

community interests

JULY 2019

FULL THROTTLE AHEAD

**COMMITMENT, COMPLIANCE,
OR COMMISSION**

AVOIDING THE DANGER ZONE





Education Calendar

DCAL

MANAGER

Advanced DCAL

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

Southern Nevada July

CAI Nevada Las Vegas Luncheon

"Compliance"

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

Gold Coast Hotel & Casino

CAI Nevada Las Vegas Homeowner Class, DCAL

"Building a Sense of Community"

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

Siena Community Association

CAI Nevada Las Vegas Managers Class

"HOA Elections"

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

Siena Community Association

C.E. 310000 – 2-hour C.E. Credit

August

CAI Nevada Las Vegas Luncheon

"LAC Legislative Update"

August 13, 2019 at 11:25 a.m. – 1:00 p.m.

Gold Coast Hotel & Casino

CAI Nevada Las Vegas Homeowner Class, DCAL

"Finances in the CIC"

August 24, 2019 at 9:00 a.m. – 12:00 p.m.

McDonald Ranch

CAI Nevada Las Vegas Managers Class

"Architectural Guidelines, Satellite Dishes, Solar Panels & Your HOA"

August 27, 2019 at 9:00 a.m. to 12:00 p.m.

McDonald Ranch

C.E. 141900 – 3-hour C.E. Credit

Northern Nevada July

CAI Nevada Reno Quarterly Breakfast

"RIP – How to Handle the Death of an Owner in an HOA"

July 17, 2019 at 8:00 a.m. – 9:30 a.m.

Peppermill Resort

C.E. 0331000 – 1-hour C.E. Credit

CAI Nevada Reno Homeowner Class

"DCAL"

July 18, 2019 at 1:00 p.m. – 4:00 p.m.

Peppermill Resort

CAI Nevada Reno Managers Class, DCAL

"Budgets & Reserves"

July 18, 2019 at 9:00 a.m. – 12:00 p.m.

Peppermill Resort

C.E. 0128000 – 3-hour C.E. Credit

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

community interests

WHAT OUR INDUSTRY IS TALKING ABOUT

WHAT HOMEOWNERS NEED TO KNOW

JULY 2019

in this issue:

Columns

- 2 Education Calendar
- 4 President's Message
- 5 Editorial Exclamations
- 21 Harry the Happy Homeowner
- 31 Gaining Altitude: PCAM

On Topic

- 6 The Power of "No Matter What": How Commitment Inspires Change
- 9 "Golden Rules" to Keep Homeowners Out of Trouble with Their HOA
- 12 Landscape Watering Compliance... Are You in the Know?
- 20 Responding to a Compliance Letter
- 26 What is "Uniform Enforcement"?

Of Interest

- 10 Nevada Legislative Action Committee Seeks Members for Two-Year Terms!
- 14 Manhattan of the Desert - Las Vegas
- 16 National Conference Gallery
- 18 Las Vegas Golf Gallery
- 22 Why Do We Need to Amend the CC&Rs? Why Don't We Just Adopt a Resolution?
- 24 Embezzlement, Coming Soon to a Management Company Near You!

The Marketplace

- 27 Classified Advertisements



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Magazine Deadline

Community Interests deadline for advertising or article submissions is the 15th of each month, two months prior to publication. Example: Submit article by April 15th to be included in the June issue.

Correspondence

Send business card, ad copy or articles for reprinting to CAI of Nevada, 3230 S. Buffalo Drive, Suite 105, Unit 6, Las Vegas, Nevada 89117, along with payment. *Community Interests* is published by CAI, Nevada chapter. All articles and paid advertising represent the opinions of authors and advertisers and are not necessarily the opinion of Community Interests, CAI Nevada chapter, its board members or staff. The information contained within should not be construed as a recommendation for any course of action regarding financial, legal, accounting or other professional services by Community Associations Institute or CAI Nevada chapter. The publishers and editors of this magazine reserve the right to deny or edit articles that defame, disparage, attack or otherwise are derogatory to other members of this organization, or otherwise do not conform to content or

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Classified advertising in *Community Interests* gives you a classified ad for \$50 per issue (includes 25 words/.50 each additional word) or \$330/year for members or \$395/year for non-members. Advertising contracts are available from CAI Nevada.

Payment, a signed contract, and your ad sent by e-mail or disk must be received by the 20th of the month, two months prior to publication. See Magazine Deadline above. Acceptable file formats are Microsoft Word, plain text or in the following high resolution (300 dpi) graphic formats: .jpg, .tif or .eps format. Please send a hard copy of the ad along with contract.

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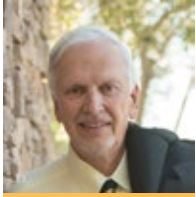
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Avoiding the Danger Zone



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

*You'll never know what you can do,
until you get it up as high as you can go,
out along the edges,
always where I burn to be,
the further on the edge,
the hotter the intensity,
highway to the danger zone,
right into the danger zone.*

These lines are from the song "Danger Zone" made famous in the movie "Top Gun" in 1986. A danger zone contains many different kinds of hazards or potential for

trouble whether you are flying a plane, driving a car, chairing a committee, or being a BOD officer.

When we accept a leadership position in CAI, along with that acceptance comes the responsibility to follow the rules, to serve in that position to the best of our ability, and to pursue the goal of constant positive results. Anything less means we are just involved and lack the commitment needed to be a successful leader; thus we become comfortable, flirting constantly with the danger zone of non-compliance and ultimate failure.

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“ Common sense through education is the simple safe way to move forward. Take the time to get educated. Do the task correctly. ”

For example, a BOD meets without noticing their association, opens a number of closed bids, awards the bid, then announces the results at the next meeting. This BOD has violated their responsibility as mentioned above. They accomplished their goal, awarded the bid, but did so by entering the danger zone of non-compliance. They may find themselves appearing at a commission hearing, be fined, and never be able to serve on a BOD again. You cannot live in the danger zone constantly and expect success.

CAI has wonderful education programs available to all categories of membership. Education for homeowners, managers, and business partners helps avoid the danger zones associated with being on a BOD, encourages those who are pursuing an upward community management career, and acquaints business partners with the potential of enhanced industry operations. Whatever your goal is you need to get the most out of it, do it correctly, and avoid the danger zone! If you don't, the result may be modest at best and more likely a costly failure.

Common sense tells us we should not drive our car on a set of bald tires, yet daily along our highways we see examples of those among us who think differently. Common sense through education is the simple safe way to move forward. Take the time to get educated. Do the task correctly. Be the individual who strives to do it right the first time, not the person who seems to have time to do it over and over again until they get it right.

