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WHAT HOMEOWNERS NEED TO KNOW

MARCH 2019

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Taking the High Road



Chuck Niggemeyer, DCAL, NV Chapter BOD President, Sage Hills BOD President, CICCH Commissioner

The high road in aviation is called altitude. The high road in CAI is ethics and integrity. Two different worlds linked together in very realistic terms and realities.

Traveling by air can make you feel insecure as you have no control over those who *are* in control of the plane. When you are in control of an event or activity, do you consider the effect you're having on those who depend on you? Maybe you do and maybe you don't! The decisions you make will definitely affect the outcome.

People who practice ethics do things right the first time, which means they usually do not have to do them over. When we travel by air, we trust the aircrew to make the right decisions to get us where we want to go. There is no time to do it again, it must be right the first time. No matter who is in charge, the course of all actions taken should always follow the high road of ethics!

Regardless of your career, or what stage of life you are in, you will be faced with situations when it's best to take

“ The high road enables you to follow a constant moral compass along with a personal code of ethics and values. You can look yourself in the mirror and be proud of how you acted because you chose the high road. ”

the high road. Let's say you get an idea that you think is the answer to a problem or an excellent example to be followed. You could become so passionate about your idea that you are not being receptive to constructive criticism and might be on the low road. Now is the time to listen to your colleagues and admit they are correct, and your approach is not. You just got back on the high road. This is akin to a pilot flying through turbulent weather instead of accepting an alternate route around or over it.

My experience in life has shown me there are times when discussions can get out of hand, almost argumentative or explosive. (I'm right and you are wrong!) Now more than ever, your professionalism will be tested. Keep your emotions under control and don't allow yourself to be caught up in the situation. It probably is not worth getting in the last word. It's best to take the high road, be a professional team player and avoid a tense encounter. Knowing when to let go is just as important as knowing when to stand your ground. Flying through clean smooth air on the high road has less friction and will allow you to travel further in your CAI journey.

The high road enables you to follow a constant moral compass along with a personal code of ethics and values. You can look yourself in the mirror and be proud of how you acted because you chose the high road.

"Take the high road; it's far less crowded." Warren Buffet

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Chuck Niggemeyer, DCAL

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Ethical Dilemmas Have a Long History



Vicki Niggemeyer, DCAL, Community Interests Magazine Committee Chair

Ethical dilemmas have been around since the beginning of time. I suspect even cavemen suffered from ethical dilemmas. Every week Fred Flintstone was stressed out about some kind of moral dilemma!

Then along came Socrates. And Plato. Those geeky Greek guys were really smart, and soon the word *ethikos* (ἠθικός) was coined to describe such conundrums confronted by humankind. Socrates wrestled with his own dilemma: escape

from jail (as some of his followers encouraged) or obey the law of the people and drink the hemlock. We all know how that turned out!

Ethics is a topic that has been studied and expounded upon for centuries. And here we are, once again, trying to impart some ideas and wisdom regarding ethics in the Common Interest Community industry. The words regarding ethics in this issue may not live forever in history as did the words of the wise Greeks; nevertheless, we have an array of stellar articles that address ethics in the world where we live. I think Socrates would be proud of us.

Michael VanLuven and Ted Boyack start us off with *"Ethics in Homeowners Associations: Are You Leading or Managing?"* Our NRED office also chimes in with some constructive thoughts in, *"Ethics and the Law in Common Interest Communities"* written by Antonio Brown. Tonya Bates recently taught an ethics class in Northern Nevada and she too shares some insights in, *"Ethical Dilemma in the Common Interest Community."* These three articles are not the only ones about ethics, be sure to read them all.

You will also see in this issue an updated mission statement. It was determined at the BOD and committee chair training last fall that our mission statement seemed a bit lengthy. It has been revised but continues to reflect the same valuable focus and philosophy of our organization. It's just shorter and to the point!

And now it's lunchtime. Salad or sandwich? Water or soda? What to do, what to do?

Vicki Niggemeyer, DCAL

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Ethics in Homeowners Associations: Are You Leading or Managing?

By Michael Van Luven, Esq., and Ted Boyack, Esq.

ETHICS. This word alone can strike fear into the hearts of professionals from all industries- for both right and wrong reasons. The management of homeowners associations is no exception, of course, so this article will examine some possible ethical dilemmas and act as a sort of guidepost on the bumpy, pot-hole-filled road of managing your communities.

To begin, we ask the simple¹ question: What are ETHICS? This is a deeply personal question, actually, as each of us is born with innate perspectives, shaped by a world and a lifetime of experiences. What is ethical behavior to one person may be excessive—either too much or too little—to another. It can be said that humanity's greatest strength and its greatest weakness is that we can use our brains to justify any action. If this seems like a non-answer, that's because it is! But that is also why ethical codes are written for the various industries. Whether a realtor, an attorney, banker, investor, community manager, etc., the licensed professions have their codes of behavior recorded in black-and-white for ease of reference.

For community management, we can look to NAC 116A, and specifically 116A.320-325. This set of administrative codes covers the "Practice By Community Managers," with such provisions as, "Compliance with statutory standards of practice," (NAC 116A.320), "Required disclosures," (NAC 116A.330), and even "Prohibited Acts" (NAC 116A.345). Management licensure requires training in business ethics (NAC 116A.120(1)(b)(19), NAC 116A.232(2)(a)), and supervising community managers must impart the "ethics of the profession" to fledgling managers as well (NAC 116A.165(2)(c)). A lapse in ethics can prompt disciplinary action and determine the extent of that discipline (NAC 116A.355(4)(a)).

Given the education required for licensure, it would simply be repetitive to go over what exactly the ethical obligations

of managers are or can be. Instead, let us take a look at some situations that managers may encounter that could lead to ethical dilemmas when managing your communities.

