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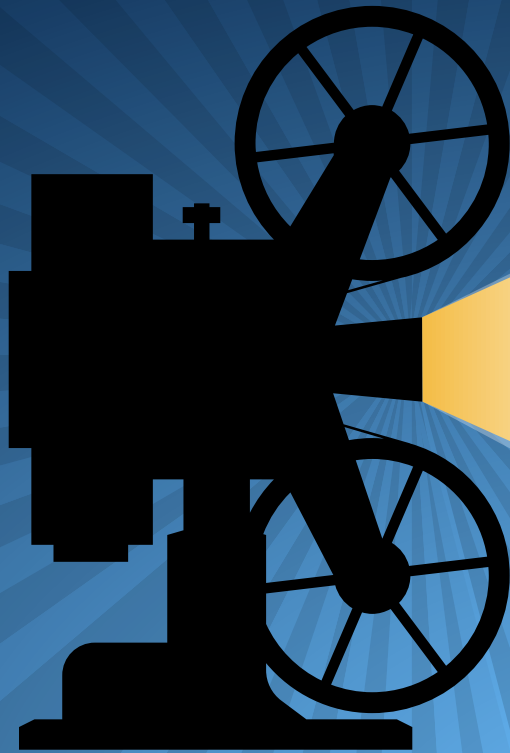
APRIL 2018

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ETHICS

EC = ETHICAL
CORRECTNESS



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community interests

WHAT OUR INDUSTRY IS TALKING ABOUT

WHAT HOMEOWNERS NEED TO KNOW

APRIL 2018

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Legal vs. Ethical vs. Professional - Let's All Strive for Professionalism!



Bio: Adam H. Clarkson, Esq., NVEBP, President, 2018 CAI Board of Directors

There is much debate about the manner in which homeowners, board members, managers, and business partners should conduct themselves in the community association industry. CAI offers courses on it at both the state and national level. This month's magazine is filled with articles on it, and you have probably encountered issues where such conduct came into question. However, in

most cases there are no bright line rules regulating this conduct as ethical or not.

In many cases, we have laws in place that, at least to an extent, provide guidance on what is legal and illegal. In most circumstances, it is axiomatic that conduct must at least be legal in order to be ethical. For example, it is illegal for a director to derive profit from their position on an association's board and therefore engaging in such conduct would, in general, be unethical per se.

Some situations are not as clear. For example, the law requires an association to obtain three bids and open them at a board

meeting, but it arguably does not expressly limit what may be done following the opening of the bids. Arguments could be made that it would be within the confines of the law to then share all the bids with a single preferred vendor in an attempt to renegotiate pricing with that provider. While this may or may not be legal, it is not necessarily ethical. (Note: This example is substantively distinguishable from simply seeking to negotiate pricing without sharing competitors' detailed bid information).

Of course, what is legal and ethical may not always be the most professional course of action. For example, there are situations where the delivery of a strong, stern, and negative message to a homeowner, association, or client may be squarely within the bounds of both law and ethics. However, such a message may often be delivered with the same, or perhaps greater, level of strength without including the negativity. Presumably, all would agree that the latter communication is more professional.

As reflected in the brief discussion above, most conduct falls upon a spectrum. Mere legality falls on the low end of the spectrum, the spectrum climbs higher for ethical conduct, and the spectrum is at its highest when conduct is professional. To that end, I encourage us all to strive for professionalism!

Please join us for CAI's next big peer networking opportunity, the Annual Southern Nevada CAI Golf Tournament on April 27, 2018, at The Revere Golf Club. It has been said that variety is the spice of life, so I hope you are as excited as I am that the Golf Committee has brought us another new venue for our annual tournament. This year's theme is Movies on the Green, which should make the event particularly interesting. Please mark your calendar, purchase your team, and join us for the annual tournament!

Please make donations to LAC and PAC. Our Legislative Action and Political Action Committees are hard at work to protect all of our interests at the legislature. Funds donated to LAC support payment to our lobbyist and related legislative efforts. Funds donated to PAC directly support the legislators who support our communities. Every little bit helps, whether your donation is \$5, \$50, \$500, or \$5,000, pooling our resources together is how we are able to succeed.

Thank you for being a member of CAI!

Adam H. Clarkson, Esq., NVEBP

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ETHICS ... EC = Ethical Correctness



Rich Salvatore, DCAL, Community Interests Magazine Committee Co-Chair

Can you believe its April already! Where is the time going?

This month's *Community Interests* features a very interesting and challenging topic: "Ethics" in a CIC. Ethics has been debated for many years in the fields of philosophy and psychology, which is way above my pay grade.

Basically, ethics is how we behave and how we arrive at making a decision. We are taught this as children and still taught as adults. Ethics is simply defined as understanding behavioral concepts such as right and wrong, good and bad, the decisions we make, and the challenges we face. The challenges we face are keeping personal feelings and agendas out of the equation and not allowing the perception of others to make decisions questionable.

No matter which field or job you are in, sooner or later you may run into an ethical dilemma. As a board member, a few years ago I ran into my own dilemma. I wanted landscape work done at my home. I liked the work of the landscaper we use for our common area. My question was, even though I was paying for the service, I wondered what the perception would look like to others. I decided to use a different landscaper for the work, which I believe was the right decision.

In this month's issue we have several good articles bringing an understanding of how ethics plays into our associations and our industry. They are worth a look: "Ethics - The People in the Mirror," looks at what role ethics play in the CIC; "Just a Couple of Issues with Ethics in the CIC," looks

at some dilemmas to avoid; "Ethics for the Ordinary Man," provides the philosophical and psychological views, and "We *Can* Do It, But *Should* We?", shows the reasons for having a "code of conduct."

