the association's replacement fund is adequately funded. If the association does not have enough money to replace the roof when it needs to be replaced, the association will face a major problem. The board members who permitted an association to face this situation may have breached their duty of ordinary care.

Expenses

1. The expenses are exceeding budgeted expenses.
The association has spent more in the first 11 months for building maintenance, landscape maintenance and insurance than it budgeted for the entire year.
2. The total expenditures already exceed the amount budgeted for the entire year.
3. In addition, the association did not budget for a contingency account to cover unanticipated expenses such as natural disasters floods or overruns in expenditures.

REPLACEMENT FUND

There may be a mistake on the financial statements.

The association has not made any expenditures from the replacement fund which is unusual. It didn't budget any expenditures from the replacement fund which is also unusual. This should be checked. It might be an error.

OTHER DOCUMENTS

There are other documents the board should review.

1. An Accounts Receivable Report tells the board which accounts are delinquent.
2. An Accounts Payable Report tells the board debts the association has incurred. The board needs this statement if it uses the cash method.
3. A Bank Reconciliation Statement lets the board know if the bank and board agree about the amount of money that is in the association's bank accounts.

CONCLUSION

How do you feel about financial, statements now? Are they clearer and more understandable?

In leaving this exercise you should:

1. Have a better understanding of basic financial statements and how they apply to community associations.
2. Understand that discovering the association's financial problems is only the first step in solving them.

As we leave this unit I recommend that you go home and compare the information in the financial records you have been given with your own, while the information is still fresh in your mind.



BOARD MEETING

INTRODUCTION

Board meetings play an important role in the life of a community association. The official actions of the association take place at board meetings. Board meetings often reflect how well the association as a whole is being managed.

PURPOSE

The purpose of this unit is to:

1. Increase your awareness of the problems that can arise in both planning and conducting a board meeting.
2. Introduce you to some of the issues that board members and other association volunteers face, such as contracting for services, levying special assessments, and resolving neighbor disputes.

EXERCISE (BOARD MEETING)

POINTS BOARD MEMBERS AND RESIDENTS SHOULD MAKE TWICE DURING THE BOARD MEETING

1. The particulars for this meeting are in the materials provided in this handout.
2. You will watch a portion of a community association's board meeting. However, that portion will have enough errors for everyone to begin thinking about appropriate and inappropriate ways to conduct board meetings.
3. As you watch the board meeting, write down the errors you observe. Think about errors that occurred both in the planning stage before the meeting and those that occur during the meeting. Also, look for both obvious and more subtle errors.
4. After the meeting, break into teams and discuss the errors you spotted. Each team should appoint someone to write down the errors on two lists. One list you will turn in.
5. The team that spots the most errors will win a prize.
6. After 10 minutes, we will discuss the errors as a group.
7. This board has five members. The meeting is scheduled for next week but the board on its own decided to meet a week early. No one told the association manager that the board changed the meeting time. The board said the meeting would start at 4. It is now 4:15. Two residents are present and they are angry that the meeting hasn't started.

BOARD MEETING

Resident 1: (She is impatient and unpleasant.) "Why don't these board meetings ever start on time? Can't you guys ever get your act together?"

Chair: "John and Mary never come to board meetings. They shouldn't even be on the board."

Board Member 1:-----"Yeah, and Board Member 2 is always late. I think she is still going to show up though."

Chair: -----"Let's start."

Board Member 1: "I think we should approve the minutes. Let's both vote in favor."

Chair: "Okay."

(Third board member, Board Member 2, enters the meeting. She doesn't apologize for being late. She is surprised that they have already started.)

Board Member 2: (looking at the chair) "I am surprised you already started. We don't usually get going until 4:30. Especially since you only told us about the meeting last night."

Chair: "Let's talk about that water damage to Mr. Jones unit caused by the leaking roof. Remember we postponed discussion until we got an opinion from our attorney. The legal opinion is attached to your agenda, but I assume no one has read it."

(Others smile as if they never read anything. Chair starts talking about the material in the packet and is interrupted by Board Member 1)

Board Member 1: "I don't need to know any information. Let's just vote. I don't think we should have to pay him. It's in his unit."

Chair: "Okay. What do you think? Do you think we should take a formal vote?"

Board Member 2: "No, I hate that lawyer legalese stuff. Let's just agree."

(The first resident begins talking at this point. She is angry. The second resident interrupts the first resident and talks over her. They bicker but shouldn't overreact too much.)

Resident 1: "I am sick of waiting around. Resident 2 smokes in his unit and I am sick of the smell. Also, the cancer society says I can die from the smoke. I want this stopped. You have to do something."

Resident 2: "This is a free country. I have a right to smoke in my own house. She can't possibly smell the smoke."

(After a minute or two a board member should jump in.)

Board Member 1: "I am sure that you have a problem, but I have to go to another meeting and I want to talk about the pool contract. My son has a business and I want to hire him."

•

Board Member 2:- -"Do we have bids from anyone?"

Board Member 1:- -"No. We don't need them."

Resident 1: (Poking at the chair): "You haven't solved my problem. What are you going to do?"