The CAI Nevada Chapter thrives on committed members who are educated and compliant with Nevada laws and chapter operations, thus avoiding the danger zone. Our members are reliable and dependable which in my mind is synonymous with success and momentum.

Full throttle ahead!

Chuck Niggemeyer, DCAL



Make a Commitment to Be Compliant



Vicki Niggemeyer, DCAL, Community Interests Magazine Committee Chair

As a mother and grandmother, I expect compliance from my kids and grandkids. I don't always get it, but I expect it nevertheless. "Make your bed." "Please rinse your dishes and put them in the dishwasher." "Turn off the lights when you leave the room."

Our local police expect compliance. They enforce speed limits, and when we are not compliant, we get a ticket!

Compliance within our HOA communities is truly not so different. Typically, it's the little things that often get us into trouble. "Put your trash containers out by XX:00 and in by XX:00." "Pull weeds in your back yard that can be seen from the street." "Check your coach lights in the front of your home to be sure they are lit." These are simple yet necessary actions to keep our communities looking tidy and at their very best.

Within the HOA industry, compliance is often viewed as a four-letter word, sometimes a "heated" topic within our communities. It seems that often people don't make a commitment to comply with community rules, don't understand why they need to comply, or merely don't know the rules. Our contributing writers this month have some good advice and information regarding compliance, or in other words, ways to avoid the "danger zone" of violation notices and hearings.

Cameron Clark, through some personal stories and personal experiences, stresses the need to make a commitment for excellence and commitment to compliance in his article,

"The Power of 'No Matter What.'" It is a thoughtful and insightful message.

Compliance enforcement is oftentimes a touchy subject with homeowners who feel that they are being treated differently from their neighbor. Doesn't NRS 116 require uniform enforcement? Be sure to read Will Wright's **"What is 'Uniform Enforcement?'"** for the answer.

Those of us who live in HOAs are well aware of the issues with compliance, but abiding by the rules of society confront us everywhere. We must be compliant with city codes and ordinances, our children must be compliant with school rules, we must adhere to the office rules or risk losing our jobs. Compliance is indeed a part of life.

If everyone made a commitment to be compliant, the danger zone would be delightfully empty.

Vicki Niggemeyer, DCAL

“ If everyone made a commitment to be compliant, the danger zone would be delightfully empty. ”

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The Power of "No Matter What"

How Commitment Inspires Change

By Cameron Clark

When I was a boy, my dad worked for the Alberta provincial government implementing mental health programs that would help families and individuals in our community recover from addiction, deal with divorce, and cope with other life-altering circumstances. He also wrote a monthly column for our local small-town newspaper. At times, I would quietly take the paper and read his advice. Of all the articles he wrote, the one article that seemed to resonate with me more deeply than any other was titled "No Matter What."

My Dad's Boot Camp Experience

In that article, he shared a story from his early days in boot camp. Since his time in the military coincided with a major U.S. war, the boot camp experience was an environment that mimicked war-time conditions. The objective of this training was to toughen the minds of the young recruits for eventual combat and possible enemy capture. Every activity was designed to help these young men deal with the harassment and threat they would feel in hostile conditions.

The one training exercise that brought everything into greater focus was barracks guard duty. When a private was assigned to guard the barracks, the orders were to let no one in without the proper passwords, code, and identification; no matter what. This meant that if someone in authority approached the young private assigned to guard entry and didn't possess all the proper credentials and access information, it was the private's duty and obligation to turn that person away; no matter what.

My dad said the training sergeants would try nearly every kind of ploy to get the men to compromise their

commitment including staging false injuries, emergencies, and other distractions. If someone fell for one of these tricks, it would mean serious consequences for the private who'd neglected his assigned duty. These exercises were intended to fortify the future soldier with a steely resolve to not falter in the battlefield or in a prison camp. After all, if you were susceptible to breaking your commitment in a controlled environment, it was certain you would cave under enemy pressure. Failures to keep out intruders in this training exercise could have serious (and undesirable) consequences, such as spending two weeks in the brig and being set back weeks in training.

My dad's story illustrates the power of making a strong commitment. The key phrase he emphasized in the original article was that the soldiers were told to stay at their post, "no matter what." It was a situation that didn't allow for marginal errors, let alone an outright dereliction of duty. How does this differ from the 3 C's we address in this issue of Community Interests? Could it be that if we commit to complying to the professional standards, regulations, and legislation set forth in our industry, we could anticipate

positive experiences and interaction with the Commission for Common Interest Communities and Condominium Hotels and any other regulatory government body?

Mid-Year Resolutions

The common practice in western society is to wait until the first day of a new year to make new resolutions that will lead to an ultimate improvement in life, whether it is changes related to health, finances, career, relationships or otherwise. Why wait until the new year to commit or even recommit yourself to positive change? We are halfway through the year and I think there are a few things to which we can commit immediately to see better results in ourselves, our lives, our careers, and the communities we serve. In preparation for this article, I made a list of ten. For the sake of brevity, I pared the list down to the five I felt were most impactful in our own lives and the lives of those around us. These commitments are universal and can apply to you whether you are an association board member, a community manager, or some other service professional employed by a community association.

Five Commitments to Consider

For added emphasis, I borrowed the phrase "No Matter What" from my dad and added it to each commitment below:

1. A Commitment to Serve Others (No Matter What) – This can be a struggle for service professionals and sometimes even volunteers who started out wanting to serve others. It's a given that you will occasionally have conflict with those you are trying to serve. You may be tempted to just "check out," disengage, and remind yourself that you're doing this for a paycheck or some other mundane reason. However, when your heart and mind aren't in it to serve people, it can show in your entire demeanor and affect how you relate to them; and they can tell. Maybe the way to combat this can be found in reminding yourself why you started working in this business in the first place. Was it to solve a problem? I have seen so many people reenergized by the prospect of finally confronting a problem and the subsequent discovery and implementation of a solution.

2. A Commitment to Live a Balanced Life (No Matter What) – "Burning out" in our business is possible. If you are not taking care of your mental health daily with regular breaks and engaging in healthy relationships outside of the community management industry, your outlook on life will suffer. If you allow your fitness and nutrition to slip, then you will slip. Plan your vacations in advance but watch for times when you may need to take a day off in between those vacations. Regular exercise and a sound, consistent nutrition plan are steps in the right direction. All these things can assist you in your mental and physical resolve to do a wonderful job for those you serve.