CAI-Nevada offers many informative classes each month, Ethics being one of them. February was this year's ethics class. John Leach, as always, makes it interesting. If you missed the February class, keep an eye out for next year's class. It is worth your time.

Harry the Happy Homeowner, can you believe, is in his fourth monthly column! He has gotten a lot of interesting and challenging questions so far and is always looking for more. If you have a homeowner association question, send it to him. He likes the challenge and more importantly, he likes to give his advice and help fellow homeowners.

Also featured this month's issue, the 2018 Awards Gala photos and award winners. Congratulations to this year's winners and all nominees.

Richard Salvatore, DCAL

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Now that we have explored the technical side of ethics, let's take a moment and talk about how to use that by engaging the two critical decision-making factors in an HOA we spoke of earlier, the Business Judgement Rule and one's understanding of fiduciary duty.

Fiduciary is a term thrown around in the HOA industry that is not fully understood by some who are "Fiduciaries." A fiduciary is a person to whom property or power is entrusted for the benefit of another, or in an HOA's case, the corporation. Board members surely fit this definition as well as the community managers and management companies that the boards have entrusted to assist them with the corporation's goals and direction.

When individuals make a conscious decision to become a board member or community manager, they must fully understand that every decision that is made is done so in the best interest of the association. The individuals making those decisions must set aside their personal preferences, egos, or other distractions that would lead a fiduciary to make a decision that is in their own best interest and not that of the association and its members.

The second part of the decision-making process that I believe is as important as understanding what a fiduciary really is, would be the Business Judgement Rule.

My humble interpretation of the rule is - a decision made under an informed basis, in good faith, and true belief that the action taken or preparing to be taken is in the best interest of the association. This is accomplished by using a person's industry experience and all the professional resources available who specialize in the field for which the decision is being made.

Good faith and true belief are the ethical equations to this process. However, a board member or community manager could use all the professionals they could find to assist in making a solid decision for the association, and yet, if all of that information does not fit the situation and the decision goes forward, knowing it's wrong, then the ethical side of the decision-making process has failed.

The State of Nevada has provided us with its view of these two processes that can found in NRS116.3103.1 and NRS116.3103.1 (a)(b). As a refresher, every board member and community manager should take just a moment to review these provisions as I'm sure each have done so in the past.

We as individuals, as well as groups, who are stewards of the HOA industry, have obligations to do the right things. Part of this stewardship consists of our personal ethics of learning, as well as knowing what is right and wrong, and then making the decision to do what is right. It is anything but black and white, and requires knowledge that has come



from our parents, teachers, leaders, mentors, and a host of other quality sources.

I maintain that personal ethics comprising of morals, principles, and values require constant repetition that is taught, not attained through smoke and mirrors where it is magically acquired. I was lucky that I had great parents, as well as twenty years of active duty military service that taught me how important honesty, accountability, responsibility, and integrity are. I have tried my best to abide by these traits as well as pass them along to all I come in contact with.

Regardless of all the information that I believe true and relevant to this article in relation to ethics and how to incorporate ethics into our decision-making process, it comes down to one final thing. At the end of the day, can you look at that person in the mirror and live with the decisions you have made for yourself and others who depend on you. 🌐



Ken Williams; former owner of CAMCO, Board of Directors of CAMEO, Board of Directors Southern Nevada Home Builders Association, current commissioner on the Nevada Real Estate Division's CICCH



HARRY THE HAPPY HOMEOWNER

Disclaimer: Answers provided to questions about governing documents, NRS statutes, or any other legal matter are not in any way represented as legal advice.

Have questions? Need answers? Send your questions to me at marketing@cai-nevada.org.

Q: I am looking to have some work done on my house. Why do I have to use a licensed contractor? My neighbor's handyman will do it much cheaper. – Penny Pincher

A: Hi Penny, First of all, you don't have to do anything! Well, maybe you have to do some things. Anyway, I am sure there are some good handymen out there; however, there a lot of risks by using an unlicensed handyman.

First, unlicensed contractors do not carry Workman's Compensation insurance, so if they get injured on your property, **you could be held liable.**

Second, homeowners who use unlicensed contractors are **not eligible** for the Residential Recovery Fund from the State Contractors

Board, which could cover some of the damages to your home.


Third, by law a contract with an unlicensed contractor is null and void, leaving you with no outlet for filing complaints.

It's like the old saying: Buyer Beware!

Q: Hi Harry, Our HOA has accrued a substantial surplus in our operating fund. Those of us on the board are thinking about lowering our assessments. How much can we lower them by? – Deep Pockets

A: Hello Deep Pockets, Congrats on the surplus. Your declaration should state how much you can lower assessments. The question is: WHY lower assessments? Sure, it would be nice, but it comes with a big risk

for the association. With the rising cost of services and utilities, why take the chance of having to ask in a few years for homeowners to vote on an assessment increase?

Here are some ways you can deal with surplus funds: you can do capital improvements to the common areas; you can use for establishing an adequate reserve fund; or, as stated in NRS 116.3114, you can give all homeowners a credit on their assessment account. Weigh your options, avoid the risk. 

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Perception Matters

Regarding Ethics



By Richard Salvatore, DCAL

This month's magazine topic, Ethics, really caught my interest. I began thinking about it and realized that ethics are, and I didn't know it at the time, things we learned as children and continue to learn as adults. It's an opportune time to take a step back to reflect on how each of us live our lives and conduct our business.