Board Member 1: (statement made with authority) "I have to go to a meeting and I need to talk about the pool contract, so be quiet."

(Residents now are really mad, but they stop talking.)

Board Member 1: "Well, are we going to give my son the contract?"

Chair: "It's okay with me. Is it okay with you?" (Poking at Board member 2)

Board Member 2: "Sure, I don't care."

Chair: "We need to talk about putting showers in the clubhouse. I use the clubhouse a lot and we really need showers in there. There isn't enough money to build them so let's levy a special assessment."

Resident 2: "I never use the clubhouse and I am not paying for a special assessment. I will have you all recalled. Besides a special assessment wouldn't be legal."

(Chair and Resident 2 get in a fight about the special assessment the resident uses arguments that have nothing to do with the special assessment, for example :)

Resident 2: "I have known you for five years, and you always do underhanded things like this. I remember when you planted landscaping in front of your house and expected us all to pay for it."

Board Member 2: (talks over the two parties who are fighting.) "Speaking of landscaping, some of the plants in my yard are dying."

Get into teams. Compare the errors you spotted with your teammates.

Have someone make two lists of the errors your team spotted. One list will be turned in for a prize.

Make sure the list you are going to turn in has your team numbers (or color) on it.

DISCUSSION OF ERRORS

A. Errors Occurring During Preparation for the Meeting

1. Changed meeting date

- a. Without informing the manager
- b. May not have properly informed owners.

2. Adequate notice about the meeting probably not given
 - a. Governing documents and statutes control board meetings. Boards are usually corporations so corporate statutes generally control.
 - b. Governing documents and statutes usually require more than 24 hours notice and Board Member 2 said that she was only notified of the meeting last night.

 3. Inadequate preparation
 - a. No background information on the showers or the pool contract.
 - b. Should have bids.
 - c. Could have asked manager or someone else knowledgeable to speak at meeting.
- B. Errors Occurring at the Meeting
1. Started meeting late
 - a. Board member 2 (insert name) expected it to start late.
 - b. If busy board members know that meetings will start late they will arrive late, and then a vicious cycle starts. The meetings begin later and later.
 2. Two members who never come are breaching their duty of ordinary care, sometimes called a fiduciary duty
 - a. Board members have a duty to act as reasonably prudent people in managing the affairs of the owners.
 - b. Reasonable people pay attention to business affairs. In order to pay attention to the association's business affairs it is necessary to attend board meetings.
 3. Didn't have a quorum but started meeting anyway
 - a. Quorum requirements will be provided in the governing documents or perhaps state law. Five board members, so probably need at least three to have a meeting.
 - b. Two took action, and voted to approve minutes. Probably not valid approval of the minutes because a quorum was not present.
 4. Didn't follow parliamentary procedure or any procedure
 - a. The governing documents are likely to state what type of procedures should be followed. If they don't the board should adopt procedures and follow them.
 - b. Actions such as hiring contractors should be taken by formal action of the board. The board should adopt a formal resolution. Examples of resolutions are in the handbook.
 5. Didn't follow agenda
 - a. No reports were given. Manager was not even present.
 - b. Residents were permitted to speak out of order.
 - c. Board member brought up pool contract out of order. Pool was not on the agenda. No bids or facts were brought to support the recommendation.
 - d. Earlier board member talked about landscaping which wasn't on the agenda.
 - e. President needs to assert control and follow agenda. This is another aspect of parliamentary procedure.
 6. Agenda didn't have time for resident input
 - a. Should have time set aside for input. (Bylaws should be consulted-do residents have to be given time to speak?)

Note: Condo associations only allow H.O. participation before the BOD meeting. It is either “opened” or “closed/adjourned” and has no part in the minutes; HOA/CICA’s have different requirements, as they are part of the meetings and/or Minutes; however, no decisions are required of the Board.

- b. This is a time to receive information. Board should listen during this time, not argue.
 - c. Some people recommend that this time come after the reports because the reports may answer the resident's questions.
7. Background material (the legal opinion attached to agenda)
- a. Chair assumed board members didn't read it. If the chair assumes that board members won't read the background material, they won't. If the chair repeats information that is provided before the meeting, the board members won't take the time to read the written material.
 - b. Board's failure to read the attorney's opinion before making decision is a breach of duty of ordinary care.
 - c. Reasonable people read the opinion their lawyer has prepared before taking legal action. Board member can be liable for not following legal advice, or in this case, for not even considering it.
8. Potential Breach of duty of loyalty
- a. Fiduciary duty has two aspects: the duty of ordinary care and the duty of loyalty.
 - b. The duty of ordinary care requires the board to act as reasonably prudent people. The duty of loyalty requires board members not to engage in self-dealing or take unfair advantage of the association.
 - c. Voting to have son get pool maintenance contract can be a breach of duty of loyalty.
 - d. Should have asked for other bids.
 - e. Not always breach. It depends on additional facts and state law. For example, you would need to know if the son is competent, if the contract is advantageous to the association, and if state law prohibits board members from voting in favor of contracts with relatives.
 - f. Even if permitted, contracting with family members always gives the appearance of impropriety. Therefore, board members generally shouldn't enter into this kind of contract.
 - g. At a minimum they should abstain from voting.
9. May not have authority to levy special assessment
- a. Governing documents may say board can't levy assessments over specified amount without owner approval.
 - b. If the board doesn't have authority, it should not be voting on the assessment. Instead, the board should be voting to send the issue to the owners.
 - c. Didn't take minutes. Need formal record

CONCLUSION

Remember these points about preparing for and conducting board meetings.