“ Could it be that if we commit to complying to the professional standards, regulations, and legislation set forth in our industry, we could anticipate positive experiences and interaction with the Commission for Common Interest Communities and Condominium Hotels and any other regulatory government body? ”

3. A Commitment to Listen (No Matter What) – I think our deepest struggle can come from our lack of desire to listen to the person communicating with us. Thinking of what we are going to say next while the other person is talking is not effective listening. It certainly doesn't lead to a better understanding or a better connection with the other person. Author Peter Bregman suggests that we pause four seconds before responding in most interpersonal situations. That's about the time it takes to take one breath. What if we did that whenever we sensed conflict? What if we paused each time after someone said something disagreeable? During that breath, we would still be digesting mentally what we heard. What if, in that pause, we discovered an entirely different way to respond, such as asking another question to understand the issue more deeply rather than giving a superficial response that doesn't solve the problem? It's something to ponder. This leads me to the next commitment.

4. A Commitment to Being Curious (No Matter What) – A few years ago, I received training where participants were encouraged to operate in a "curiosity-oriented mindset" as often as possible. This meant that pre-judgments and conclusions were withheld longer than normal to encourage a deeper understanding of the information we would be receiving. It also meant it was less likely to take offense. This can make a world of difference. When we start from curiosity rather than a judgmental state of mind, many of our assumptions and prejudices are eliminated. Have you

ever had a conflict that you realized could have been avoided if you had just held back and waited for more information before giving your response? Next time you are faced with this possibility, try it. Take a deep breath and resolve rationally to determine the cause of the problem with genuine curiosity.

5. A Commitment to Stay Involved (No Matter What) – Maybe you've heard the following modern-day parable that pops up in success literature from time-to-time:

A Pig and a Chicken are walking down the road.

The Chicken says: "Hey Pig, I was thinking we should open a restaurant!"

Pig replies: "Hmm, maybe, what would we call it?"

The Chicken responds: "How about 'Ham-n-Eggs'? Your commitment would show first in the name."

The Pig thinks for a moment and says: "No thanks. I'd be committed, but you'd only be involved."

Storytellers conclude that this parable is about the failings of only being involved when some things take full commitment. I am vexed by this conclusion because it oversimplifies the concept of involvement. If someone begins getting involved with solving a problem in the first

place, that's a good thing and it will usually lead to deeper commitment. We all start somewhere.

To paraphrase Dr. Stephen R. Covey: the higher your level of involvement, the higher you show your level of commitment. Higher involvement equals higher commitment.

Time to Recommit

Thankfully, we don't need to experience the intensity of war-time conditions to know what it is like to make and keep a commitment during difficult circumstances. Our intense environment could be in an association board meeting or in a hearing in front of the Commission. It might be in our professional or personal relationships. As we start the day though, what if we pondered the past commitments and promises we've made to ourselves and others? It's vital that we find a way to remember to keep those commitments and really honor what we have agreed to do so that others will know they can depend on us; no matter what.

It's not always easy to keep certain commitments; in fact, it will be a challenge often. However, I can guarantee you it is worth it. Staying committed to making the right choices, even when faced with great adversity, no matter what, will make all the difference in the world. 🌍



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“Golden Rules” to Keep Homeowners Out of Trouble with Their HOA

By Community Interests Staff

Saying “hello” and “welcome” to your new residents? As board members in your community, when you welcome new residents you can do them and yourselves a favor by providing a printed list of the community’s top rules that they need to know to avoid violation notices.

Each community will have their own specific Rules & Regulations and will undoubtedly vary, but here is a sample list to get you started.

1. Trash pick up is on XXX days. Trash cans must be set at the curbside no more than 24 hours before the scheduled pickup and must be removed and stored no more than 24 hours after the schedule pickup day. Trash cans must be stored out of street view.
2. Please keep your front coach lights and address lights operational.
3. Please make sure any backyard weeds cannot be seen from the street.
4. Pool hours are XXXX to XXXX. Supervision is recommended for non swimmers.
5. This community does not allow street parking. Please park in your garage or driveway. Have guests park in the guest parking areas. For extended guest parking (more than 24 hours) please request a permit from the BOD.

A friendly, proactive approach can often convey to new residents the most important rules for them to know and hopefully avoid conflict down the road. 🏡

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Nevada Legislative Action Committee Seeks Members for Two-Year Terms!

By Donna Zanetti, Esq.

The Nevada Legislative Action Committee (NVLAC) is a CAI National committee whose purpose is to advocate on behalf of common interest communities in Nevada for common sense legislation and regulation. LAC is comprised of up to 20 members who are homeowners, community managers, and business partner members of CAI. The Nevada Chapter Board appoints six members to LAC. These appointees are known as "Chapter Delegates." Existing LAC members select the remaining members of the committee who are known as "At Large Delegates." All LAC members, whether LAC appointed or chapter board appointed, are subject to approval by the president of the CAI National Board of Trustees.


To be considered for appointment to LAC, an applicant must be a member in good standing with CAI and remain so during the entirety of the member's term. Unless there is a shortage of applicants, no more than one person per company or association, per membership category, may serve on LAC at the same time.

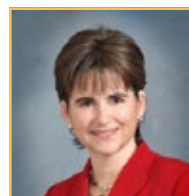
Most importantly, LAC members must have sufficient time to dedicate to LAC obligations. During any legislative session, LAC members can expect to spend a minimum of 20 hours per month attending meetings, testifying at legislative hearings, reviewing bills, and drafting talking points. If you are an officer in LAC, the time commitment is greater. During the legislative session, it is not unusual

for lawmakers to propose 20 to 30 bills dealing with community association issues. In addition to time spent directly on legislation, LAC members are also expected to raise funds to pay for the LAC lobbyist and to participate in educational events to raise awareness of LAC and common interest community issues. LAC currently meets on the second Monday of each month by conference call. Additional meetings may be required during legislative sessions. Persons appointed to LAC generally serve a two-year term and no LAC member may serve more than five consecutive terms. Terms are staggered so that half of the members are appointed each year to ensure continuity of experienced members.

If you are interested in applying for a position on LAC, please complete and submit the LAC nomination information form. You are applying for an "At Large Delegate" position. The Nevada Chapter Board has their own process for selecting chapter delegates. If you are recommended for appointment, you will also have to complete a Conflict of Interest form. The one-page application form may be downloaded from the Nevada Chapter website at cai-nevada.org. From the home page, select the Advocacy tab, then Legislative Action Committee, then LAC Nominee form.

Please scan and email your application to Sharon Bolinger, LAC Secretary, at sbolinger@ccmcnet.com. All applications must be received by 5 p.m. on August 8, 2019. LAC will select its "At Large Delegates" at its August 12, 2019, meeting, and will notify CAI National following the meeting. If you are appointed to LAC, you will be notified by September 2019.

Thank you for your interest. We look forward to receiving your application. 