The first scenario is one that likely does not occur very often²: a board asks a manager to do something that is not ethical or is ethically questionable. This could be asking a manager to find violations against troublesome homeowners; fixing budgets to cover shortfalls; massaging the NRS or the governing document provisions to allow a board to do something it otherwise could not do; ignoring a board member abusing the power and authority of their station; etc. The dilemma may not necessarily be in the asking- after all, some of these situations could be the result of excusable ignorance on the part of the board member(s), given their volunteer status. Instead, the dilemma comes when the manager advises the board properly that the action either is prohibited or is ethically questionable. The manager then finds that they are suddenly *persona non grata*, and may even face termination - the old, "If you won't do it, we'll find someone who will!"

This could leave the manager in a very interesting place ethically. Does the manager follow the board in an effort to keep that account, or does the manager stick to their ethics and risk losing the account? The second choice looks good on paper and, of course, it is the answer we would pick on any test. But let us unpack that in real space for a moment.

¹ Not simple.

² It probably occurs a lot.

This business, like many other businesses, is word of mouth. Managers and management companies live and die by reputation, and termination from an association is not a pretty sight on anyone's resume. ("No, you may not contact my previous employer.") This problem can be carried forward in the event the board "rotates," or elects new people who were not necessarily privy to the ethical conflict in the first place (as such things tend not to see the light of day or otherwise be recorded for later review and discovery). In such cases, the real reason for the manager's termination becomes "sanitized" and all the new and subsequent board members are left with is that the manager was fired for failure to execute the board's directives.

The second scenario is related to the first but is a bit murkier. In this type of scenario, the board asks that the manager do something that, while not necessarily unethical in and of itself, may put the manager in potential conflict with the board. Specific, common facts or examples are difficult to suss out, so let us instead provide an anecdote from our experiences to illustrate (all identifying information withheld, of course).

The association directs a manager to do something—even a benign, perfectly legal, and perfectly ethical something. Nevertheless, an investigation is launched when a disgruntled homeowner takes issue and files an intervention affidavit with the Nevada Real Estate Division. Upon receiving the complaint and investigation notice, the board then directs the manager to take an action that now places the manager in direct conflict with the board. This may include telling the manager not to respond; not to provide documents; not to tender the complaint to insurance; not to tender the complaint to legal counsel; or otherwise to do anything else that would "cover" the board. The board alternatively (or farther along in the investigation) lay the blame at the manager's feet: "We were only following the manager's advice on this..."

This inevitably puts a manager into conflict for reasons beyond simply retaining the association's business. While a manager in this situation is almost certain to lose the association as an account (by becoming an adverse party to the association), the manager may also face discipline from NRED. The ethical dilemma arises in recognizing this collision course and advising the board regardless, even if it potentially could result in termination for cause or being "conflicted off" the account. Indeed, this dilemma could cut two ways: either the board offers up the manager to save itself, or the manager may be in a position where it needs to inform NRED about the board's activities and potentially subject the board/association to discipline.

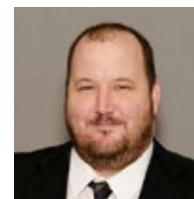
The ethical dilemmas presented here are obviously simplified. Ethical dilemmas can come in a variety of shapes and sizes (and other descriptions). Instead, what examples such as these serve to illustrate—and to help us

return to our initial point in writing this article—is that ethics can be grounded in motivation. For example, we discussed above the motivation to keep one's job, to keep getting paid, to keep your reputation intact to ensure all of the above. We also discussed the motivation to keep out of trouble, or potentially to keep others out of trouble— even when "trouble" is a natural result of questionable behavior and possibly just what the doctor ordered. A person's motivations will be deeply, inherently tied to their ethics. Or is it the other way around?

What are some solutions when (not if) you are faced with an ethical dilemma? **First**, look at the *why* of the question: "Why am I doing this?" More often than not, you may find that the simple question of "Why?" will inform on the question of "Should I?" **Second**, remember that ethical obligations are codified throughout your and many other industries. Just as attorneys will often dialogue with other attorneys for guidance, advice, and consensus on ethical issues, so too should managers reach out to other managers or encourage other managers to reach out within the field. This not only assists you with your potential dilemmas immediately, but they help to shape the ethical base of your profession as a whole. **Third**, seek the advice and support of other professionals, such as lawyers, reserve specialists, CPAs, and other personalities familiar with homeowners associations and their myriad of issues. This can assist your board in changing its position, especially because these other professionals can be seen as "neutral" third-parties with an objective point of view. **Lastly**, document your interactions with the board. Sometimes you have advised your board and attempted to sway their decision-making but your expert guidance is being ignored. You still have an obligation to manage that association effectively, and that includes attempting to limit the negative consequences of questionable behavior, even if the board is dead-set on its course of action. In certain cases, this may even include reporting the board's activity to proper authorities, and by documenting your attempts you will have met your ethical obligations both to yourself (as manager) and to your association.

So moving forward, it is not enough simply to do a quick "check" against ethical regulations to see whether something will or will not pass muster - this would be mere management. Instead, *lead* your associations through guidance, education, and professionalism.

As the political scientist James MacGregor Burns famously said, "Divorced from ethics, leadership is reduced to management and politics to mere technique." 



Mike Van Luven, Esq., Associate Attorney, Boyack Orme & Anthony



Ted Boyack, Esq., Boyack Orme & Anthony

Rising Above the Clouds

By Tonya Gale, DCAL, CMCA, AMS, PCAM

Imagine for a moment an association that has been with the same management company for ten years with the same manager and Board of Directors in place. Sounds like it could be a dream come true with the stability and knowledge of all aspects of the community. In reality, it turned out to be a manager's worst nightmare!

In October of 2017, our management company was contacted by an association that had recently had a few new board members elected. Those board members felt the need to get involved because they were continuously watching the association decline in overall appearance and yet the association dues were consistently being raised. There had been a reserve assessment put in place because the reserves were significantly underfunded yet no maintenance had been completed in the community in years. The pool had plaster that was so rough you could cut your foot on it. The tiles around the pool were falling off. The units were in desperate need of fascia trim and wrought iron paint. The asphalt was ready to crack its way to China. And the list goes on and on. The overall look of the community would have made your heart sink if you drove through because you could see the overall potential of the community. The board felt as though it was a lost cause.