1. Be Knowledgeable--Read the governing documents of your community association and be familiar with your state law.
 - a. Know what procedures are required. For example, what notice must be given?
 - b. How many people constitute a quorum?
2. Prepare in Advance
 - a. Send out agenda.
 - b. Send out background information.
 - c. Contact parties who should speak at the meeting
3. Begin on Time
4. Follow Agenda and Stick to Schedule
 - a. Follow topics in order unless a motion is passed to change the order.
 - b. Don't let people speak out of order.

Note: Homeowners have no say in the meeting once it's called to order. This is a Board meeting & they/the owners are only allowed to witness the actions of the Board. No conversations between the Board & the owners/audience during the business portion of the meeting is allowed.

- c. Don't let one or more person dominate the meeting.
5. Assume the board members will read background material. Require it.
6. Use Formal Procedures-parliamentary if required.
 - a. Formal action should be taken by resolution of the board.
 - b. Make a record.
7. Act Professionally
 - a. Be objective-don't get emotionally involved.
 - b. Try to neutralize anger respectfully.
 - c. Be respectful of residents who wish to speak, but don't let them control the meeting.
 - d. Remember, people communicate both verbally and nonverbally. Facial expressions can communicate unprofessional behavior as effectively as words.



CONCLUSION

CLOSING REMARKS

We covered a lot of material today. We have discussed:

1. The community association industry and the foundation of community associations,
2. A five-step approach to solving problems,
3. Maintenance problems and issues, and how to address them,
4. When and how to conduct rule enforcement hearings,
5. The importance of finances and the basics of financial statements, and
6. How to prepare for and conduct board meetings.

DCAL Courses

Core Courses

Governing Your Community

Meetings & Elections

Fair Practices in your Community Association

Rules & Regulations

Insurance/Risk Management

Understanding Financials: Budgets, Reserves & Reports

Essentials of Community Association Management for Volunteer Leaders

Advanced Courses

Advanced Financial Management

**Webinars are available for most DCAL courses*

DCAL Recognition

Once all 7 core courses and the DCAL Application are completed, CAI will:

- Issue a certificate of completion and recognition as a Dedicated Community Association Leader.
- Award a DCAL name badge in acknowledgement of your success.
- Recognize each DCAL in *Common Interest Magazine* and on the chapter website.
- Issue a free 2-day pass to the CAI IL Condo-HOA Conference & Expo
- Announce all DCAL recipients at the CAI IL Condo-HOA Conference & Expo

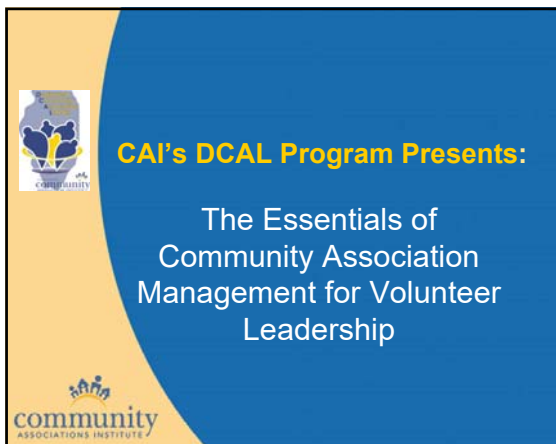
Evaluations

A course evaluation will be emailed to you. Please take the time to complete it. Your input about the course is important to us. Evaluations are part of the DCAL Program; therefore, an evaluation must be submitted to get credit for this course.

Q & A**Quiz**



Each DCAL Course includes a multiple-choice quiz to ensure that you have full knowledge of the curriculum instructed. A passing grade of 70% or better is required to obtain credit for the course.

Thank you for coming and we will see you soon at another CAI program



CAI's DCAL Program Presents:

The Essentials of
Community Association
Management for Volunteer
Leadership



Introduction/Welcome




- Instructor Introduction
- Participant Introduction
- Administration
- Logistics



Overview of the Course

- Overview of Community Associations
- Five Step Approach to Solving Problems
- Maintenance
- Rule Enforcement
- Finances
- Board Meetings
- Conclusion



Essentials of Community Association Management for Volunteer Leaders

Purpose of this Course



- Introduce Issues in Community Association Operation
- Present Problem Solving Approach
- Introduce CAI
- Networking



Overview of Common Interest Communities

Community Associations Institute (CAI)

1. CAI was created in 1973 to provide education and act as a clearinghouse of ideas and practices in the community association field.
2. CAI's membership consists of:
 - Community Associations
 - Homeowners
 - Community association managers
 - Attorneys, accountants, developers, and other professionals.