Donna Zanetti, Esq., PCAM, LAC Chair, is with Leach Kern Gruchow Anderson Song

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LAC Nominee Information Form

1. Name: _____
2. Title: _____
3. Association, Firm, Company, etc.: _____
4. Address: _____

5. Phone: _____ Fax: _____ E-mail: _____
6. Membership Category: _____ CAI Membership Number: _____
7. I have been a member of CAI since: _____
8. I wish to be a LAC (choose one) chapter delegate at-large delegate because: _____

9. My qualifications to be a LAC delegate include: _____

10. I am a member of the following professional organizations: _____

11. By signing below I acknowledge that I have read, understand, and will abide by CAI's *Public Policies* and *LAC Operational Guidelines*, and pledge that I will serve the best interests of CAI members.
12. By signing below I acknowledge that I understand the legal and ethical specifications that apply to lobbying in the state and pledge that I will serve according to those specifications.

Signature

Date

Please return the completed form to CAI Nevada, 3230 S Buffalo Drive, suite 105, unit 6, Las Vegas, NV 89117.
You may also return this via fax to 702-240-9690.



Landscape Watering Compliance...

Are You in the Know?

By Tonya Gale, CMCA, AMS, PCAM

As we are now into the full swing of the Vegas summer heat, compliance with the watering schedule has been in effect since May 1 for the summer months. I am sure many of you have seen the comical commercials starring the Vegas Golden Knights "enforcer" Ryan Reeves tackle people watering their yards on Sundays and issuing "Water Waste Violations." The commercials are fun to watch and are hopefully getting people's attention but there is so much more to watering compliance than just not watering on Sundays. On top of that, there are a variety of seasonal changes that go along with watering schedules that it can sometimes be an issue to remember what you should be doing and when.

The Southern Nevada Watering Authority (SNWA) has done a fantastic job over the years assisting the various water companies in the Valley with verbiage for the monthly bills mailed or emailed to all of the residents reminding them of their watering schedule each season. They also take out the seasonal ads, be it a TV commercial, radio commercial, billboard, etc. to keep it fresh on everyone's mind on how these watering schedules should be implemented. But what else can you do to help keep people and/or homeowners associations in compliance?

Did you know you can request to have an expert from the SNWA attend one of your board meetings? They will discuss procedures, answer questions, and provide additional information to the residents in your communities in order to continue or improve your water smarts!

Did you know you can report water waste? Each jurisdiction of the Las Vegas Valley, be it the Las Vegas Valley Water District, City of Henderson, City of North Las Vegas, Boulder City, etc., has a way for you to report water waste you see in your communities and beyond. Let's say

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you walk your dogs every morning in your community, and every morning you see that a neighbor has a major water leak in their irrigation system. You have tried knocking on their door to inform them but they are never home. You have left notes on their door for the past two weeks and although the notes are gone the water is still being wasted. You can contact your watering jurisdiction and report the water waste and that entity will mail them a notice to have it repaired and/or fine them based on the severity of the issue. Although no one wants to "rat out" their neighbor, isn't it worse to allow that water to be wasted day in and day out? We have to think of the big picture and where our community needs to conserve; sometimes that is tough.

Did you know there are rebates for water saving items such as water-smart landscaping, car wash coupons, pool covers, smart irrigation control, and smart leak detectors? Currently, the SNWA is offering \$3.00 for every square foot you convert from grass to desert landscaping. There are certain restrictions and requirements, but in most cases this could pay for the cost of your overall conversion and end up saving you money in the long run. Valuable Information on all of these items are available on the SNWA website (www.snwa.com) and it is highly recommended you check these out so you can not only be in compliance but also keep up with the conservation efforts.

Lastly, did you know that as an association you can take the SNWA up on the \$3.00 a square foot rebate? There are going to be certain requirements that need to be taken by the association in order to get approved for the rebate, but they will work with you as much as possible to help continue to get "useless grass" out of the communities. There are so many different types of communities and grass easement scenarios it would be best to contact the SNWA directly with any questions or concerns you might have. For more information on this and to see if your community can benefit from any of the above-noted rebates, please contact Hillery Francis with the SNWA at hillery.francis@snwa.com or by phone at 702-691-5201.

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Tonya Gale, DCAL, SCM, CMCA, PCAM.
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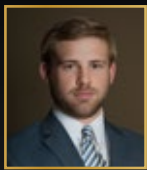




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Manhattan of the Desert – Las Vegas

By Stanley Monsef, PhD.

Throughout the history of architecture, the challenge for development of high-rise structures, such as the Pyramids of Egypt; or the Hanging Gardens of Babylon; or the 16 story apartments of ancient Rome, have been with us for millenniums.

Centuries before the modern concept of high-rise buildings dawned in European and American cities such as London, Paris, Chicago, and New York, there has existed one of the oldest (700 years) and best example of urban planning, based on the principle of high-rise construction. That construction used sun dried mud brick, in the city of SHIBAM in Yemen on the Southern Coast of the Arabian Peninsula.

Today, high-rise living in Las Vegas, our very own Manhattan in the desert, has soared. Since 2002, developers have built 24 high-rise condominiums, including Regency Tower Built in 1974 with 226 units and Wimbledon Tennis Club Condominiums built in 1975 with 114 units. It is important to note that the existing multi-story residences are only a fraction of nearly 120 high rises which had been planned for Las Vegas in early 2000 but abandoned for financial and development reasons.

A high-rise building is normally denoted by the function of the structure, such as high-rise apartment, high-rise condominium, mixed-use high-rise condominium, high-rise condominium hotel, or even high-rise office building. Development, design,

operation, and management of high-rise buildings require specific knowledge and expertise. Although the precise definition of a high-rise building varies, from the engineering and architectural point of view, the definition of a high-rise building is a structure from 80 ft. to 500 ft. high. Buildings higher than 500 ft. are considered skyscrapers.

Because of the high-rise structure, close living space, and unique lifestyle, social management in this situation requires establishment of more restrictive programs and policies for control and regulation of residents' behavior, employee's conduct, smoking within the complex, number of pets along with their weight, and pest control (notably, bed bugs). These restrictive programs need to be applied in a correct and lawful manner in a high-rise condominium.

Other factors and issues that contribute to the challenges facing the management of high-rise condominium include, but are not limited to:

- 1 Insurance coverage under high-rise buildings, whether high rise residential condominium, mixed-use



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condominium, or condominium hotel is more difficult from an underwriting stand point, because different ownerships have different exposures and operating philosophies: hours of operation, advertising policies, signage and commercial/residential access.