Upon the termination of their management company, we started the review of their financial records in order to give them an honest perception of where we thought the association would need to go. Financial stability was one of their main goals but they couldn't ignore the maintenance needs of the community any longer. Step-by-step a priority list was put in place and proposals obtained for the work that was "needed" and "wanted" in order to start lifting the sunken heart.

With each step taken to improve the community, whether it be small or large, the silver lining seemed to be peeking around the grey clouds. Irrigation was replaced throughout the community, which lowered the water bills and started saving the association money. Trees that were damaging common elements and homes were trimmed or removed to keep damages from getting worse. The pool was replastered, new tiles installed, new furniture purchased, and the fencing painted, which brought new life to the main focus of the community. The building fascia was repainted



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along with the wrought iron to give the community a new look on life. The asphalt was repaired and sealed to give the community a clean first impression.

When reflecting back on that year, the amount of change accomplished in the community in such a short amount of time was astounding. However, the financial burden of paying for all of these repairs scared the board members. That was until the accounting was reviewed in further detail as each project was completed.

Over the ten-year period of management by the prior management company a total of 12 late notices had been sent to homeowners who were delinquent. No intent to liens had ever been done and not one account had been sent to collections. This left the association with more than \$52,000 owed in delinquent monies for a community that had only 130 units. To top it off, there was not a single violation letter completed over the entire ten years, which left all \$52,000 in monies owed in assessments, reserve assessments, and the 12 late fees actually charged. It was like the association was an airplane that had lost its engines and was merely gliding with the hope of a soft landing.

In the past year, there has been more than \$40,000 of that money collected for the association through proper collection efforts; plus, the violations in the community that were present are consistently followed up on and/or fined in order to keep the community looking its best. The additional collected money has helped the association from raising association dues and kept the reserve assessment from being increased. Although they are not near where they would like to be in the reserve account at this time, they will be contributing more than \$82,000 annually to the reserves each year, which should put them on the financial path to being fully funded within the next five to six years and still maintain the common elements as required.

Any association can hit desolate times. The key is to ensure that homeowners, board members, and managers are all doing their part to ask questions, listen to the answers, and make the decisions that are in the best interest of the association. Watching a community diminish with nothing being done means one member or more of this group is not participating enough. If you do not have the trifecta of these elements working hand-in-hand there is no way you will be able to lift your association and rise above the clouds. 



Tonya Gale, DCAL, SCM, CMCA, PCAM, Nevada Chapter BOD President Elect, owner of EPIC Association Management



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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 info@cai-nevada.org.

Q: Hi Harry, why do some HOAs have such a problem with putting up for sale/for rent signs in front of my own property? — Signed, Calvin

A: Hi Calvin, thanks for writing in. While it may not seem like a major issue to have these signs up, it can create unwanted attention for your property and the entire community. Many associations may have different reasons for this, thus different rules when it comes to for-sale or rent signs on the property. Have you asked your board members or your manager? They may be able to give you a reason why they have that rule?

For example, if you are in a gated community, they may not want the gate code or other entry system information given out to non-homeowners. Maybe they do not want to attract the criminal element from scoping out the community for future activity. Think about this one, some homes that are for sale are vacant, for whatever reason. A vacant home with a sign out front is a "welcome sign" for criminal activity or squatters to just move in without the homeowner's knowledge.

My advice would be to use a licensed realtor and have them show the home by appointment only. This way you will know when someone is coming to see your home and hopefully the realtor will recognize any perspective criminal types. Whenever in doubt, always check your governing documents or ask your community manager before putting out any for-sale sign.

Q: Hello Harry, I am a board member and would like to know if we, the board, should allow a homeowner to audio/video record our board meetings? — Signed, Camera Shy

A: Dear Camera Shy, Let's start with audio recordings - owners do have the right to record board meetings, but prior to any recording they must first notify everyone in attendance that they plan to record the meeting.

Here in Nevada, the board has the obligation to record each meeting and make those recordings available to owners upon request. With that being said, it seems unnecessary for the owner to want to record a meeting, but they do have that right, after informing everyone at the meeting.

As to - video! This may be something you may want to run past your HOA attorney. I would think (but remember, I am not an attorney) that the board could have the right to restrict video recordings, but this can be a grey area unless a rule has been created and it has been added to the Rules and Regulations, prohibiting video recordings of meetings.

Let's face it though, in this day and age where every cell phone has a camera, some boards are now providing that service for many owners unable to attend meetings or for those that simply want to quickly review certain agenda items. One way of addressing this may be to use the same method of notification to attendees for audio recordings. This will provide the board and the attendees of the notice of their intent to video record the meeting. 📹

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Girdling – A Problem for Trees and Roots

By Gene Cimorelli

Have you ever walked around your property and noticed girdling roots or tree trunk girdles from tree ties on your trees? Girdling means anything that encircles, confines, chokes, or limits flow to the tree.

Healthy roots are the foundation for a long, beautiful relationship with your trees. The girdling root problem starts very early in a tree's development. Not all symptoms are seen visibly above ground. Most tree roots are in the top six to 24 inches of soil and grow out from the trunk.

Most practices that can adversely affect this natural root pattern include: planting in a hole that is too small, planting container-grown trees that have roots growing in a circular pattern, bare root tree by twisting roots to fit into a small hole, leaving wire baskets and any container in the planting hole, and installing only mulch against the root ball. As the tree grows, the problem only gets worse and then 10 years later, results in the failure of the tree.

Girdling tree trunks that are caused by a cable, rope, or other bracing materials create significant damage if not monitored correctly. A little known fact, (I promise it won't take long at all) the active growth layer of a tree under the bark is called the cambium. This cambium is a thin slimy layer that is responsible for generating all the cells in the

trunk and limbs. Between the cambium and the bark, the cambium creates a thin layer called the phloem which acts a lot like our blood vessels, taking nutrients and other chemicals around the tree to where they are needed. On the interior side of the cambium, xylem is produced. The xylem is responsible for uptake of water and dissolved nutrients to all parts of the tree. Most of the rest of the tree is composed of dead xylem which forms most of the woody interior of the tree. This thin set of layers under the bark is essential for the tree's life. But if you choke it off, guess what happens.