Terminology

CAI - Community Association Institute

Community Association – Use this term as an all encompassing term for condominium, cooperative and planned communities

Common Interest Community – This term is used by the National Conference of Commissioners on Uniform State Laws

Common Interest Realty Association – This term is used by the American Institute of Certified Public Accountants (AICPA)



Essentials of Community Association Management for Volunteer Leaders

Terminology (continued)

Community Association Manager - Is used instead of property manager

Community - Is recommended instead of complex, project, building or development

CAVL - Community Association Volunteer Leader - Applies not only to Board members and committee members, but all owners that volunteer their time

ICPA - Illinois Condominium Property Act

CICAA - Common Interest Community Association Act

DCAL - Dedicated Community Association Leader



Community Association Leadership

The number of community associations has exploded in the past 40 years.

2.1 Million
U.S. Residents
In 1970



65.7 Million
U.S. Residents
In 2013

= Need for Association Leadership



Types of Community Associations

In this class, the term common-interest community is an umbrella term. It includes:

- Condominiums
- Cooperatives
- Planned Developments
- Master Associations



Essentials of Community Association Management for Volunteer Leaders

Characteristics of Common Interest Communities

- Pay assessments.
- Have to comply with restrictions designed to enhance property values and the quality of life.
- Belong to a community association.
- Share an interest with the other owners in common area.



Planned Community

In a planned community:

1. The association owns the common area.
2. Owners have a shared interest in the association.
3. Owners also own a lot or house.



Types of Community Associations

- Planned Community
- Condominium
- Cooperative



- Owner:**
- Owns the lot
 - Owns the home or unit
- Association:**
- Owns the common areas



Essentials of Community Association Management for Volunteer Leaders

Cooperative

In a cooperative:

1. A corporation owns the entire community.
2. Owners own stock in the corporation-that is their shared interest.
3. Owners have the right to occupy a unit or apartment.



Types of Community Associations

- Planned Community
- Condominium
- Cooperative**



Owner:

- Owns stock or membership
- Leases the unit

Association:

- Owns the building
- Owns the units
- Owns the common areas

community ASSOCIATIONS INSTITUTE

Condominiums

In a condominium:

1. The individual owns a unit, plus
2. The individual owns a shared interest in the common area.
 - a. The shared interest is legally called a tenant in common-interest.
 - b. This means the owners, not the association, own the common area.



Condominiums (continued)

3. The interiors of the balconies can be either a part of the unit or part of the common area. If they are part of the common area they are probably exclusive use common area (sometimes called limited common elements).
 - a. This means they are common area, but are for the exclusive use of the owner of the unit.
 - b. The Declaration will state what owners may do in this area.



Types of Community Associations

- Planned Community
- Condominium**
- Cooperative



Owner:

- Owns the unit
- Owns undivided interest in common areas

Association:

- Owns no real estate

Patio Apartments, Townhomes, Garden Apartments

1. These are architectural and marketing terms, not legal terms. They don't tell you what type of community it is.
2. You will need to read the governing documents to determine whether you live in a condominium, cooperative, planned community or master association.



Essentials of Community Association Management for Volunteer Leaders

Master Association

A master association is a combination of two or more of the common-interest communities listed above. In a master association:

1. The owner is a member of his or her own condominium or planned community, and a member of the master association.
2. The master association often owns common area that is different from the common area owned by the condominiums or planned communities that make up the master association.



Legal Foundation of Community Associations

Legal Documents

The documents that form the legal foundation of the association are called the governing documents.

In a **condominium and planned community** these documents generally consist of a:

1. A Declaration
2. Articles of Incorporation
3. Bylaws



A **cooperative** has the same basic documents but instead of a Declaration, the document that provides the framework for the cooperative is called a Proprietary Lease or Occupancy Agreement. The other documents are the same.

Other Documents:

1. The deed
2. The share or stock certificate



Essentials of Community Association Management for Volunteer Leaders

Roles in Community Associations - Developer

Creates the Community Self explanatory	Prepares the original documents Must comply with state & local law. Lender imposed documents
Creates Budget Keeps all records until turnover	Appoints first Board of Directors



Owners Rights & Obligations

<u>Rights</u> <ul style="list-style-type: none">• Electing the Board• Amending the Declaration or Proprietary Lease• Increasing assessments beyond a particular point	<u>Obligations</u> <ul style="list-style-type: none">• Having to follow restrictions and rules• Paying assessments
--	--



The Board



Responsibility	➔	Managing the association
Scope of Authority	➔	Permit the board to act
	➔	Require the board to act
	➔	Prohibit the board from acting
Fiduciary Duty	➔	Duty of loyalty
	➔	Duty to exercise ordinary care



Essentials of Community Association Management for Volunteer Leaders

Officers of the Board

The governing documents and state law determine the number of officers and their duties. Their duties also will be determined by the size and complexity of the association.

President	Secretary	Treasurer
		




Committees

Responsibilities are outlined in the governing documents

Purpose:

- To assist board in meeting its responsibilities by gathering information, making recommendations and acting when the board gives them the authority to do so.
- To broaden the community's input in decision making by serving as a means of gathering resident input.