- 2 From the structural dynamics point of view matters relating to wind loading and seismic forces on the exterior surface of the high-rise building are very important in management field. In high-rise condominiums the flexible nature of the building contributes to structural response – causing damage to the exterior surfaces of the building as cracks. Cracks in the exterior and interior surface or skin of the high-rise building, due to wind pressure and wind suction, causes rain intrusion and peeling off of paint layer.
- 3 The stand pipe system (dry or wet) in a high-rise building is an arrangement of piping, hoses, valves, and pumps that provide automatic discharge in a stream or spray pattern for extinguishing fire. Special attention is necessary to the zoning of piping system, which is essential for providing adequate water flow and residual pressure at higher discharge points.
- 4 In a high-rise building, refuse is generally disposed of by using a chute that extends from the top floor to the lower level. Refuse disposal systems in a high-rise building require that different types of refuse are separated for recycle by the individual

units' owner before depositing it to the chute. Refuse disposal, collection, and removal from a high-rise building demand more cooperation of residents. In addition, there must be daily inspection and cleaning of garbage room(s). High-rise management needs to provide strict directions and signs to maintain cleanliness, safety, and health requirements. Disposal of bulky items into the chute is specifically restricted.

- 5 Pro-rata-share of shared component expenses in a high-rise building is apportioned differently from the guess work practice of \$8 or \$10 per door for a single story or low-rise (2-3 story) building. The shared component expenses in a high-rise building are typically apportioned by:
 - a) Square Footage Allocation Method; or
 - b) Revenue Generating Allocation and Property Value Allocation Methods. 

Resources:

Manhattan of the Desert

High Rise Management Manual, S. Monsef 2008



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



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National Conference Gallery




CAI Nevada was well represented at the recent CAI Annual Conference. Honored at this year's event were five LAC homeowner representatives. We are proud to congratulate three of the five from Nevada! Thank you for your service to LAC and our chapter, Marilyn Brainard, Advanced DCAL, Chuck Niggemeyer, DCAL, and Donna Toussaint, Advanced DCAL!





Las Vegas Golf Gallery

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The 23rd Annual CAI Golf Tournament was held May 31st at the Bear's Best Golf Course. Thank you to all our event and team sponsors. We're relieved to know you found Amelia Earhart safe and sound, special thanks to our Las Vegas Golf Committee.







Responding to a Compliance Letter

By Catharine Lindsay

The second warning letter arrives in the mailbox, but the lawn has been mowed, edged, and had two weed treatments. So why does the HOA keep sending these notices?

Let's start by acknowledging that at some point all properties will receive some form of courtesy or compliance notice. It doesn't mean you're a bad neighbor. It just means there's an issue that needs attention.

What many residents don't know is that it's not up to the city code officer or the HOA compliance officer to come back to the property and make sure the problem they cited has been resolved. ***It's up to the owner or tenant to follow up and get the issue closed.***

The following steps will help you close the compliance loop with the first letter, which is really what the association wants:

- **Refer to the original letter to determine if a response is required.**
 - A courtesy notice making you aware of the lawn maintenance rules generally doesn't require a response. It's a reminder.
 - A warning or ticket will generally require an answer.

- **Be certain you're doing all the steps necessary to close the issue.**
 - Do you need to send an email with an image?
 - Even if it's not requested, including a picture will help ensure the incident is closed.
 - Are you supposed to call or fill out an online form?
 - If you use an ongoing service (e.g., lawn service), including the name of the company and their treatment schedule will show you have a long-term solution to the problem.
 - Is a USPS letter required?
- **Avoid lengthy emails or voicemails about non-related issues.** If there are other problems occurring in the neighborhood, use the appropriate channels to get them addressed.
 - Remember, compliance concerns fall under the 'right of privacy.' Meaning it's not something that can be publicly discussed. And demanding to know if the next-door neighbor was also cited will not fix your situation.
- Most importantly, **communicate before the requested deadline.**
 - Reach out as soon as you get the letter to let the HOA manager know you're addressing the problem.
 - Give them an estimate of when it should be fixed.
 - Some problems take longer to solve than others. Come to an understanding of the timeline required and ask for an extension if necessary.

The worst thing you can do is ignore the communication.

Simply sending an image of the newly mowed lawn could be enough to confirm you paid attention to the compliance request. And it lets the HOA know that you're listening.

Compliance notices are meant to help maintain the image and quality of the neighborhood. They serve as a reminder to residents of association expectations. Use them as your chance to ensure that you're doing your part to make your community a great place to live. 🏡



Catharine Lindsay, Director of Operations for Investor HOA services



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: We love our community but every year we get these mailings with so much stuff!! There are policies and reminders and budgets and military protection. It seems to be a big waste of paper and must cost a lot. But our manager said we have to mail it, even if we have the email address for the owners. How can we change this so we can save money and make it easier? No one keeps all this paper. — Signed, Wendy the Waste Watcher

A: Hello WWW. There is no simple answer to your question, it's a Catch 22, but I will try. The HOA is required, by state statutes, to provide homeowners notice of meetings and so many things, including all of the items you listed. Now if your board meets monthly, you can expect more notices than if they meet quarterly. No matter how many times a year they meet, there is no easy fix for this! The way I see it, the HOA needs to send a notice out giving homeowners a choice between using U.S. mail or electronic delivery. The objective is to reach all of its homeowners, so the homeowners have the responsibility to keep their contact information current with the HOA.

The problem is, and here is the Catch 22, if the HOA does not serve these notices and take action on specific things, they could find themselves appearing before the commission and facing consequences. When they do send notices, there are people who treat any HOA letter as junk mail and do not even bother to open the item. They automatically file that notice in the circular file. Now don't get me wrong, there are many that actually read the information and those are the ones who seem to care about their HOA and want to know what is going on.

If the HOA uses electronic delivery, many of the emails, for whatever reason, don't get read. Many times the emails go into the spam or junk mail folder and the homeowner does not check it. Another problem is, some emails are undeliverable and returned to the sender. Also, I am sure that there are still some people who do not use email if you can believe that – in this day and age. I know my parents never used email or a computer, which is a good thing because they used to call me to program their VCR. Remember the VCR?

Between these two methods of giving notices, there is no sure way to get your residents to read either the direct mail or the emails. Direct mail could be the most effective means of delivering notices, and hopefully, their mailing address has not changed.

Q: In our HOA we have a community pool and some of the rules just don't make any sense. for example, why do I have to shower before getting in the pool? I feel insulted, I shower every morning! — From, Clean Jean

A: Hi Jean, you should not feel insulted, there is a reason the HOA requires showering before using the pool. When an HOA has a community pool, they are held to much higher regulations and inspections than someone with a backyard pool. Water quality and chemical levels are the biggies.