Throughout life we learn what is right and what is wrong, good versus bad; but we don't always think about how perception can play a role in our decision making or actions. Perception is how an action is viewed by others. This can be something that was said, an action that was taken, or a decision that was made, any one of these can be seen differently by others. At one point in time, we all have thought about how something we want to say or do will be taken by others. It's not what you say! It's how you say it! It's not what you did! It's how you did it!

Whether you are a homeowner, a board member, a manager, or a business partner perception becomes an important aspect as to who we are and how well we work in our respected fields. Each one of us strives to follow some form of the ethics code. However, many times we need to think out of the box a little to determine whether the outcome will be seen positively or negatively to others. A positive perception builds trust, while a negative perception causes doubt.

Let's say your community has a very active and popular social media site, normally a place where homeowners voice their opinions, mostly negative, of the HOA. As an HOA board, seeing this site, at first you want to defend your actions; but, instead of debating all of the negativity and breeding more of it, and maybe some contempt, you should be thinking: "How can we change this perception of us?" Changing a negative to a positive is no easy task, and you can never please everyone.



But you can change some of it by showing the good things the board has been doing on behalf of the homeowners and the association. After some time of posting the good thing, you may be able to influence some negative opinions and even get others to post their own positive opinions.

The point is, all of us make choices every day about right and wrong. What we cannot control is how others perceive our choices. Ethics and perception work hand in hand; it is undeniable that ethical practices produce positive perceptions. It's all in the presentation and interpretation.



Richard Salvatore, DCAL, is Co-Chair Community Interests magazine, President of Kensington at Providence HOA.

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Just a Couple of Issues with Ethics in the CIC

By Sara E. Barry, CMCA, PCAM,

In thinking about writing this quick article on ethics in our industry, I wanted to point out a couple of issues that concern me.

Because of the unethical behavior in our "What Happens in LV stays in LV," and the same can be said within the state, we have more laws than any other state in the country, probably in the world, that are trying to force ethics upon our industry. Criminals and unethical people will always find ways to break those laws. You have to ask yourself, have all of those laws worked yet in our industry? I think it has helped some, but it may have caused others to unknowingly break the law or cause others to break the law. Let me give you just a couple of examples.

As a Supervisory Community Manager, there are a tremendous amount of responsibilities and duties that automatically come with that NRED license. It is important that if you hold that license that you think of yourself similar to a Real Estate "Broker" when it comes to your responsibilities to the company and to any employees in the company. The Nevada Real Estate Division thinks of you that way. That responsibility includes licensed and

unlicensed employees even if you are not the owner of the company. ANY changes you make as a Supervisory Community Manager with regards to address, license, company affiliation, or any other things related to that license need to be noticed to the proper people and dealt with. Many individuals just get that license because they have been managing in our industry for four years and it looks really cool on their resume. Is it ethical to not take any available classes to learn the duties of holding that license before or immediately after getting the license? I personally don't think so. It's not ethical to the company nor any employees who automatically fall under your responsibility with that license.

What about our many vendors, or as CAI considers them, business partners? In trying to get bids for work that needs to be done in the HOAs, board members at times don't know their role in the process. Normally, the community manager gets the bids, keeping them sealed until an

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open meeting where a quorum of the board can open and review them before making their decision as required by Nevada law.

We have three ethical situations that arise in this area. At times, our business partner vendors feel that because of what they may have seen or heard, a manager requesting the bids has ties to another particular competitor. To get around this perceived, or actual, conflict, the bidding vendor sends the bids directly to a directors' home. When the unsuspecting director opens the envelope, they have just violated Nevada law and unknowingly completed an unethical act. Some may knowingly do it, but it is still against the law. The vendor who sent that bid completed an unethical act, which forced the unknowing director to complete an unethical and illegal act. Word will get around that your company did this and people won't even ask you to bid again for fear of these actions.

I recommend that any of our business partners who are members of CAI go to the classes offered to become a Nevada Educated Business Partner. I helped to put this recognition together years ago when I was on the Education Committee and it has served many of our valuable members well.

Our industry is very small in the whole scheme of things and word does get around very quickly. People talk, and you don't want the negative comments that go around regarding someone who does the above.

As a Supervisory Community Manager of one of our valuable Business Partners, I urge you to please get more education so that as you go about your work in our industry you won't get a bad reputation and hurt innocent people in doing so.

Board members should be taught as well not to open anything that looks like it could be a bid. Call the community manager and get it to the manager ASAP or take it to the meeting for the proper opening procedure should this happen.

Everyone, please help us to get the legislation to stop trying to fix our unethical and illegal acts by thinking through things before you do them!

Everyone, please remember: if what you will be doing or what you receive **from anyone** will influence a decision that needs to be made, **it is unethical!**



Sara E. Barry, CMCA, PCAM, Licensed Insurance Producer, Community Solutions, Inc.

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Reserve Study “Levels of Service”:

Which is Right for your Association?

By Robert M. Nordlund

While there are some complicated aspects of Reserve Studies, selecting which “Level of Service” is right for your association-governed community should be simple. Should you get a “Full” Reserve Study, a “With Site Visit” (WSV) update, or a “No Site Visit” (NSV) update? CAI’s National Reserve Study Standards, created in 1998, define these three “Levels of Service” to help associations know what to expect from a Reserve Study professional. Making the appropriate selection of Full, WSV, or NSV can save your association money by not paying for more than is needed. Let me explain.