So please remember to walk around your property and if you see any of these problems, call a tree specialist. 🌳



Gene Cimorelli, Senior Vice President, First Choice Tree Service

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Make A Plan for Compliance Hearings

By Catharine Lindsay, DCAL

Ask a homeowner their reaction to being called to a hearing and it will likely be fear, frustration, and anger. Ask homeowners why they won't serve on an association board and they frequently mention the dreaded compliance hearing. The idea of sitting across from a neighbor and making decisions about fines is overwhelming and scary.

Is there a way to reduce the stress of compliance hearings for the homeowner and the board members? The answer is 'yes.' Simply having a plan in place could help manage what sometimes becomes a contentious situation.

Begin the compliance process by deciding if the violation is related to a single owner's behavior or is a community issue. For example - an increase in parking violations. Identify where the violations occur. A courtesy letter sent to homes adjacent to the violation zone could be all it takes to solve the problem.


One solution is to start the letter with a simple paragraph stating the issue and asking for cooperation to fix it. Many residents ignore letters filled with legalese, so keep it simple! You might say: Vehicles cannot be double parked and should never block the fire lane. There's been an increase in this kind of parking violation near your home and we're asking all neighbors to ensure that they and their guests are following the parking policy.

If the problem does escalate to the point of a compliance hearing, help the owner avoid some of the fear and frustration by explaining what to expect in the hearing letter. Here's an example: The hearing is your opportunity to supply the board information about this problem. You'll have five minutes to present your information. The board may ask questions after which your portion of the hearing is done. You will not receive a decision from the board at the hearing. You'll be sent a letter explaining the final decision and future expectations.

Remember, the smallest personal interaction can diffuse a very tense situation. So, on the day of the hearing, when the homeowner is sitting as far from the board as possible, take time to acknowledge the homeowner as a neighbor. Introduce the board. Invite them to join the board at the table. Avoid the appearance of a tribunal.

After you've welcomed the homeowner, state the hearing instructions. It then falls on the board to sit quietly and allow the homeowner to speak. The homeowner may become irate or demonstrative. Let the community manager caution the homeowner if necessary. The community manager should also track the time and should counsel the homeowner as their presentation period comes to a close.

The board needs to keep general discussion in front of the homeowner to a minimum. Ask necessary questions but remember the decision won't be made right at that moment. The board may require more information from the manager, a legal recommendation, or information from a vendor before deciding on the final resolution. And once the decision is made, be certain a clear answer is mailed to the homeowner as soon as possible.

Unfortunately, we need to keep in mind that if there is an escalation and your best efforts result in an unsafe situation, the meeting should be recessed; board members should move to a safe area; and, if necessary, police should be called. However, most hearings don't require this kind of action and can be made better for both the homeowner and the board members with a little communication and establishing a framework for the discussion. 



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We believe in **giving back** to the greater community. Through our **HomeWorks** program, we support **charitable** organizations in markets across the country. Team members drive these **hands-on** efforts to serve in-need communities. We also encourage team members to follow their own hearts by offering paid volunteer hours. Together, we make a positive **impact** and **serve** the greater good.

PEOPLE
Our 800-plus employees are more than a team; they're a **family**. Guided by compassion for the individual, we value integrity, trust and respect. We empower **servant leaders** by supporting industry-related **education** and **certification** and offer opportunity for personal and professional **growth** and development. Together, we aim to transform the way people think and feel about homeowners associations.

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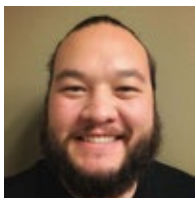


Catharine Lindsay, DCAL, Director of Operations with Investor HOA Services, Board of Directors Westchester Manor HOA



Gaining Altitude: NVEBP

By Ryan Bossman, CMCA



Ryan Bossman,
CMCA, Epic
Association
Management

Some of the unsung heroes in our industry are our business partners. Without them, many of us would be unable to even do our jobs. We rely on our business partners to be knowledgeable in their fields of expertise and to guide us in the decisions of our associations.

Business partners have the unique opportunity to dive a little deeper into our world by becoming a **Nevada Educated Business Partner (NVEBP)**. It is important to continue seeking and promoting education in the industry and to promote positive living. Business partners who better understand the ins and outs of a common interest community can earn more business and become more successful in our industry. "The NVEBP emblem on my business card stands out, prospective clients are impressed that I have taken the time to fully invest in our industry, and my clients further admire my dedication to them and the associations they manage. Who knew five letters could mean so much, but they do," says Ken Carteron, NVEBP, Senior Vice President, Seacoast Commerce Bank.

So what does it take? Business partners interested in earning the NVEBP designation must:

- Attend and pass an online Business Partner Essentials Class;
- Attend a minimum of three CAI Nevada luncheons/breakfasts;
- Attend a minimum of two annual events (i.e. golf, bowling, Gala, tradeshow);
- Write one Nevada specific article for the magazine or actively serve on one committee; and,
- Sign the Standards of Care documents.

Membership in CAI is mandatory either as an individual member or a Business Partner membership for at least one year.

In order to maintain your certification, you must:

- Write two Nevada specific articles for the magazine or serve on one committee;
- Attend three Nevada luncheons/breakfasts;
- Attend two annual events (i.e. golf, bowling, Gala, tradeshow) annually;
- Maintain CAI membership;
- Comply with Nevada laws and NVEBP Standards of Care; and,
- Attend legislative update meetings on legislative years.

Not only does the NVEBP designation exemplify active involvement in our industry. It also demonstrates exemplary morals and ethics in business. A recognized NVEBP is required to handle all duties with honesty, integrity, and sincerity. We all too often assume everyone operates on these standards; but, when you have business partners who are dedicated to upholding these beliefs by choice, you know you can trust that the NVEBP designation represents someone who is dedicated to you and the common interest community.