Scenario #1:

Association	Owner
	

Does the owner have to repaint his house?



Scenario #2:



Did Mary act appropriately?



Scenario #3:



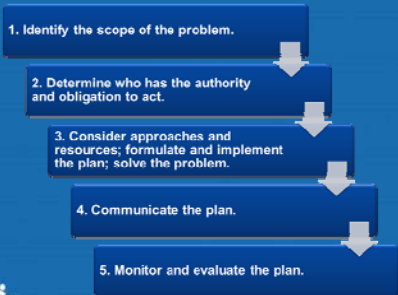
Who doesn't love puppies??



Did the Board act appropriately?



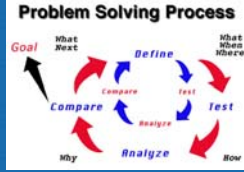
Problem Solving Approach



Essentials of Community Association Management for Volunteer Leaders

Step One

- Identify the scope of the problem



- What two steps should be taken care of immediately?



Designate a responsible person

- Give that person a reasonable deadline to report back to the board.
- Assume you are the responsible person:



Step Two

- Who has the authority or obligation to address the problem?
 - ✓ Declaration determines common area/owner area
 - ✓ Bylaws generally state who maintains what
 - ✓ If governing docs say board "may" act = permission or authority
 - ✓ If governing docs say "shall" act = requiring



Step Three

- Consider different approaches to solving:
 - ✓ What human & financial resources are needed?
 - ✓ Has \$ been designated accordingly?
 - ✓ Is there a committee in place responsible for this solution?
 - ✓ If there isn't money, does a SA have to be implemented?
- Formulate the Plan
- Implement it!



Step Four

- Communicate the plan to the members, as it is important to include the owners.
- Remember to utilize all three types of communication: written, verbal & non-verbal.
- ✓ Meetings
 - ✓ Newsletters
 - ✓ Email
 - ✓ Word of Mouth



Step Five

- Monitor & evaluate the plan
 - ✓ Follow up with those responsible for implementation.
- Consider a long term plan
 - ✓ Focus on prevention



Maintenance Scenario

In this exercise, you will:

- Gain experience using the Approach to Solving Problems
- Identify the importance of questions to ask
- Meet people from other associations
- Share approaches to solving problems.



Maintenance Scenario

The ABC Condominium has 50 units in five buildings. It is 15 years old. Assessments are \$100 per unit per month. The association collects \$60,000 a year in regular assessments. (Everyone pays their assessments - we can pretend!) The board members know that the roof of one building leaks.

1. Read Materials
2. Identify scope of problem
3. Use problem solving approach to solve it.



Maintenance Step One

Identify the scope of the problem

Roof

- Visually inspect
- Obtain expert if needed



Essentials of Community Association Management for Volunteer Leaders

Step Two

Determine who has authority and obligation to address the problem.

- ✓ Read governing documents & state law

Mention specific provisions

- ✓ What does the declaration say?



Step Three

Consider different approaches:

- ✓ Does the association have an employee that can repair/replace the roof?
- ✓ Determine where the \$ will come from to replace the roof. Reserve account – deplete it?
- ✓ Will a special assessment need to be assessed?





What human resources are needed?

- ✓ Is there a maintenance committee?

- Formulate a plan
- Implement it!



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Step Four

Communicate the plan to members

Three types of communication:

- Written
- Verbal
- Non-verbal

Decide what to share, how to share it and when.

- Newsletters
- Phone calls
- E-mails
- Letter
- Word of mouth...



Step Five

Monitor and evaluate the plan

- ✓ Check on workmanship
- ✓ Determine if a long term plan needs to be implemented (preventative measures)



Maintenance Scenario

The ABC Condominium has 50 units in five buildings. It is 15 years old. Assessments are \$100 per unit per month. The association collects \$60,000 a year in regular assessments. (Everyone pays their assessments - we can pretend!) The board members know that the roof of one building leaks. You also have the selected provisions from the governing documents.

Take a few minutes to read these.



Essentials of Community Association Management for Volunteer Leaders

Step One: Identify Scope of Problem

Roof:

- Visually inspect
- Obtain a professional opinion



Step Two: Determine who has authority and obligation

Read governing documents & know state law

If doc's say board "may" act, that is authority to act.

If doc's say board "shall" act, the board is required to act.

Mention specific provisions: What do the governing document's say?



Step Three: Consider different approaches to solving the problem

- Who will the association hire for repair/replacement?
- Where will the \$ come from? Reserves, special assessment?
- Can the board assess a special assessment?



Special Assessment

If approved, what plan is adopted?

Follow governing documents & state law:

1. Owners may have to vote at a meeting
2. SA may be raised by a ballot or proxy
3. Provisions of documents must be followed by board.



Step Four: Communicate Plan

Include:

- What: Facts
 - ✓ roof is leaking
 - ✓ which contractor will perform repairs
 - ✓ dates of project
 - ✓ accommodations made & funds used (Special Assessment if needed)
- When:
 - ✓ As soon as the board knows details
 - ✓ Update regularly
- How: letter, phone call, door hanger. etc.



