THE OFFICIAL PUBLICATION OF THE NEVADA CHAPTER
OF COMMUNITY ASSOCIATIONS INSTITUTE

THE MAGAZINE FOR COMMON INTEREST COMMUNITIES

community interests

AUGUST 2019

FULL THROTTLE AHEAD

2019 LEGISLATIVE RECAP

NAVIGATING THE TURBULENCE

NEVADA CHAPTER community ASSOCIATIONS INSTITUTE

Education Calendar

DCAL MANAGER Advanced DCAL

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

Southern Nevada

August

CAI Nevada Las Vegas Luncheon
"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

September

CAI Nevada Las Vegas Luncheon
"Budgeting, the Good the Bad and the Ugly"
September 10, 2019 at 11:25 a.m. – 1:00 p.m.
Gold Coast Hotel & Casino

CAI Nevada Las Vegas Homeowner Class, DCAL
"Meetings & Elections"
September 28, 2019 at 9:00 a.m. – 12:00 p.m.
Siena

CAI Nevada Las Vegas Managers Class
"Let's Talk Money"
September 24, 2019 at 9:00 a.m. to 10:00 p.m.
Siena
C.E. 330000 – 1-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

Northern Nevada

August

CAI Nevada Northern Nevada Manager Breakfast
TBD
August 22, 2019 at 9:00 a.m.
Peppermill White Orchid

CAI Nevada Northern Nevada Homeowner Class
TBD
August 22, 2019 at 1:00 p.m.
Peppermill White Orchid

September

CAI Nevada Reno TRADE SHOW
"Legislative Update"
September 20, 2019 at 9:00 a.m.
Peppermill Resort
3 CE Law Credits

CAI collects Pop Tabs for the Ronald McDonald House and BoxTops for Education!
Bring them to CAI for donation.

FULL THROTTLE AHEAD

THE MAGAZINE FOR COMMON INTEREST COMMUNITIES

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WHAT OUR INDUSTRY IS TALKING ABOUT

WHAT HOMEOWNERS NEED TO KNOW

AUGUST 2019

in this issue:

THE OFFICIAL PUBLICATION OF NEVADA CHAPTER community ASSOCIATIONS INSTITUTE

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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.

NEVADA CHAPTER community ASSOCIATIONS INSTITUTE

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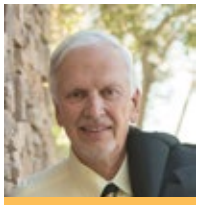
President's Message

Turbulence?



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

It feels like our world in 2019 is an uncertain one filled with turbulence. For example, Britain is leaving the EU, what will that mean? Our own federal government seems to be more intent on investigating instead of governing. No one seems to know what that will mean either. The news talks about a climate apocalypse. It seems to go on and on. Yes, we are in turbulent times!

Turbulent times reminds me of my flying days and the constant vigilant watch for the dreaded Clear Air Turbulence (CAT). During my flying days, basically, no capability existed to determine where CAT might be encountered. Once CAT was encountered, on came the seat belt sign and everyone enjoyed a free bumpy amusement park ride in the sky. Today new systems are being developed that will give CAT warnings to the pilots, thus increasing the chances that the ride will be smooth as silk. How has your ride been with our Nevada CAI Chapter? Smooth or turbulent?

Our chapter affords all members great opportunities to experience that smooth ride without using a seatbelt. CAI Nevada depends on our capable and willing volunteers to follow the directions provided by the board and staff. We have a variety of personalities making up our chapter which at times results in some real interesting committee and board meetings. This mix keeps our events current and fresh. Participation and attendance at our events so far this year has been outstanding, a testament to how well the blend of personalities of committee chairs and committee members recognize what is going on in today's turbulent times. Committee leaders need the courage to take on leadership roles and must understand the power of common sense. Otherwise, committees will not trust their leader, turbulence will take over, the committee will not survive, and nothing will get accomplished.