Think about this, how many people use sunscreens and lotions when going outside? By showering before using the pool, it rinses off much of the applications. By not rinsing off the sun-screen and lotion the pool water could become cloudy and have an oil slick on it that would interfere with the chemical balance of the water. This oil slick would also create the ultimate bathtub ring, which requires more pool maintenance, cleaning, and chemicals. 🌊

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Why Do We Need to Amend the CC&Rs?

Why Don't We Just Adopt a Resolution?

By John Aylor, Esq.

Obtaining the membership approval for a CC&R amendment is often difficult and, quite regularly, attempts to amend CC&Rs fail. Adopting a resolution is quick, easy, and only requires the approval of an association's board of directors. See Nevada Revised Statutes (NRS) 116.3102(1)(a). As such, boards frequently seek to establish certain rules or regulations by adopting a resolution. This article serves to provide a general understanding of when a CC&R amendment may likely be required in order to implement a proposed rule or regulation and how a resolution attempting to implement the same proposed rule or regulation may be susceptible to challenge and ultimately found void. Please note that for the purpose of brevity, the scope of this general analysis will not include analysis of when an association's proposed CC&R amendment may be subject to notice and approval requirements of its declarant or mortgagees of units.

If an association's declaration, the name of the document that includes an association's individual CC&R provisions, includes certain rules or regulations that would in any way conflict with a proposed rule or regulation, the proposed rule or regulation would be required to be adopted as an amendment to the declaration rather than via board resolution. See NRS 116.31065(4) (Rules adopted by an association must be consistent with the governing documents.). In cases where it is arguable as to whether a proposed rule or regulation may conflict with a provision of an association's declaration, an association's most conservative course of action would be to attempt to adopt that proposed rule or regulation via an amendment to the declaration. If the association were to adopt that proposed rule or regulation via resolution unit owners may challenge the validity of the resolution and the association's authority to enforce the resolution. Generally, rules and regulations established via recorded documents, e.g.

declarations and declaration amendments, may better withstand challenges of enforceability than rules and regulations established via resolution for a number of reasons, including, but not limited to, the notices and records associated with such recordings.

Subject to the exceptions identified within NRS 116.2117(1), some of which are addressed herein, the declaration of an association "may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, unless the declaration specifies a different percentage for all amendments or for specified subjects of amendment. If the declaration requires the approval of another person as a condition of its effectiveness, the amendment is not valid without that approval." NRS 116.2117(1). As provided above, if an association's declaration does not provide a percentage for all, or specific, CC&R amendments, NRS 116.2117(1), subject to the exceptions identified within the statute, requires CC&R amendments to be approved by, at a minimum, the number of votes representative of a majority of the votes of the association.

Customarily, however, association's declarations provide percentage requirements for CC&R amendments, and such requirements typically require a greater approval percentage than a simple majority. Further, declarations also commonly include differing percentage requirements dependent upon the subject matter of the proposed amendment. Accordingly, an association must always confirm what percentage of votes may be required for the proposed amendment under the association's governing documents prior to relying upon the default majority requirement of NRS 116.2117(1).


NRS 116.2117(6) expressly addresses the following subjects as matters that may only be addressed by an amendment, subject to particular vote percentage requirements, rather than the adoption of a resolution: "Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of

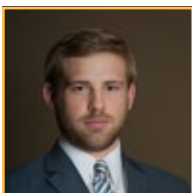


any unit, change the allocated interests of a unit or change the uses to which any unit is restricted, in the absence of unanimous consent of only those units' owners whose units are affected and the consent of a majority of the owners of the remaining units."

Amendments affecting boundaries of units, i.e. changing the size, and the allocated interests of units (see NRS 116.009) are relatively easy to identify; however, determining whether an amendment changes "the uses to which any unit is restricted" may sometimes be more difficult to attempt to confirm. If, however, an association's declaration identifies a section of rules and regulations as "use restrictions" or uses similar terminology related thereto, such identification may arguably serve to indicate that an amendment of such rules or regulations would "change the uses to which" a unit is restricted and would thereby result in the proposed amendment being subject to NRS 116.2117(6).

Lastly, we find that many associations are commonly under the mistaken belief that every time there is a change in Nevada law, e.g. NRS Chapter 116, the association must amend its declaration in order to comply with the changes in the law. No such amendment is required as NRS 116.1206(1) (a) provides the following: "Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter: (a) Shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions." An association must, however, cease attempting to enforce a provision of its governing documents that violates a statute within NRS Chapter 116.

In scenarios wherein an association is unsure as to whether a proposed rule or regulation would require an amendment to the association's CC&Rs, or may simply be adopted via resolution, the association should consult with legal counsel. Depending on the circumstances, counsel may advise that an amendment is required, or that conservatively, it may likely be found that an amendment may be required but that there may also be an argument that the association may simply adopt the rule or regulation via a board resolution. Legal counsel will also be able to assist the association with the determination as to what percentage approval is required for the amendment at issue under the association's governing documents and Nevada law. 



John W. Aylor, Esq., The Clarkson Law Group, P.C.



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Embezzlement, Coming Soon to a Management Company Near You!

By J. Bradd Geene

I was a commercial insurance agent for 15 years. During that time, I was personally involved in the discovery, investigation, and ultimately the prosecution of several embezzlement cases. One of the agencies I worked for had an internal case of embezzlement. Each case was different, creative, and required a lot of work to keep it going. When I started working in the HOA community business, I thought the days of hearing about employee theft and embezzlement were behind me.

Much to my surprise, I actually heard more about embezzlement cases related to selling resale disclosure documents in seven years than in my 15 years as an insurance agent. It pains me every time I'm talking with a management company owner and I bring up this topic only to hear, "that would never happen here." Which is exactly what every employer who has had this happen thought, before they realized they had been deceived. It's because of this that I am prompted to write this article.

What is embezzlement?*

Embezzlement, also known as employee theft, is the act of wrongfully appropriating funds that have been entrusted to your care, but which are owned by someone else. Accounting embezzlement is the manipulation of accounting records to hide the theft of funds. Embezzlement can be prosecuted as criminal fraud or civil fraud. In the case of civil fraud, the employer can bring the lawsuit against the employee.

What are the factors in embezzlement?*

For a charge of embezzlement to be supported, four factors must be present and must be proven. There must be a fiduciary relationship between the two parties: that is a relationship of trust, a responsibility for taking care of the money or property (for example), and a reliance by one party on the other. The defendant must have acquired the property through the relationship. The defendant must have taken ownership of the property or transferred the property to someone else (called conveyance). And the defendant's actions were intentional.