Step Five: Monitor & Evaluate Plan

Check to ensure that the workmanship provided is satisfactory.

Long term:

- Monitor the board's long term plans for future funding reserves.
- Think of next year's budget.



Essentials of Community Association Management for Volunteer Leaders

Rule Enforcement

Board should only hold a hearing if all other efforts have failed.



Examples of rules found in governing docs:

- architectural
- use
- pets
- parking restrictions



3 Types of Rules & Restrictions

1. Written into the Declaration and By-laws by the developer.
2. Added to the governing documents by virtue of an amended declaration
3. Created by the board
 - Only valid if board has authority pursuant to governing documents and are consistent with association's other governing documents.



Enforcement of Rules & Regulations

Enforceable by internal enforcement procedures by owners (no court needed)

Enforcement is necessary:

- Minimize hard feelings, when violations occur, tempers fly!
- Hardball tactics are not always effective
- You are all neighbors!
- Polite conversation should always be the first step.



Essentials of Community Association Management for Volunteer Leaders

Legal Requirements for Rule and Regulation Enforcement Proceedings

Hearings must be conducted according to association's governing documents

Procedures must be fair and reasonable and should be applied fairly. All unit owners must be treated fairly and equally

Board must give the unit owner an opportunity to be heard and present his/her side of the case.



If the board's actions are not fair and/or the procedures outlined in the governing documents are not followed precisely:

- Board's actions will be invalid
- In some cases, the board members may be held liable for damages.

Board Behavior During Hearings

- Professional Conduct
- Board members & owners to be polite and objective
- Never be rude or argue!



Finances

Board members are legally responsible for the finances of the association!!

→ If board doesn't understand finances, it is a breach of duty of ordinary care.

As owners, it is beneficial to know the financial status of your association.



Essentials of Community Association Management for Volunteer Leaders

Phases of Financial Management System

Planning Stage – the budget

Operation Stage – financial records:

- Balance Sheets
- Income & Expense Statements
- Budget Variance Reports
- Bank Statements

Evaluation Stage – documents:

- Compilation
- Review
- Audit



Accounting Methods

Cash

Simplest Method

Similar to your checkbook

Not a complete picture of the financial status

Accrual

Keeps track of revenues as they are earned and expenses as they are incurred.

Modified Cash Accrual Method

Used to track expenses using accrual method, recording income when owed, recording expenses using a cash method & recording expenses when they are paid.



Monthly Financial Statements

Consist at a minimum of:

- A Balance Sheet
- An Income and Expense Statement
- A Budget Variance Report
(if the budget variance is not shown on the Income and Expense Statement)



Accrual Method Balance Sheet

The diagram consists of four light blue hexagons arranged in a diamond shape. The top-left hexagon is labeled 'Liabilities', the top-right is 'Assets', the bottom-left is 'Operating Fund', and the bottom-right is 'Replacement Fund'. The 'Liabilities' and 'Assets' hexagons are connected to each other and to the 'Operating Fund' and 'Replacement Fund' hexagons respectively.

community
ASSOCIATIONS INSTITUTE

Cash Method Balance Sheet

Assets and Liabilities
Identifies money in checking account

Operating Fund Balance
Difference between the assets and in the operating fund.

Total Fund Balance
Net worth of the association

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Accrual Method Income and Expense Statement

Income
Does not list collected assessments
Will need a delinquent accounts report

Expenses
Expense categories

Operating Fund
Replacement Fund

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Review Statements in Handout

Identify/Review problems with these reports/statements

Income Expenses Replacement
Fund



Other Documents

There are other documents the board should review.

1. Accounts Receivable Report: Identifies which accounts are delinquent.
2. Accounts Payable Report: Identifies debts the association has incurred. The board needs this statement if it uses the cash method.
3. Bank Reconciliation Statement: Identifies if the bank and board agree about the amount of money that is in the association's bank accounts.



Board Meeting

Exercise:
Have a mock board meeting using script in handout

Identify errors

Planning & during the meeting



Break into teams to discuss errors



Essentials of Community Association Management for Volunteer Leaders

Points to Remember

- Be knowledgeable
- Know procedures
- Prepare in Advance
- Begin On time
- Follow agenda
- Stick to schedule
- Use formal procedures
- Act professional
- Assume board members will read material beforehand



Today We Covered:

- The Community Association Industry
- 5 Step Approach to Solving Problems
- Maintenance Problems & Issues
- When and How to Conduct Rule Enforcement Hearings
- How to Prepare for and Conduct Board Meetings



DCAL Courses

Core Courses

- Governing Your Community
- Meetings & Elections
- Fair Practices in Your Community Association
- Rules & Regulations
- Insurance - Risk Management
- Understanding Financials: Budgets, Reserves, & Reports
- Essentials of Community Association Management for Volunteer Leaders

Advanced Courses

- Advanced Financial Management

* Webinars are available for most DCAL courses



Essentials of Community Association Management for Volunteer Leaders

DCAL Recognition

Once all 7 core courses and the DCAL application are complete, CAI will:

- Issue a certificate of completion and recognition as a Dedicated Community Association Leader.
- Award a DCAL name badge in acknowledgement of your success.
- Recognize each DCAL in *Common Interest Magazine* and on the chapter website.
- Issue a free 2-day pass to the CAI IL Condo-HOA Conference & Expo.
- Announce all DCAL recipients at the Annual CAI IL Condo-HOA Conference & Expo.