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Download your application today! www.cai-nevada.org

2018 Gala Nominations for Article of the Year

Congratulations to all of you who were nominated for article of the year! This honor indicates that you have been recognized by your peers for excellent writing. Three of these nominees have been selected as finalists and their names will appear in the event program on March 29. The award winner was chosen by the CAI National *Common Ground* staff.

- Tonya Bates: "Utilizing the 5 "W"s and "F"s for Professional Development," October
- Ryan Bossman: "Embrace the Tech," June
- Cary Brackett: "HOA Haters ... It's All a Matter of Perspective," March
- Marilyn Brainard: "You Can't Do it Alone – Working Together," May
- Karen Brown: "Education is Timeless," August
- Kathryn Cassell: "Crime Prevention 101," February
- Cameron Clark: "Ice Cream and Murder," November
- Alise Ellwood: "Project 150 Helps Homeless Students," August
- Michelle Goodell: "Changing the Conversation Isn't Easy," March
- Matt Grode and Victor Luke: "It's all About the Law," September
- Jonnette Hill: "Protect Yourself from Online Catfishing," February
- Joel Just: "Managing and Leading in a Community," October
- Mike Lawruk: "About the Numbers," November
- Richard Layton: "Ten Things to Do to Avoid Coming Before the Commission," May
- Lori Martin: "The PCAM Experience," January
- Gail Mayhugh: "Aging in Place," June
- Julie Nagy: "Flip the Script," March
- Dawn Osterode: "Planting the Seeds of Success," January
- Melissa Ramsey: "The Power of Words," December
- Robert Rothwell: "Everyday Ethics for the Ordinary Man," April
- Robert Rothwell: "The Roller Coaster Ride of Our Emotions," July
- Robert Rothwell: "9/11 Then and Now," September
- Maurice Tally, "To Lead or Not to Lead," January
- Maurice Tally, "The Quest for Leaders," October
- Phil Torres: "From Hurt to Heal," October

High-Rise Owner's Expectations

By Stanley Monsef, Ph.D.

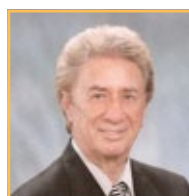
In addition to establishing policies with regard to smoking, pets, move-in move out, pests control, health and safety, noise consideration, fire control and evacuation, emergency care, concierge and valet, and other social policies needed for successful management and effective operation of a high-rise community, it must be noted that In high-rise condominiums and condominium hotels owners are more affluent and demand higher standards of living.

While serving the residents of a high-rise residential building is difficult, doing so carries its own set of challenges as well as rewards. As a result, on-site management must be the hospitality driven force for setting the standard of services demanded by high-rise culture, including but not limited to:

- Open contact with the property management;
- Demand for more preferred status and personal recognition;
- Desire for Luxury amenities and care-free living;
- Expectation of lobby and front desk attendance 24/7;
- Expectation of a well-informed Concierge;
- Availability of valet parking service;
- Courteous and respectful employees;
- Positive response to problems and needs;

- Availability of security systems and officers for monitoring, inspecting, and securing health and safety of residents 24/7;
- Building's systems functionality and availability of onsite maintenance staffs.

Furthermore, on-site management must be trained and capable of handling impediments that are not always within its control, and how to properly manage residents' complaints.



Stanley Monsef, Ph.D., President, Mercury Consultants

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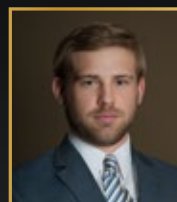
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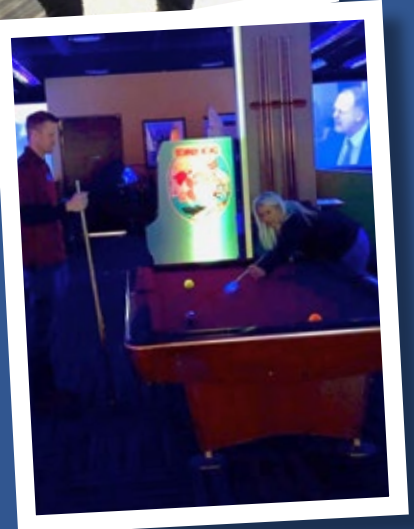
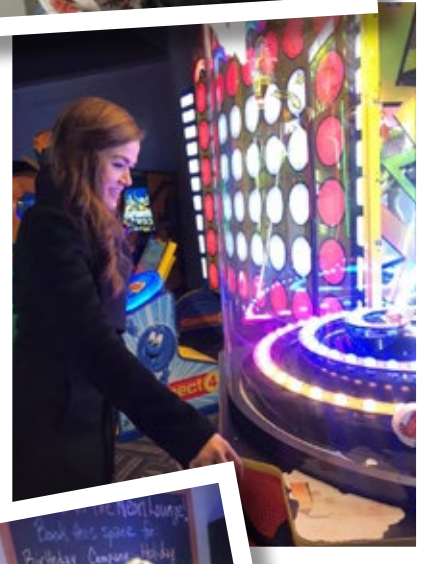
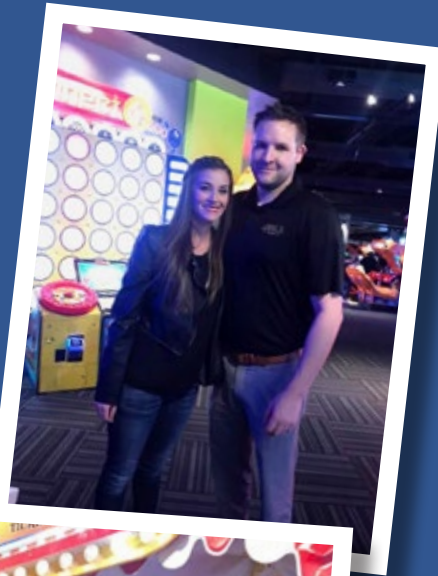
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Date Night/Game Night Gallery

 Visit our Facebook page for more photos!
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Over 75 new and old chapter members enjoyed a great time at the Date Night/Game Night Social/Membership Mixer at GameWorks! Thank you to our Sponsors, Sherwin Williams Company, Showcase Landcare Services and Total Patio Accessories. Thank you also to the committees and chairs, great job, great turn out!