Examples of Embezzlement.**

- Overpaying a vendor and sharing in the ill-gotten gains. The bank teller who pockets deposits, the bookkeeper who takes customer refunds for themselves.
- The attorney who uses the funds in an escrow account for themselves.
- The payroll clerk who doesn't deposit the correct amount of employment tax, keeping the rest for himself.

- Employees in retail businesses have a habit of walking off with merchandise.
- Of course, computer fraud by employees has many facets, many of which involve a fraudulent transfer of funds by an employee.

Although the embezzlement from resale documents may not be "mainstream," here are some things that are almost always present with embezzlement in small business, including management companies.

- The employee was extremely close to the owner and felt like "family." The owner gave full authority to an employee to handle the company's finances and trusted the employee completely.
- There was minimal or no review of the employee's work. It is a closely held company. An employee embezzled from the company and nearly sent it into bankruptcy.

Here are three escalating cases of resale documents embezzlement of which I have personal knowledge and permission to share:

1. The **receptionist** or front desk person;
2. The person who puts together the packages and "sells" them when someone comes in to pick them up;
3. The person (one person) in the office who is the "**Escrow Department**" or who "takes care of that."

1. A straight forward case. The company didn't want to risk checks bouncing and didn't have a way to process credit cards. When someone placed an order for the resale documents, they were told to bring cash or a cashier's check when they came to pick up the order. The person who took the money just took about half of the cash. There were no checks and balances or accounting for inventory protocols in place. The owner saw a continuous stream of revenue, not even realizing that it was 25 – 30 percent less than what it should have been. You know how much you

make on resale documents, imagine if just 25 percent of that was walking out the door with an employee.

2. A thought out case. This office did have protocols in place to account for the orders that were placed, packages made (by one person), and the packages that were sold (by a different person) who gave the money to accounting (third person). This is a good "checks and balances" as three people were involved in the process. Additionally, they kept "inventory" to make sure the sales and stock matched. In this case, the middle person (the seller) would make a second copy of the package. Then, when the buyer came in and paid for it, they received the second copy. The money went into the employees' pocket while the original package sat there "ready to be picked up." Because of the protocols, the missing money was accounted for by the package that was still on the shelf. This employee was stealing from the management company in three ways: taking the cash, using the copier and paper to complete the scheme, and doing it all on the company's time. Too bad your employees don't wear a mask when they are stealing from you!


3. A well planned and potentially devastating case. This one was quite involved and continued for many years and several hundred thousand dollars was embezzled from the management company and the associations they represented. This started soon after the employee was hired. Their only job was to take, process, collect fees, and deliver resale disclosure documents. The job title was "Escrow Manager." Soon after being hired, the Escrow Manager (EM) filed with the state for a fictitious firm name in order to open a business bank account. The EM's firm name was very close to the management company's name (example: Bora Management vs. Boro Management). This allowed the EM to deposit checks made out to the real management company and redirect funds into their account with no problem. Since this employee was the Escrow Manager and the only one doing this job, it was easy for him/her to continue unchecked for years. In addition, as a trusted, loyal employee who had several years with the company, the owner and other management never suspected a thing.

As mentioned, there was also money stolen that was supposed to be collected by the management company and distributed to some associations. This put the management company at great risk. Not only were they out their money but also deeply in debt to their clients, the associations. Thankfully they did have an employee dishonesty insurance policy that covered a large portion of the loss. This allowed them to pay back the associations, not completely, but enough to salvage the relationships. Also, since this is a great management company to their



clients, the associations, were understanding and willing to work with the company to accomplish the full restoration.

Although all three of these examples were selling paper documents, don't believe that you are protected by selling or delivering documents online or attached to an email. As they say, "when there is a will there is a way" or in this case an "ill-will." I hope this gives you a good idea of how vulnerable management companies are to ill-willed employees.

Please don't continue to believe this won't happen to you. No matter what safety barriers you may have put in place, or how much you trust your employees, you need to be vigilant when it comes to protecting your most important asset, your income. 

**Embezzlement and Employee Theft: <http://bit.ly/ET> and <http://bit.ly/EmbezzlementCase>*

***True stories from HOA management communities.*



J. Bradd Greene, is the CEO of Get Docs Now, LLC



What is “Uniform Enforcement”?

By William Paul Wright, Esq.

Units' owners (members) sometimes complain that they are being “discriminated” against in enforcement because they believe restrictions are not being enforced against other members. “Discrimination” is generally understood as the unjust or prejudicial treatment of different people, particularly in a way that is worse than the way other people are usually treated, especially on the grounds of protected classes such as age, disability, race, gender, marital status, national origin, religion, or sexual orientation.

Some discrimination is lawful in Common-Interest Communities (CICs). Age-Restricted Communities are allowed to discriminate based upon age (“familial status discrimination exemption”) under the Fair Housing Act (FHA), as amended by the Housing for Older Persons Act of 1995. The FHA requires discrimination when a disabled person has requested reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person an equal opportunity to use and enjoy a dwelling. Obvious examples are the accommodations for comfort animals which would otherwise violate animal restrictions.


While enforcement discrimination may be legal, under NRS Chapter 116 enforcement must be uniform. NRS 116.31065(5) requires that Rules and Regulations (Rules) “. . . be uniformly enforced under the same or similar circumstances against all units' owners. Any rule that is not so uniformly enforced may not be enforced against any unit's owner.” Nevada Administrative Code 116.405(8) (b) states that a factor to consider when determining performance of fiduciary duty under NRS 116.3103 is whether a director has “Caused the association to: . . . Uniformly enforce the governing documents of the association.” That requirement extends to all governing documents under NRS 116.049, not just the Rules. NRS 116A.630(5) requires a community manager to, “Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.”

Added in 2011 by Senate Bill 204, NRS 116.3102(3) allows a board discretion to not take enforcement action if the association's legal position does not justify it, the governing document provision is likely to be considered against the law, the violation exists but is not material enough to be objectionable to a reasonable person, or to spend the money to pursue, or it is not in the association's best interests to pursue. This discretion is not absolute. NRS 116.3102(4) states that not pursuing a violation “under one set of circumstances” does not prevent later enforcement “under another set of circumstances,” so long as the action is not “arbitrary and capricious.” In other words, the lack of enforcement under certain facts does not prevent enforcement under another set of facts unless the enforcement is arbitrary and capricious. Decisions are arbitrary and capricious if made without reasonable grounds or adequate consideration of the circumstances - an abuse of discretion.