Evaluations

A course evaluation will be emailed to you. Should you not want to do the evaluation via email, please let one of your instructors know and they will issue you a hard copy.

Your input about the course is important to us.

Evaluations are required to be a part of the DCAL Program.



DCAL Quiz

Each DCAL Course includes a short quiz to ensure that you have full knowledge of the curriculum instructed. A passing grade of 70% or better is required to obtain credit for the course.

To promote the best quiz environment, we ask that you step out of the classroom and into the outer hallway to have any conversations during the quiz time. You are welcome to return to the room after the quiz is completed.





CLASS EXERCISES

MATERIALS FOR OVERVIEW UNIT

Please refer to the following drawings on pages 2–6 for reference: Condominium A, Condominium B, Cooperatives, Planned Community, and Master Association.

Scenario 1

The Declaration for the ABC planned community provides that owners must receive approval from the Architectural Committee before they can change the color of their house. A unit owner comes to John, who is chair of the Architectural Committee, and shows John the color he wishes to paint his house. He asks John if the color is okay. John says “yes” and the owner paints his house. The Architectural Committee notifies the owner that the color is not acceptable and that he must repaint the house.

Discussion question: Does the owner have to repaint his house?

Scenario 2

It's the Friday evening before Memorial Day weekend and the pool is ready to open for the long weekend. The association manager makes a last minute inspection of the pool facilities and discovers the lock on the main gate is not working. She cannot get a locksmith to make the repair that evening. Because of the holiday she cannot get someone there until noon on Saturday. The manager calls Mary, the board president, and tells her the problem.

Upon hearing the information, Mary attempts to contact the other board members. Because of the holiday, however, they are not at home. Mary decides not to open the pool until after the repair is completed. Several owners express their unhappiness with the situation.

Discussion question: Did Mary act appropriately?

Scenario 3

Shortly after a new homeowner moves into a cooperative, a neighbor notices that the owner has a dog and notifies the board. The board sends a Notice of Violation to the owner and holds a Rule Enforcement Hearing. The owner doesn't show up, so the board imposes a fine.

Discussion question: Did the board act appropriately?

NOTES

MATERIALS FOR MAINTENANCE UNIT

The ABC Condominium has 50 units in five buildings. It is 15 years old. Assessments are \$100 per unit per month. The association collects \$60,000 a year in regular assessments. (Everyone pays their assessments—we can pretend!)

The board members know that the roof of one building leaks, and they have been told by an owner that the pipes under his kitchen sink leak.

ABC CONDOMINIUM ASSOCIATION, INC. DECLARATION

ARTICLE 1: Definitions

1. Unit

Each unit consists of the space measured horizontally between the unit side or inside of the unfinished surface of the exterior walls enclosing such unit and measured vertically from the unfinished surface of the unit side of the floor to the underside of the unfinished surface of the ceiling of such unit.

2. Common area

The common area consists of:

- a. all foundations, columns, girders, and supports of all buildings,
- b. all exterior walls and exterior surfaces of the buildings, doors, other than unit doors, all floors and ceiling enclosing a unit, and all walls separating units from hallways,
- c. all roofs, gutters, halls, stairs, crawl spaces, entrances, and exits of all buildings
- d. all landscaping, play grass areas, parking, driveway areas, and streets.

ARTICLE 5: Assessments

Section 1: Assessments Generally

Each Owner of one or more units in ABC Condominium by acceptance of a deed agrees to pay to the Association regular and special assessments.

Section 4:

The Board of Directors may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the Association's immediately preceding fiscal year without the consent of a majority of the membership.

Section 5:

The Board may levy and collect a special assessment not to exceed \$100 per unit (in the aggregate \$5,000) in any fiscal year for capital improvements without the consent of the membership. It may levy a special assessment in excess of this amount, but only with the consent of a majority of the membership.

BYLAWS

ARTICLE 3: Maintenance Responsibilities

Section 1: Condominium Association's Maintenance Responsibility

The Condominium Association shall maintain and keep in good repair as a

continued on next page

**ABC CONDOMINIUM ASSOCIATION, INC.
DECLARATION (continued)**

common expense all of the Condominium property not required to be maintained and kept in good repair by an owner. The Board shall not be responsible for any maintenance or repair to the interior of any unit.

Section 2: Owner's Maintenance Responsibility

Each unit owner shall have the obligation to maintain and keep in good repair all portions of the unit, including any interior walls, interior ceiling and floors, kitchen and bathroom fixtures and equipment, lighting, heating, and air conditioning unit, and those parts of the plumbing, mechanical, utility, and electrical systems that serve only his or her unit.