“Full” Reserve Study

The most exhaustive and expensive level of service is a “Full” Reserve Study. A Full Reserve Study is essentially created “from scratch.” The Component List is first developed, and each component is identified, measured or quantified, and evaluated on the basis of a diligent and extensive visual site inspection. The duration of the site inspection is determined by the scope of common area responsibilities and the nature and number of components. Unless there are subsequent additions (or deletions) of common area responsibility, or a lack of confidence in the measurements, a “Full” Reserve Study should only be necessary the very first time a Reserve Study is created for a particular property.

Reserve Study Update “With Site Visit”

Once a “Full” Reserve Study has been completed, associations can meet their NRS 116.31152 “every fifth year” requirement with a Reserve Study update “With-Site-Visit” (WSV). In this level of service, a Reserve Study professional still performs a diligent visual on-site inspection. But since there is generally no need to spend time identifying, measuring, or quantifying components the site inspection is limited to evaluating component conditions. This requires substantially less time than what would be required for a “Full” Reserve Study site inspection. The result is a Reserve Study with updated Useful Life, Remaining Useful Life, and Replacement Cost information. For associations who have already commissioned a “Full” Reserve Study,

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Update WSVs are a great way to comply with Nevada State Law and avoid paying the high cost of an expensive (and unnecessary) "Full" Reserve Study.

Reserve Study Update "No Site Visit"

The Reserve Study Update "No-Site-Visit" (NSV) is a useful and relatively inexpensive product, allowing communities to cost-effectively update their Reserve Studies on a more frequent basis than the "every fifth year" standard of NRS 116.31152. As adequate reserve contributions typically represent 15 – 40 percent of an association's total budget, this is a large enough budget line item worth evaluating annually. Our studies have shown that clients who update their Reserve Study annually enjoy 35 percent fewer special assessments than clients who wait five years! An Update NSV is a great way for associations to remain on-track and not drift off-course; something easy to do over two, three, four, or five years of neglect.

In summary, if you have a reliable "Full" Reserve Study from a NV licensed reserve professional, request an Update WSV to comply with the NRS 116.31152 "every fifth year" requirement. Don't order a more expensive "Full" Reserve Study unless you've had significant reconstruction or expansion. And for inexpensive insurance that ensures the association has the reserve funds on hand to perform all major repairs and replacements on time, without the agony of a Special Assessment, get an Update NSV in the in-between years!



Robert M. Nordlund, Founder and CEO of Association Reserves, Inc.

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Everyday Ethics

For The Ordinary Man!

By Robert Rothwell, Ph.D., DCAL

A few years back, I was teaching a class at UNLV's William Boyd School of Law entitled the "Psychology of Ethics." I prepared for the class assuming everyone already knew the meaning of 'ethics.' The first day of class, my bubble was burst when I said to those in the class, "Let's do some soul-searching. Tell me what ethics means to you."

The floodgates opened! I heard, "Well, ethics has to do with my feelings, you know ... what my feelings tell me is right or wrong." ...Another said, "The Catholic nuns who taught me said ethics has to do with my religious beliefs." A third student chimed in, "The professor in our 'legal writing' class said ethics means doing what the law tells me to do." Additionally, a young woman said, "Ethics is a standard of behavior that our society accepts." Finally, after hearing many different, sometimes opposing definitions, I asked the last person in the class. He was a foreigner, who looked me straight in the eye and said, "After hearing all this, I'm confused. I don't know what the word means."

The thoughts of those students (and future attorneys) may be typical of our own thoughts. The precise meaning of the word ethics is difficult to define, and the personal views many have about ethics are very shaky.

Let's analyze, one by one, the answers given by the students.

Many people, even some we may know, tend to equate ethics with their personal feelings at that moment. Being ethical is clearly not a matter of following one's feelings at the time. Those following their personal feelings may back away from doing what is actually correct. In fact, personal feelings very often differ from what is ethical.

It is also wrong to categorize ethics with religion. We all know that most religions advocate high ethical standards. But if we confined ethics to religion, then ethics would only apply to religious people. Ethics applies as much to the behavior of the atheist as well as to the behavior of a saint. Religion sets high ethical standards and provides powerful motivation for ethical behavior. However, it cannot be limited to religion nor can it be considered the same as religion.

Following the law is not the same as being ethical. Every society has laws, and these laws most often contain ethical values that most citizens observe. But laws, like feelings, can differ from what is ethical. Our own pre-Civil War laws regarding slavery and current laws regarding equality for all, and the old apartheid laws of present-day South Africa are obvious examples of grotesque laws that deviate from what is ethical.

Finally, being ethical is not the same as doing "whatever society accepts." It is true that in any society, most people accept standards that are, in fact, ethical. But, in reality, standards of behavior in any society can depart from what is ethical. An entire society can become ethically corrupt. Moreover, if being ethical were doing "whatever society accepts," then to find out what is ethical, we would have to find out what society accepts.

The lack of social agreement on many issues makes it impossible to equate "ethics" with whatever society accepts. For example, some people accept abortion, others do not. If being ethical were doing whatever society accepted, we would have to agree 100 percent on every issue. This, in fact, will never happen.

What, then, is "ethics"? Ethics is two things.

First, *ethics* refers to *well-founded standards of right and wrong* that advise what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues. Ethics, for example, refers to the standards that impose the reasonable obligations to refrain from rape, stealing, murder, racial bigotry, assault, slander, and fraud. Ethical standards also include those that recommend virtues of honesty, compassion, loyalty, the right to life, the right to freedom from injury, and the right to privacy. Such standards are acceptable standards of ethics because they are supported by consistent and well-founded reasons.