What do you do if turbulence takes over your committee? Don't be afraid to make hard choices to eliminate troubling non-productive committee members; be resilient; promote "esprit de corps"; build trust; stick to your beliefs; and stand by your values. Don't allow unprofessional spontaneous emotional outbursts to undermine your leadership and task at hand. Expect the unexpected and you won't be surprised if it happens.

The leadership ride may be bumpy for a while but, just like in aviation, turbulence is rarely a danger to the safety of the flight, rather more of an uncomfortable inconvenience. The same inconvenience sometimes in your role as leaders of CAI's committees.

Stay the course, get the job done, the frown will go away, and you will appreciate the smile that returns. You can do it! Fasten your seat belt, full throttle ahead.

Full throttle ahead!

Chuck Niggemeyer, DCAL

Editorial Exclamations

Another Legislative Session in the History Books

Vicki Niggemeyer, DCAL, *Community Interests* Magazine Committee Chair

Another legislative session has ended, and it was a pretty smooth ride this year with limited turbulence. Our Nevada Legislative Action Committee (LAC) and Grassroots members deserve a shout-out for their efforts during the legislative session. THANK YOU for all your efforts!

This issue is packed with articles about the past session and how it affects our associations and HOA industry. LAC members collaborated on our lead article: ***"2019 Legislative Session Is Behind Us – It's a Wrap!"*** All of the bills that were closely monitored by LAC are summarized into short readable paragraphs. I don't know about you, but I love it when the "pros" can "decode" the laws and make them easier to understand.

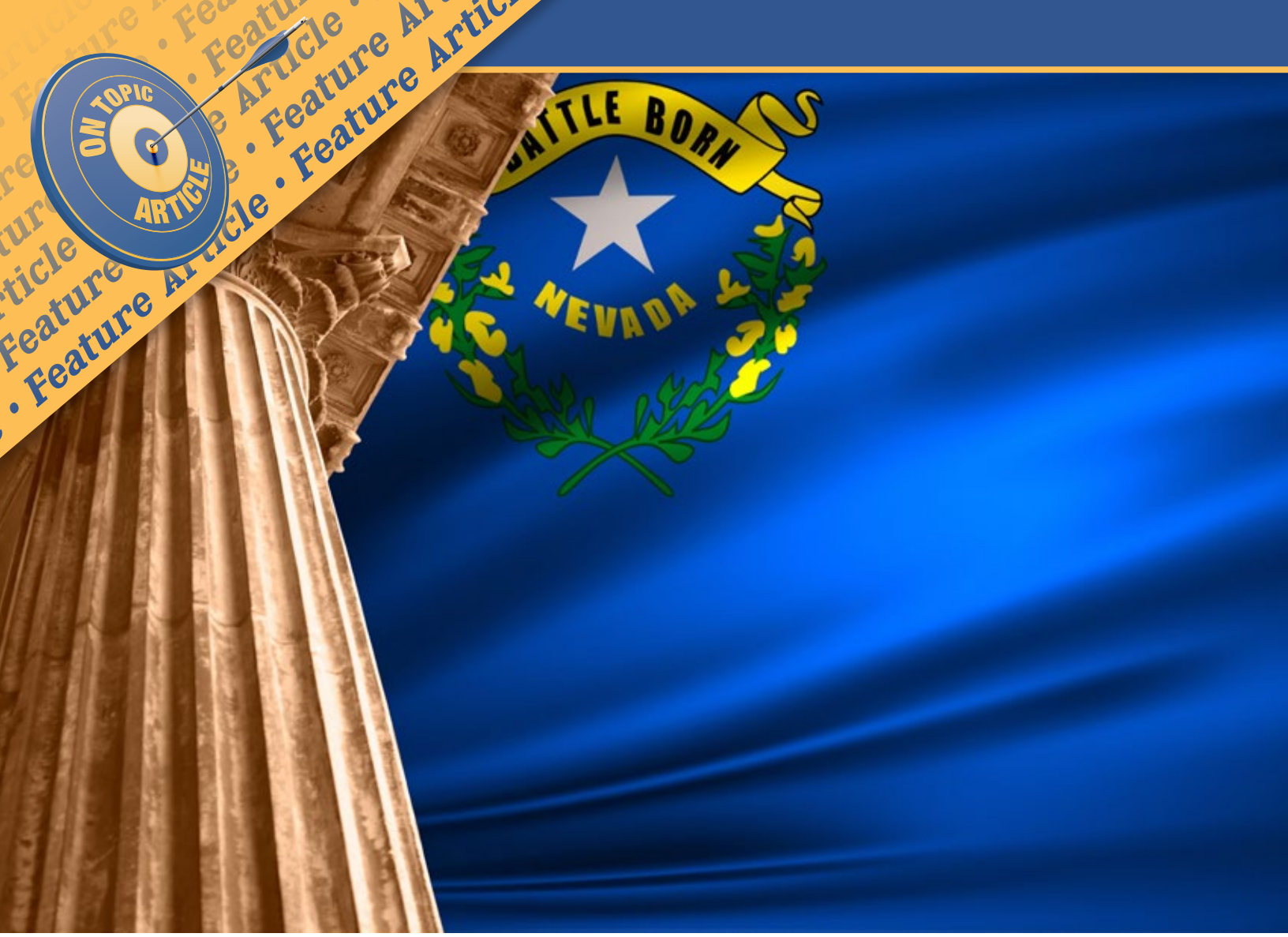
LAC and Grassroots members all fastened their seatbelts for the brief threat of turbulence as Assembly Bill 369 (super priority) was hashed out yet again! And it appears that it will most likely be back in 2021. To find out more, read Donna Zanetti's article, "***Sometimes the Most Important Bill is the One That Does Not Pass.***" Other articles range from the pet bill, to the towing bill, to resale packages.