NRS Chapter 116 gives members the ability to check whether the association has treated them uniformly, even though they are not entitled to the confidential enforcement information regarding other members. NRS 116.31031(3) requires the association to publish a schedule of fines it imposes. NRS 116.31031(4)(b)(1)(I) requires a hearing notice to include the amount of the fine. NRS 116.31175(5) requires the association to maintain a general record, with personal information removed, of all violations that result in fines and other sanctions. Members can review the schedule of fines against their hearing notice, and the outcomes of other hearings on the same issue, to see they are being treated uniformly.

So what exactly is uniform enforcement? There is some guidance in the language of NRS 116.31065 and NRS 116.3102(3) quoted above that can be applied by implication to the rest of NRS Chapter 116. The key is treating members uniformly under the same or similar circumstances as other members.

Therefore, it is uniform enforcement when an association grants an accommodation under the FHA and allows a disabled member to keep an animal which violated the CC&Rs while denying other non-disabled members the same, because each distinct group of members, disabled and non-disabled, is being treated uniformly under their similarly situated circumstances.

Aside from the FHA, there can be other facts and circumstances distinguishing members' cases for the same violation. If you have two members who fail to follow the same restriction; one who simply chooses not to do so, and the other who had numerous medical issues preventing them from doing so, they are arguably not similarly situated and do not require uniform treatment. Likewise, if one member initiates a civil action in response to enforcement, and the other does not, those otherwise similar violations might be treated differently. The statutes contemplate board discretion in evaluating circumstances, making bright line rules practically impossible. As always, when in doubt, ask association counsel. 



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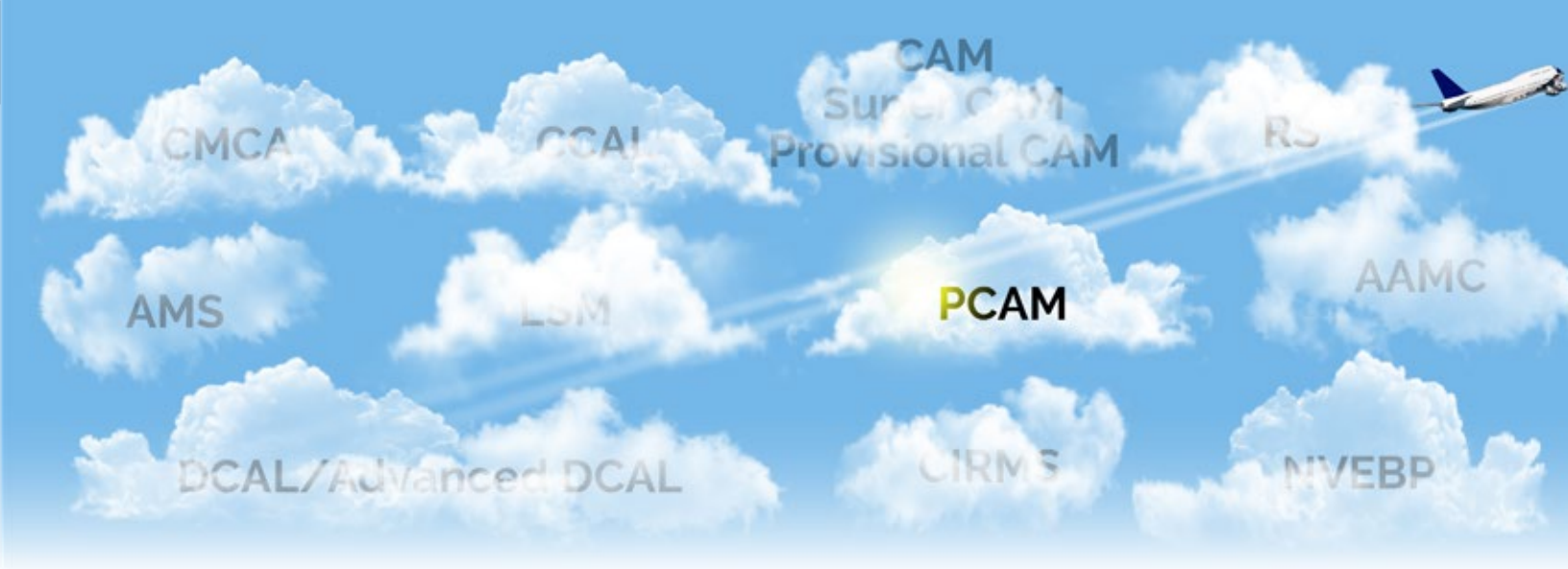
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The Ultimate Destination: The Professional Community Association Manager (PCAM) Designation

By Anne Calarco, CMCA, AMS, LSM, PCAM



Anne Calarco,
CMCA, AMS,
LSM, PCAM,
Level Property
Management

In beginning your journey as a new community association manager, the national designations one can earn through Community Associations Institute (CAI) may seem a long difficult distance away. A community association manager is responsible for the day-to-day operations of homeowner associations, having the ability to provide advice as within their expertise to the boards they serve. With the many duties involved to accomplish this it is important to hone your skills, professionalism, and knowledge.

Charting out your plan when you look to start this professional journey is just the beginning. Each stage of your journey comes with challenging levels of education and practical experience. CAI can be the key to your planning as the first level of achievement comes with the series of classes they make available.

The first in the initial leg of your journey and commitment to excellence is the M100 class and national test for the designation, Certified Manager of Community Associations (CMCA). With each national designation earned, aspiring community association managers set themselves apart from the average and display the ability to promote their level of expertise and skills developed to their clients.

After beginning the next stage of management classes, the M200 series, the Association Management Specialist (AMS) designation may be attained. There are six management classes in the M200 series, all jam packed with subjects that are a must for the growth and expertise needed as a true professional in our community management industry. Some may find it challenging but once committed, the rewards are endless to the community manager working toward the pinnacle of community association management, Professional Community Association Manager (PCAM). A dedicated community manager's achievements

of knowledge and experience within every aspect of financial, administrative, and facility management are a successful marketing tool preparing them for their work to reach their journey's final leg: preparing for their PCAM case study and earning of the PCAM national designation.

Five years of direct community management experience and specifics on a large scale community is a requirement, along with passing completion of all six of the M200 level courses and an active CMCA designation by CAMICB. Once you have completed all requirements, you are ready to plan for your final destination: your PCAM case study. The case study is exciting as it allows the professional community manager the opportunity to visit and be onsite at a large scale community, and with presentations by service providers, the onsite community manager, and board members. It is a 2-2 ½ day case study and with the culmination being your actual written case study based on a number of questions given by your PCAM case study facilitator and to be completed usually within thirty (30) days.

Much like the feeling you get in preparation of landing at your destination, anticipation and excitement, the feeling of pride in knowing you have built your skills to the highest levels of community management is like no other. You have landed.....PCAM, a level above all others! 🌟

THAN ANY YOU

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