Second, ethics refers to *the study and development* of one's ethical standards. As I mentioned, feelings, law, and social norms can deviate from what is ethical. So, it is necessary to constantly examine one's standards to ensure they are reasonable and well founded. Ethics also means, then, the continuous effort of examining our own moral beliefs and our moral conduct, and striving to make certain that we, and the institutions we shape, live up to standards that are reasonable and solidly based.

Now the question is, "How do we make an ethical decision?" Let's take it one step at a time.

First, we have to *recognize* that we are dealing with an ethical issue. Ask yourself: could my decision be damaging to someone or even to some group of people?

“ We have to think about our own personal ethics every day before we can effectively confront the larger questions. ”

Does my decision involve choosing between a good and a bad alternative, or even between two good alternatives or between two bad alternatives? Is the issue about more than just what is legal? If so, how is it?

Once we have answered those questions, we need to determine what are the relevant facts in each case. Do I know all the facts? Can I learn more? Do I know enough to make a decision? Have I talked with everyone who will be affected? Have I considered all the options? Which options will produce the most good and do the least harm? Which option best respects the rights of all who will be affected? Which option treats everyone equally? Which options best serve the community as a whole, not just some members? Which option leads me to act as the sort of person I want to be?

Considering all these approaches, which option best addresses the situation? If I told those I respect which option I have chosen, what would they say?

Finally, how can my decision be *put into effect*, remembering the concerns of all? What was the result of my decision, and have I learned to be more ethical?

Some further questions to personally consider: Did I practice any virtues today? Did I do more good than harm today? Did I treat people with dignity and respect today? Was I fair and just today? Was my community better because I was in it? Was I better because I was in my community?

We have to think about our own personal ethics every day before we can effectively confront the larger questions. A person who wants to take leadership of larger issues must take special responsibility for what's going on inside his or her self, inside his or her consciousness.

All of us can be leaders for good! 




Robert Rothwell, Ph.D., DCAL, President of The Village Green HOA, member of CAI National Board of Trustees Nominating Committee and member of National Chapter Liaison Committee.

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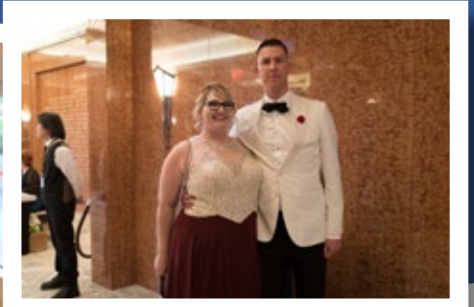
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2017 Northern Nevada Outstanding Small Scale Association of the Year

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2017 Northern Nevada Outstanding Large Scale Association of the Year

Sierra Canyon Association

2017 Southern Nevada Outstanding Small Scale Association of the Year

The Village Green HOA

2017 Southern Nevada Outstanding Large Scale Association of the Year

Desert Shores Community Association

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2017 CAI Nevada Chapter Article of the Year

"The Healing Power of Trees" Shirl McMayon, ISA Certified Arborist

What's Wrong with My Tree?

Let's Get to the Root of the Problem


By Mike Cooper

Many of my consultation visits for declining trees frequently conclude with a common explanation - girdling roots! Girdling roots restrict water and nutrient movement to the upper canopy. They also disrupt carbohydrates to the root system.

Most tree diseases and insect infestations can be identified by signs and symptoms, while more complex problems may require a laboratory analysis. Understand that disease and insect infestation are usually a secondary challenge that occurs from a stressed situation. Most of our landscape trees planted throughout the valley are transported to our nurseries in containers. If these trees are left in containers too long, the root tips will make contact with the inside wall of the container causing the roots to grow in a circular pattern.

It is unfortunate that most landscape companies do not adequately understand the inspection process at the time of plant and tree selection. I rarely observe people purchasing trees inspect beneath the soil. It only takes a minute to dig a few inches around the trunk to check for these girdling roots. If the tree has several girdling roots, simply reject it and move onto the next one!

A limited amount of girdling roots can be corrected by root pruning or gently pulling the roots from the soil to the proper direction like spokes on a bicycle tire. This can be accomplished at the time of planting. Proper planting hole size and the depth of the root ball placement are also important factors to avoid root girdling.

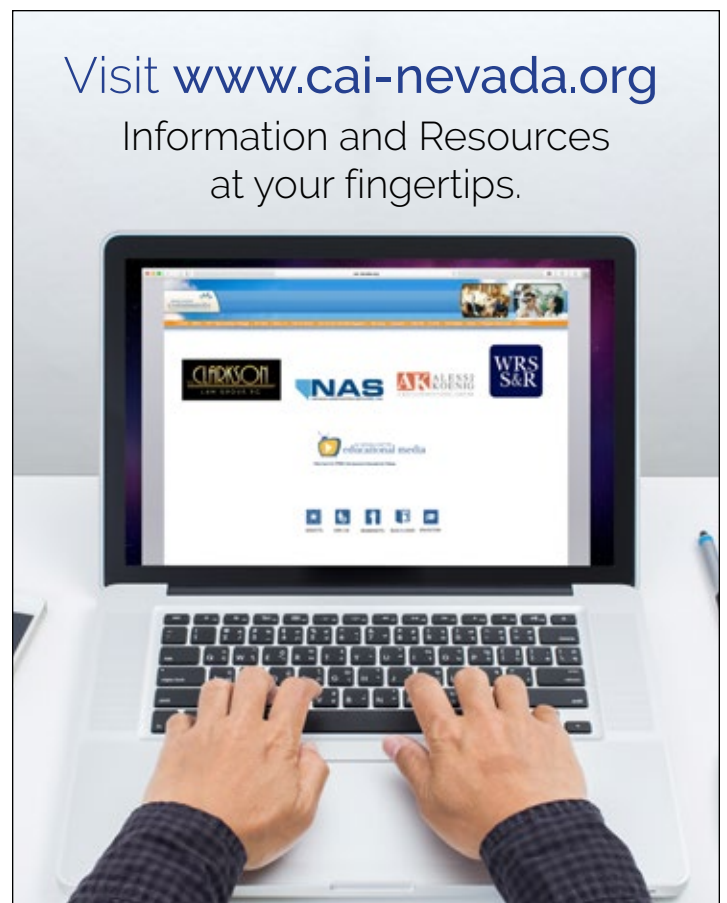
If your trees are showing signs of stress such as branch dieback, scorch, early leaf drop or early fall color, contact a certified arborist before any removal decisions are considered. Many girdling root challenges can be corrected to restore beautiful mature canopy trees. 