Education Calendar

DCAL

MANAGER

Advanced DCAL

Preregistration for all dates is required. Visit CAI-Nevada.org

Southern Nevada March

CAI Nevada Las Vegas Luncheon

"Appearing Before The Commission"

March 12, 2019 at 11:25 a.m. – 1:00 a.m.

Gold Coast Hotel & Casino

2-hour C.E. Credit

CAI Nevada Las Vegas Homeowner Class, Adv DCAL

"Advanced Reserves"

March 23, 2019 at 9:00 a.m. – 12:00 a.m.

Providence Master Association

CAI National Manager Class

Designation Requirement "M310"

March 21, 2019 at 8:30 a.m. to 5:00 p.m.

March 22, 2019 at 8:30 a.m. to 12:00 p.m.

TBD

CAI National Manager Pre-Registration Required

April

CAI Nevada Las Vegas Luncheon

"Weathering the Drought"

April 9, 2019 at 11:25 a.m. – 1:00 a.m.

Gold Coast Hotel & Casino

CAI Nevada Las Vegas Homeowner Class, DCAL

"Risk Management & Insurance"

April 27, 2019 at 9:00 a.m. – 12:00 a.m.

Sun City – Anthem

CAI Nevada Las Vegas Managers Class

"What Went Wrong – Ethics in Governance of Nevada CIC"

April 30, 2019 at 9:00 a.m. to 11:00 p.m.

Sun City – Anthem

C.E. 293000 – 2-hour C.E. Credit

Northern Nevada March

NN Quarterly Breakfast

March 20, 2019 8:00 a.m. Networking

8:30 a.m. – 9:30 a.m. Active Shooter and CRASE Program with

Sgt. Dennis Gomes, Washoe Sherrif's Dept.

Peppermill White Orchid Room

CAI Nevada Reno Homeowners Class, DCAL

"Landscape 101"

March 20, 2019 at 10:00 a.m. – 1:00 p.m.

Peppermill Resort

CAI Nevada Reno Managers Class

"Who Does What? Board Members, Community Managers, and the Unauthorized Practice of Law"

March 21, 2019 at 9:00 a.m. – 11:00 p.m.

Peppermill Resort

2-hour C.E. credit

April

CAI Nevada Reno Managers Class

"Confidentiality - Attorney Client Privilege - To Squat or Not To Squat"

April 18, 2019 at 9:00 a.m. - 11:00 a.m.

Peppermill Resort

2-hour C.E. Credit

Please Note:
The March Las Vegas Manager Seminar is cancelled.

CAI-Nevada sends monthly email blasts of scheduled events to its members.

If you are not receiving the monthly blasts, contact Chris at info@cai-nevada.org



Suitcasing Violates Policy and Ethics

By Vicki Niggemeyer, DCAL

Going on a trip? You need a suitcase. Going to a trade show, conference, or other business sponsored event? Suitcasing is a no-no.

What exactly is suitcasing? CAI's policy states emphatically: "CAI has a no-tolerance policy regarding 'suitcasing,' which describes the practice by nonexhibiting companies or individuals of soliciting sales or sales leads in conference hotel, on the tradeshow floor, in the aisles or lobbies, and/or representing their services or soliciting conference participants for conflicting social activities (including Chapter Party) and wearing company logo wear. Nonexhibiting suppliers participating in the conference as attendees or speakers are prohibited from soliciting business on the tradeshow floor, in or after sessions, or in the conference hotel."

How would you feel if you paid for a booth/table at a trade show and someone who had not paid positioned themselves in front of your space to solicit business! Even if they were not directly in front of your space, anywhere in the conference area is considered an unethical practice and in violation of policies in place to protect those who are paid participants.

In addition to violating CAI policy, suitcasing is egregiously unethical!

Chris Snow, Executive Director of CAI Nevada Chapter emphasizes, "While most situations in a suitcasing policy violation have innocent intentions, the policy was adopted by both National CAI and the Nevada Chapter to ensure that an event is represented fairly and equitably for both the attendees and the paying sponsors."

CAI National considers it "bad form to conduct business outside of your booth. Talking to clients or prospects in or in front of someone else's booth is also a violation of CAI policy and will not be tolerated. All parts of the exhibit must remain in exhibitor's assigned space. No exhibit will be allowed to infringe upon aisle space."

Suitcasing is not confined to trade shows. If you are not paying for the luncheon, not paying to attend a social

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“ It sounds so enticing and benign to just walk around, put out some feelers for your own business. But it is wrong. It is unethical. ”

event, not paying to play golf or bowling, yet you show up to do “business,” that is a violation of CAI policy. This policy also applies to wearing logo shirts of your own business to CAI sponsored events in which you have not paid to attend.

This policy is not unique to CAI. Suitcasing is a recognized problem throughout the trade show industry. From the International Review publication, July 30, 2013, Rick Calvert, CEO and Co-Founder of New Media Expo, was quoted, “They [suitcasers] are actively trying to recruit business from attendees – by handing out flyers in hallways, leaving printed material on tables, etc, - without paying to be a sponsor/[paid participant]. Obviously, this is directly stealing revenue from the conference, as well as stealing from the official sponsors/[paid participants] and being deceitful and confusing to the attendees.”

Violators of the CAI suitcasing policy will be asked to suspend their efforts. If they continue, they will be escorted off the property and could possibly be subject to a fine which must be paid prior to registering as an attendee, exhibitor, or sponsor at any future CAI events.

It sounds so enticing and benign to just walk around, put out some feelers for your own business. But it is wrong. It is

unethical. If you want to reap the rewards of a trade show, do the right thing and pay for your spot. Don't be a suitcaser!