NOTES

MATERIALS FOR FINANCE UNIT

Scenario

The XYZ Condominium consists of 100 condominiums. The regular assessments are \$150 per month per condo.

Also refer to financial statements found on page 35–36 and 38–40.

NOTES

MATERIALS FOR RULE ENFORCEMENT UNIT

ABC PLANNED COMMUNITY DECLARATION**ARTICLE 5**

No owner may build a fence more than six feet high without permission of the board. The board may grant a variance (permission to exceed this height limit) only if it finds the following:

1. Because of circumstances unique to the property, the height limitation creates an unreasonable burden on the owner seeking the variance.
2. If the variance is granted, no other owner's view will be significantly diminished.

The board shall view the property before granting a variance in order to determine that no owner's view will be significantly diminished if the variance is granted.

BYLAWS**SECTION 8: RULE ENFORCEMENT PROCEDURES**

A. In order to begin the rules enforcement process, an owner shall state in writing any rule violation about which he or she wishes to complain. The person making the complaint shall be identified in the complaint.

1. The person making the complaint may be called to testify at all hearings.
2. Upon receipt of the complaint, the board shall determine if the complaint has validity.

B. Notice of Violation

1. If the board concludes the complaint does have validity, it shall send a letter to the alleged violator stating:
 - a. a description of the alleged violation including the date and approximate time it occurred (if appropriate) and, except in those cases justifying immediate action by the board;
 - b. a reasonable time period during which the alleged violation may be abated without further sanction;
 - c. the date and place the hearing will be held if the violation is not abated;
 - d. an invitation to the owner to provide a statement, evidence or witnesses on his or her behalf; and
 - e. the maximum sanction that the Board may impose.
2. A copy of this letter may be sent to the original complaining party or any person the board deems appropriate. In the case of nonowner-occupied properties, all residents and owners shall be provided copies of all correspondence.

C. If the alleged violation continues or if requested in writing by the alleged violator, a hearing shall be held.

1. If a hearing is to take place, an invitation shall be sent to the person or persons originating the complaint, inviting them to attend the hearing in order to

continued on next page

ABC PLANNED COMMUNITY DECLARATION

(continued)

produce evidence to substantiate their complaint. The board also may call the original complaining party to testify if it chooses to do so.

2. Upon written request to the Association, not later than ten days prior to the date of the hearing, the owners shall be entitled to (a) obtain the names and addresses of witnesses, to the extent known to the association; and (b) inspect and make copies of any statements, writings and investigative reports relative to the case contained in the association's records. Nothing in this section, however, shall authorize the inspection or copying of any writing or other thing which is privileged from disclosure by law or otherwise made confidential or protected, such as attorney work product.
3. In order to conduct a hearing, a quorum of the board must be present.
4. The general procedure for the hearing shall consist of opening statements by each party, presentation of testimony and evidence, including the cross examination of witnesses by each party, where appropriate, and closing statements by each party.
5. It shall be incumbent upon each board member to make a determination as to whether he or she is able to function in a disinterested and objective manner in considering the matter to be heard. Any board member incapable of objective and disinterested consideration of the matter to be heard shall so inform the President prior to the hearing if possible or at the hearing, and the board member shall be disqualified from all proceedings with regard to the hearing.
6. After all testimony and other evidence has been presented to the board at a hearing, the board shall render its decision within ten days after the hearing. A decision shall be reached by a majority of the board members present. The board shall issue a written decision explaining the reasons for its decision and, if applicable, shall impose a sanction.
7. The owner and tenant, if one exists, shall be notified in writing of the decision of the board.

NOTES

NOTES

MATERIALS FOR BOARD MEETING UNIT

AGENDA

1. Call to order 4 p.m.
2. Review and Acceptance of the Minutes
3. Reports
 - a. Treasurer's Report
 - b. Committee Reports
 - c. Management Report
4. Unfinished Business
 - a. Water damage
5. New Business
 - a. Showers at clubhouse
 - b. Pool contract
 - c. Neighbors dispute

NOTES

SAMPLE LETTER

George Jones
ABC Condominium Association
1630 Duke Street
Alexandria, VA 00000

Dear George:

I am writing in response to your request for information regarding the association's responsibility for repairing the water damage to Mr. Bark's unit caused by the leaking roof. Generally, the Declaration and Bylaws assign responsibility for the maintenance and repair of the roofs to the association and for the maintenance and repair of the interior of the unit to the owner.

This general maintenance scheme should be followed in most instances unless either party is negligent or in some way at fault, and this negligence or fault causes damage to an item to be repaired by either party. For example, if the association's negligence in its maintenance and repair of the roofs caused the interior damages, the association could be held responsible for the interior damages. However, if the association was not negligent in its maintenance and repair of the roof, the association should not be responsible for damages caused by the roof leak.

In order to determine if the association is liable I need additional information. For example, I need to know whether the association routinely maintained the roof, when the leak was discovered, and how the board responded when it discovered the leak. Please contact me to set up an appointment to discuss these additional facts.

Sincerely,

Sally Smith
Attorney at Law

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