Mike Cooper, Certified Arborist, First Choice Tree Service, INC.



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at your fingertips.





We Can Do It, But Should We?

Adopting a Code of Ethics for Board Members in Community Associations

By James B. Fairbanks, Esq.

Someone once told me that rules are about what you can do, and ethics are about what you *should* do. CAI board members each sign a Code of Conduct Policy that lays out the professional standards applicable to members and their guests while participating in CAI events. The CAI Code of Conduct Policy provides both general guidelines governing the conduct of members, such as the requirement that all members obey safety rules, as well as more specific ethical limitations, such as the prohibition against members profiting financially from their membership. The CAI Code of Conduct Policy goes beyond the basic rules and regulations that govern the conduct of members and sets the professional and ethical standards by which members are expected to conduct themselves.

Unfortunately, too often in the world of community associations, the interactions between boards of directors, homeowners, and association legal counsel focus on what actions can be taken under the rules and regulations of an association, without also considering whether those actions *should* be taken. Very few community associations have adopted ethical rules or guidelines governing the actions of their boards and members.

So what ethical considerations govern the operation of a community association in Nevada? Most community association board members are probably familiar with NRS

116.3103, which states that board members "are fiduciaries and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interests of the association." In Nevada, community association board members are required to exercise the same ordinary and reasonable care that is required of the officers and directors of a non-profit corporation.

In general, the actions of board members are subject to the "Business Judgement Rule," which shields board member actions that are performed in good faith and in the best interests of the association from second-guessing by courts. But beyond the general requirement that board members act in the "best interests" of the association, the statutes provide very little guidance as to how board members can perform their duties in the day-to-day operation of a community association. One alternative that community associations are increasingly turning to is the adoption of a code of ethics, or code of conduct that lays out the specific ethical duties of board members. A code of ethics can be adopted by any community association under the general rule-making authority of the association.

Adopting a code of ethics can help clarify what it means to act in "good faith" or in the "best interests" of an association by providing specific standards of conduct and preferred business practices that apply to the actions of board members. The purpose of a code of ethics should be to define the values of the community and to set standards of conduct that promote such values.

Like the CAI Code of Conduct Policy, a community association code of ethics can be drafted to provide both general professional standards expected of the officers, directors, and members of the association as well as specific ethical rules to govern conduct. Although each code of ethics should be drafted to address the unique needs and circumstances of each community association, some general concepts applicable to most associations include:

Plan Now for the 2018 Annual CAI Conference and Exposition

The 2018 CAI Annual Conference and Exposition will be held May 9–12 at the Marriott Wardman Park Hotel in Washington, DC.

The Conference and Exposition provides education sessions on operations, leadership, innovative business practices, and new products and technologies. Industry professionals and homeowner volunteer leaders from around the world come together to discuss critical issues, network, and learn about the latest community association trends.

Go to the link below to see the schedule.

www.caionline.org/Events/2018Conference/Pages/Schedule.aspx

“ Adopting a code of ethics, or code of conduct, can assist officers, directors, managers, and members of a community association in setting and maintaining the standards and values of the community. ”

- Promoting general principles of honesty, fairness, and transparency in conducting association business;
- Interactions between directors, between directors and members of the association, or between directors and third-parties such as vendors;
- Addressing conflicts of interest;
- Decorum and professional conduct at meetings and association events;
- Confidentiality;
- Preferred business practices;
- Clarifying ethical problem areas such as using a position on the board for personal gain.

Adopting a code of ethics, or code of conduct, can assist officers, directors, managers, and members of a community association in setting and maintaining the standards and values of the community. The National Council of Nonprofits encourages and recommends the adoption of a code of conduct in order "to provide employees, volunteers, and board members with guidelines for making ethical choices and to ensure that there is accountability for those choices."¹

If your community association has not yet adopted a code of conduct, now is a perfect time to begin discussing the values and standards that are important to your community. An excellent place to start that discussion is by taking a look at the Model Code of Ethics for Community Association Board Members on the CAI website.²



James B. Fairbanks, Esq., The Clarkson Law Group, P.C.

¹ See <https://www.councilofnonprofits.org/tools-resources/code-of-ethics-nonprofits>

² See <https://www.caionline.org/HomeownerLeaders/Resources->



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Vegas Strong

The Healing Power Of Trees

By Shirl McMayon



When the community of Las Vegas awoke on Monday, October 2, 2017, to a tragedy that was so incomprehensible, so devastating, so senseless, there was no known way for our hearts and our minds to process, to deal with, to express, or to start healing. The tragic slaughter of 58 souls was unfathomable to any experience known before. Speaking for myself, my heart was filled with such a sorrow that I literally did not know how to go about my day. And then, at 10:00 that night, I received a voicemail from my friend and colleague of 28 years, Landscape Architect Jay Pleggenkuhl, asking for my help on a "special project."