Vicki Niggemeyer, DCAL, Community Interests Magazine Committee Chair

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Ethical Dilemma in the Common Interest Community

By Tonya Bates, CMCA, AMS, PCAM

When I searched ethics to begin this article, I was given definitions, synonyms, historical background, and TMI on ethics. Simply stated, ethics are an individual's moral codes that define what is right and wrong. Often society defines the standards to which a human should conform to right and wrong. When you're faced with an ethical dilemma, where do you turn for guidance? There are varying answers: church, my grandpa, my mentor, etc. In the Common Interest Community industry, we can utilize the association's governing documents, state and local laws, CAI's Best Practices, and our company's Code of Business Conduct and Ethics Policies.

Often, when teaching classes, instructors come across questions from managers and board members that make their eyebrows raise—just a little. One such question I recently reviewed was, “My association has invested money in high-risk mutual funds—YTD the balance sheet shows we've lost \$31,000. What should I do?” I advised the homeowner to contact the manager and discuss her concerns. When that didn't work, I referred her to the association's attorney. Finally, I referred her to the association's CPA and NRED. The final outcome? The board's decision to invest in Mutual Funds is not a violation of the statute nor the Administrative Code. The brokerage fund is properly insured under SPIC. Although the CPA and management company have advised against the investments, the board's choice is not unlawful—but is it ethical? Is the board fulfilling their fiduciary duty?

If the board would step back and review a page out of CAI's Best Practices—Ethics Handbook, and ask themselves some key questions, they may find that their decision:

- Is not in the best interest of the community; and,
- May cause substantial harm to the members.

Another association we assisted in the transition from self-management reported that the association had been paying the treasurer for his duties for the past several years. Not only was the treasurer being paid from association funds, but also the association's funds were invested at a bank in which he held a high position.

Prior to the transition, the board met with the association's attorney on other matters. As she reviewed the situation, she advised the board to retain professional management. The board did; however, the homeowners were not accepting of professional management. They attended meetings expressing their concern. They were upset about the transition, the increase in fees, and the legally required policies the board was beginning to adopt. At the annual meeting, the homeowners voted to rescind the management contract.

What was the board to do? After all, state laws and the governing documents grant the board authority to enter into contracts to hire and discharge a managing agent. Needless to say, the board was torn! The homeowners simply did not want a “Gestapo” association.

Again, this board turned to the CAI Best Practices Handbook. The Model Code of Ethics for Community Association Board Members states that Board Members SHOULD “Act within the boundaries of their authority as defined by law and the governing documents of the Association.” It further recommends that board members should NOT “Advocate or support any action or activity that violates a law or regulatory requirement.” The board felt that continuing with self-management would both be unethical and unlawful. They continued with the management contract.

The above examples appear as black and white. What happens when a board member or community manager

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starts to venture into the various shades of gray? Is there a difference between bright silver or dark charcoal? How would you answer the following ethical dilemmas in HOAs?

- 1) You're running late and you need to mail three personal letters and you don't have time to buy stamps. You run them through the company's mail machine and bill back your association. "It's only \$1.50," you tell yourself as you run out the door. Is this silver, gray, or black? Drawing on my past career in retail, theft is theft regardless of the amount.
- 2) A construction contractor offers you two \$75 tickets to a concert you'd love to see in exchange for setting up a meeting with the board for maintenance work. What should you do? The CAI Professional Manager Code of Ethics guides managers to make the right decision. The manager shall: "take the necessary steps to avoid any perception of favoritism or impropriety during the vendor selection process..." Additionally, a manager should provide a written disclosure of the gratuity to the board.
- 3) In a recent class, this was a heavily debated topic: the HOA's president routinely uses association funds to buy meals for the board. In the past, I've had boards provide food to the members at their annual meeting. I've also had boards

that had snack items for evening meetings. The class outlined conditions. Is it disclosed to the membership? Can members eat too? Is there a dollar amount per board member? Ultimately, the class determined that the situation was unethical. They felt that the board was using their decision-making authority for personal gain. Even if it was just added calories.

Without ethics, where would we be? Everyone's moral compass is different—it isn't always black or white. Sometimes a manager or board may question what is in the best interest of the community. If a board or community manager utilizes the resources provided through government entities such as the Real Estate Division and educational organizations like CAI, they should be able to determine what is best - right or wrong for their community. 🍷



Tonya Bates, DCAL, CMCA, AMS, PCAM, Supervising Community Manager with Opus 1 Community Management, LLC and is on the CAI-Nevada Chapter Board of Directors

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Online Water-waste Form Helps Community Conserve our Most Precious Natural Resource

By the Southern Nevada Water Authority

Reporting water waste in the community just got a little easier, faster, and more accurate with the recent launch of the Las Vegas Valley Water District's (LVVWD) on-line water-waste reporting form available at lvvwd.com.

With the form, customers can upload photos of water waste, use their phone's GPS/location services to pinpoint the area, choose from various infraction/violation types, and receive a "thank you" email with details on the investigation process.

Customers can access the form from a computer, tablet, or smartphone. Those customers without access to a smartphone or a computer may call 702-822-8571 to report water waste in the district's service area.

"Conservation is at the forefront of our community outreach. That means water-waste reporting is a top priority," said LVVWD General Manager John Entsminger. "The images and geolocation functions of this new online

reporting form are tremendous assets; getting an exact location saves our investigators time and makes investigations more precise."

The form enables customers to report water waste in the LVVWD's service area, which includes metropolitan Las Vegas and areas of unincorporated Clark County.

The LVVWD defines water waste when any of the following occur:

- Water flows or sprays off your property;
- Watering outside your assigned watering days;
- Watering between 11 a.m. and 7 p.m. May 1 through Aug. 31 (during mandatory summer seasonal watering restrictions);
- A known malfunctioning device or supply line is allowed to operate for more than 48 hours;
- Swimming pool or spa water is discharged off a property where public sanitary sewer is available;
- Failure to follow regulations related to washing vehicles, equipment, driveways, parking lots, sidewalks, streets, or other surfaces or objects

The City of Henderson includes a similar water-waste reporting function in its city services app, and water waste within the city of North Las Vegas can be reported at cityofnorthlasvegas.com.

CAI Mission Is Not at all Impossible

By *Community Interests Magazine Staff*

Organizational mission statements are very important as they clearly define the philosophy and objective of the group. CAI Nevada Chapter recently condensed its rather lengthy mission statement into a shorter, concise version.