When I returned the call the following morning, I learned that Jay had spent much of Monday afternoon speaking with the City Manager, the City Attorney, and anyone who would listen to him in his effort to find a space, a "piece of dirt," to build a community healing garden as a special place to honor those wonderful souls lost to the tragedy.

The City of Las Vegas identified a vacant lot originally slotted for a dog park located in the Art District, at Charleston and Casino Center. By the end of the day on Monday, Jay was given permission to use that vacant city lot as a site for the garden, with one caveat – the city officials requested the garden be completed by Friday, First Friday.

With just four days to complete the task, Jay reached out to everyone he knew in the green industry, every client, every friend, every family member, and the reaction was immediate and immense. Each call for donation of time, material, and/or volunteers was received with an overwhelmingly enthusiastic, "Yes, how can I help?"

From a drawing on a napkin conceived in haste, Jay presented the concept to the City Manager. He constructed the concept and the base of the garden from his soul – 58 trees (one for each victim), one majestic central larger tree (representing the Tree of Life), a Remembrance Wall, a pathway to walk through the grove of memorial trees, and "a garden of flowers, shrubs, vines...all representing life and beauty.

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At the end of Day 1, not only had Jay secured a donation for the 58 trees from a local nursery, he had also arranged for the Tree of Life – a majestic Oak tree - donated in full by Siegfried and Roy, as the center of the garden. It was in position by the end of the day.

On Day 2, we installed the remaining trees and the irrigation, with volunteers coming and going throughout the day. High school students, local business entities, church groups, boy scouts, UNLV students, contractors (landscape, hardscape, electrical, lighting, plumbing, concrete) and individuals were pouring in and offering their services and staff – at no charge. “We just want to help” – this is the sentiment we heard all day – “we just want to help”. And help they did.

That night, I sent out what I thought was a simple request on Facebook – personally asking friends to help and/or volunteer to complete the garden. Unknown to me, this post for help quickly went viral and the response to help build the garden was overwhelming – from all over the nation! The need to help, the need to heal, was felt by all.

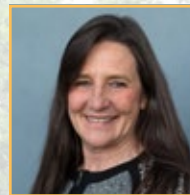
On Day 3, the garden transformed in full “bloom” – a heart-shaped planter bed surrounded the Tree of Life, filled with roses and violas, in colored ribbons of red, white and blue. The paver pathway was installed through the grove and 1500 shrubs were planted – all by hand, each one by a volunteer, with love and empathy. A random donation of the Heart Rock showed up during the afternoon and was installed next to the flagpole. As the day ended, a small group of people showed up and began to hang the photos of the victims on the Remembrance Wall. All working stopped, all eyes watched this solemn event, all emotions flowing, all knowing deep in their hearts the immensity of what had taken place and what they, as a community, were there to accomplish - a place of healing.

Day 4, the core group continued the push to finish, showing up at dawn, exhausted yet refreshed. The park came together and finished up at an amazing pace and by 5:00 the turf was in place, the walkways were hosed and cleaned, the plants were watered, and the Remembrance Wall was full of mementos, flowers, and photos. The

garden was dedicated in an opening ceremony that evening by Mayor Goodman.

Visitors continued to pour in all day on Friday, to watch the process and to enter a place that felt safe. They still to this day come and visit – all hours of the day – sitting silently next to “their” tree, kneeling in the grass to pray, walking the pathway through the grove, sitting on the planter under the Tree of Life, and solemnly taking in the contents of the Remembrance Wall and the victims – exactly as intended.

Thank you to all who helped and supported the effort. Thank you to all Las Vegas communities. Thank you to Jay. 🙏



Shirl McMayon, ISA Certified Arborist and Account Manager at GTI

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Pull for the House.



Pest Control Policy in High-Rise Condominiums and Condo Hotels

By Stanley Monsef, Ph.D.

Pest control policy in a high-rise complex refers to the regulations and management of species defined as a pest, which may be detrimental to the health of the residents (not to mention a nuisance to the comfort of the community) and for the operation of commercial entities within the building. Pest control requires that the association and the manager have some knowledge about the pests and their habits.

First, pests must be identified by the professionals in the field.

Second, the lifestyle and location of the pests must be discovered.

In a high-rise condominium, there are two types of pests which generate concern for the association, the community manager, and the community as a whole. Public health pests such as mosquitoes, fleas, lice, ticks, roaches, bed bugs, spiders, and molds, and nuisance pests such as rats, mice, roaches, pigeons, ants, and termites.

For our purpose, the discussion will center on the pests that are of concern here in the warmer, drier climate of Nevada.

Ants – Ants are among the most prevalent pests. They are found mostly in soils, restaurants, offices, dwellings, storages, in proximity to food, plants, and trees that have honeydew-producing incense. Ant control and management require the combined use of mechanical, cultural, sanitation, and chemical methods. It is unrealistic to attempt to eradicate ants from an outdoor area. The best practical way to exclude ants from a building and valuable plants is by using bait, caulking cracks, banding tree trunks, and removing garbage.

Roaches – Roaches are “health hazard” pests, and, because of their adaptable nature, they are one of the most difficult pests to control, especially the German cockroach. Many buildings, old and new, have problems with cockroaches. Many people with asthma are allergic to “roach dust,” which is made of roach body parts and droppings.