Our updated mission statement says: "Community Associations Institute is an international organization whose goal is to foster vibrant, competent, responsive community associations that promote harmony, community, and responsible citizenship. Membership is open to all, including experts in every phase of association management. CAI advocates and educates tirelessly for owners who choose to reside in a homeowner association, condominium association, or housing cooperative."



The Forgotten Little Letter

Richard Salvatore, Advanced DCAL

One day a little letter called, **plural s** was sitting at home on his keyboard all down and out. His mother, Capital S, asked him, "What was the matter?" Plural s told his mother that he feels like he is always being left out, forgotten about. He asked, "Why does everyone remember my sister, apostrophe s?" His mother told him that things will be different when he gets a little older.

Plural s told his mother that he doubted it. "In school nobody remembers me, when it comes to picking teams for sentences, all of his other letter friends get picked." His mother told him, "Someday they will realize how important you really are, you'll see."

Everyday plural s would go to school, remembering what his mother told him. He never stopped trying to become recognized. When he finally got into high school something amazing happened. A couple of older letters came up to him and said, "Don't feel bad plural s, you can join us, we have just the spot for you." Plural s was so excited, he asked, "Who are you?" They told him, "We are a group called Community Association Institute, and we are beginning to grow. We are looking for an important little s, such as you in our group." They told plural s that he could proudly take his place behind the little n in their second word.

Plural s was a little confused, but he took his place and quickly learned that he is an important little letter. He was proud, he helped CAI grow into a group that means more than one. Now he walks around telling everyone that he is part of "**Community Associations Institute.**" He soon found, and told all of his other letter friends, that he was part of a group of letters that people would see him, the plural s, all over the United States and in many other countries.

Mom was right, he thought. She told me that someday someone would see that he was an important little letter.

Moral of this story is: When writing or talking about Community Associations Institute remember the story of The Forgotten Little Letter, **plural s**, and all of his determination and dedication in becoming an important part of **Community Associations Institute.** 🗣️



Richard Salvatore, Advanced DCAL, is Vice-Chair *Community Interests* magazine committee, on the CAI-NV Chapter Board of Directors, President of Kensington at Providence HOA.



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Ethics and the Law in Common Interest Communities

By Antonio Brown

It is often difficult to distinguish between being ethical and being legal. While laws are used to govern the actions of individuals, knowing what is ethical helps individuals determine right from wrong. State law pertaining to common-interest communities (CICs) does not explicitly define ethics; however, there are numerous provisions in NRS 116 and 116A that outline correct and incorrect behavior.

Association board members are stewards of association funds and expected to place the interests of the association above their own. They must not act out of self-interest, personal gain, prejudice, or revenge, and as volunteers who may lack specific knowledge or experience in running a non-profit corporation, they are expected to consult with qualified professionals as necessary (NAC 116.405[8][e]).

In the performance of their duties, officers and members of the executive board are fiduciaries who must act on an informed basis and in good faith (NRS 116.3103[1]). Board members are expected to act within the scope of authority granted in their association's governing documents and should uniformly enforce these documents. They should hold meetings with enough frequency to efficiently address the affairs of the association; obtain bids from reputable service providers who possess the proper licensing; maintain current, accurate, and properly

documented records; and adopt and fairly enforce the collection policies of the association (NAC 116.405).

Board members should not be negligent, disclose confidential information relating to other unit owners, or act outside applicable federal, state, local laws, and regulations. They should never receive any compensation from the association and must make a good faith effort to disclose any financial, business, professional, or personal relationship that could result in a potential conflict of interest (NRS 116.31034[10][a][2]).

Having the primary responsibility to ensure that money collected from unit owners is sufficient to cover operating and reserve expenses, board members should consistently look to the reserve study and adjust the association's funding plan at least annually (NRS 116.31152[1][c]). The board has a duty to fund the reserve account to the level described in the governing documents without using funds from the operating account or imposing special assessments (NAC 116.425[2][b]). Refusing to increase assessments and continuously deferring maintenance may cause the community to deteriorate. Incrementally raising assessments over time to adjust for increases in inflation and cost of living can help to prevent the imposition of special assessments that homeowners may not be able to afford.

While there are clear ethical standards of behavior for association board members, there are also clear standards of practice for community managers. Community managers are fiduciaries in their client relationships and are required to exercise ordinary and reasonable care in the performance of their duties while complying with the lawful directions of the executive board (NRS 116A.630). Community managers are expected to keep informed of new developments in the industry through continuing education, and when matters arise that are beyond their expertise, they are expected to advise the board to obtain advice from independent experts.

Executive boards hire managers to help them with administrative and financial functions. Managers are expected to: ensure that the financial transactions of the association are current, accurate, and properly documented; prepare or cause to be prepared sufficiently detailed interim and annual financial statements; make the financial records of an association readily available; maintain and invest association funds in appropriate financial institutions; maintain internal accounting controls, including segregation



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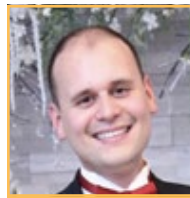
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of incompatible accounting functions; ensure that the executive board develops and approves written investment policies and procedures; submit appropriate forms to the Division; and develop written collection policies to be approved by the executive board (NRS 116A.630).

While the Division cannot specifically define what is ethical, evaluating all potential pros and cons of decisions before they are made and understanding the requirements and scope of authority granted by law is paramount to the successful running of any association. Associations facing the least conflict in their operations tend to be those who are transparent in their business practices and responsive to those they serve. Neither community managers nor board members should retaliate against unit owners, threaten,

or harass one another or members of the association, or accept any incentives that could sway their behavior (NRS 116.31189[1]). Whenever board members and the community manager disagree, it is important for both parties to remember that the community manager is available to provide guidance; and, while both parties should remain ethical in their conduct, the ultimate decision-making authority rests with the democratically elected executive board. 



Antonio Brown, Office of the Ombudsman for Common Interest Communities and Condominium Hotels, Program Training Officer

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