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There are several kinds of roaches which may be found in a high-rise condominium:

- American cockroach – The largest in size among the roaches, it prefers daytime appearance and is found in subfloors, basements, sewers, and other warm, moist locations;
- German cockroach – They are the most transported insect/pest and lay eggs in food, cartons, stoves and other warm, dark places;
- Australian cockroach – They are darker in color and are the most opportunistic flier. They can infest anywhere with adequate water and warm temperatures.

Cockroaches are controlled by baits, insecticides, pesticide, sticky traps, and any other recommended pest control items recommended by a pest control specialist.

Rats and Mice -- There are two species of rats commonly found in high-rise buildings, the brown rat and the black rat. Identification of each type, and their habits, is essential for an effective eradication program. Rats and mice become a problem in large numbers when their in-ground nesting location or their food source is suddenly disrupted. In high-rise condominiums, rats and mice are commonly found in mechanical equipment areas, roofs, and storage facilities. Rats have an acute sense of smell and avoid bait touched by human hand.



Pest-control options for rats and mice include:

- Use of stick traps and mechanical traps;
- A safe rat and mice baiting program;
- Sealing of all potential rodent entry points;
- Proper sanitation, garbage collection, and disposal;
- Contracting a rodent professional with applicable service warranties.


Pigeons – Pigeons typically roost on high-rise building ledges and roof-voids causing health hazards from their droppings. While pigeons do not predominately roost nor nest on the roof of a very tall high-rises, due to high winds and high-flying predators such as hawks and falcons, they are a problem for high-rise buildings of less than ten floors where they often roost on ledges and balconies. Pigeons, starlings, and sparrows have been known to nest inside roof voids in high-rises causing bird mites to enter the floors below.

Control of pigeons and birds in high-rise condominiums is commonly accomplished by:

- Installation of plastic or stainless steel spikes on ledges, roof-voids, or other roosting areas;
- Live trapping and human disposal;
- Use of galvanized vermin wire or similar products for bird and pigeon proofing;
- State and local authorization for shooting pigeons, although this is not recommended as a practice for high-rise buildings.

Bed Bugs – Bed bugs are small wingless pests (insects) that have caused problems in high-rise buildings in several countries. Adult bed bugs are about a quarter of an inch in length. They range in color from nearly white to light tan or even deep brown. They feed on the blood of warm-blooded animals. Bed bugs generally seek out people at night while they are asleep. Bed bugs hide in small crevices, furniture (especially used and old), stored clothing, pillows, sheets, towels, boxes, and voids in walls and holes through which wires and pipes pass. Bed bugs, and their eggs, are brought into America through the import of new clothing from countries such as China, Indonesia, Thailand, India, and other countries where they are not considered a major problem. Extermination of bed bugs and their eggs can become a costly operation in populated cities and commercial centers if allowed to become an epidemic.

Homeowners, tenants, and the community/property manager must be attentive to signs and complaints about bed bugs. The following steps are recommended for control of bed bugs:

- Contact licensed pest control operator to implement an integrated bed bug management plan;
- Contact municipal and state public health, housing, and pesticide regulatory agencies as needed;
- Put all new clothing in the dryer for 15-20 minutes to kill bed bugs and their eggs;
- Prepare beds so as to restrict access by bed bugs. 



Stanley Monsef, Ph.D. President, Mercury Consultants

Water System Renewal Program Enhances Reliability

By Southern Nevada Water Authority

Reflecting its commitment to provide reliable water delivery for the community, the Las Vegas Valley Water District (LVVWD) is investing more than \$600 million to renew, replace, and expand the community's water system. The program includes upgrading reservoirs, pipelines, and pumping stations before critical facilities reach the end of their service life. Proactive investment in our infrastructure prevents expensive repairs and helps to maintain one of the country's most reliable water systems.

Two-thirds of capital projects scheduled for the next decade focus on repairing and replacing aging water system components. The balance is split between water quality protection and new water facilities to help bolster the existing system. Costs associated for operating and maintaining the community's water system account for more than half of the LVVWD's annual budget; staffing and labor account for less than one third.

This investment in our water distribution system will minimize long-term costs and save our community millions of dollars, as proactive action is cheaper and less disruptive to residents and businesses than conducting emergency repairs.

For more information, visit lvvwd.com.

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Set your spirits aflutter this spring as the Springs Preserve's seasonal Butterfly Habitat takes flight now through Memorial Day, May 28.

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Admission to the butterfly habitat is \$2 for Springs Preserve members and \$3 for non-members, and free for all guests age two and under. For more information and to learn how you can support the butterfly habitat, visit springspreserve.org.



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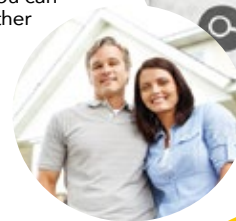
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April 28, 2018 at 9:00 AM – 12:00 PM PT

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Painting

First Choice Tree Service

Geo Reserves

Gothic Landscape, Inc.

Groundskeeper

Integrated Landscape Management

KRT Fitness & Patio Concepts

Level Property Management

MBAF (Kane & Co.)

Menath Insurance

MK House Consulting, Inc.

Mutual of Omaha Bank

Newtex Landscape, Inc.

Opus 1

Par 3 Landscape

Park Pro Playgrounds

Prime Community Management, LLC

ProTec Building Services

RPMG

Reliance Security

Sherwin-Williams Paint Company

Showcase Landcare Services

Soleil Association Management

Sunland Asphalt

Titan Roofing LLC

TSI

Tree Solutions

US Bank

Van Duyne Law Group

Vet-Sec Protection Agency