CAI is offering three opportunities for you to learn more about this past legislative session. Please plan to attend the Las Vegas luncheon on August 13, 11:30, at the Gold Coast Casino for a preview to the primary update classes which will be held at the Northern Nevada Trade Show on September 20, 9 a.m. at the Peppermill in Reno, or the Southern Nevada Trade Show on October 11, 8 a.m. to noon.

Even though the 80th Nevada State Legislative session is behind us, the consequences demand the attention of managers and board members. Make sure YOU understand the new laws by attending one of our update events.

In the meantime … enjoy your August. School starts soon and fall is just around the corner. Those lazy days of summer are nearly over for another year!

Vicki Niggemeyer, DCAL



2019 Legislative Session Is Behind Us – It's a Wrap!

By Nevada Chapter Legislative Action Committee

The gavel dropped on Nevada's 80th Legislative session on June 3 closing another 120-days of long hours, stress, and non-stop debating for legislators. During the session, over 1,000 bills and resolutions were introduced. Nearly 700 passed.

As usual, some high-profile bills died, such as: banning the death penalty; authorizing the use of red-light cameras; physician-assisted suicide; raising the age limit for purchase of tobacco products from 18 to 21; and adding a 10 percent tax at electric vehicle charging stations.

But many other bills did pass: the clean energy bill; moving municipal elections to even-year cycles; ban on bump stocks and background check requirements for private gun sales; prohibiting parking in electric vehicle charging stations unless you are charging your car; and a law that allows proof of vehicle registration to be kept on a digital device.

Trying to keep up with all the bills, those that passed and those that did not, requires a lot of focus and scrutiny. Not everyone will be happy; but the legislative results are in, and we, as Nevadans, need to be aware of our new laws.

Brief descriptions of bills that were passed and impact HOAs are below.

Assembly Bill 31 – *Community Managers' and Reserve Specialists' Background Checks*

Assembly Bill 31 is a bill that takes existing regulations requiring community managers and reserve study preparers to apply to the Real Estate Division, and as part of the application, submit fingerprints to allow

the Federal Bureau of Investigation to conduct an investigation of an applicant's background. It also deletes provisions authorizing the Commission for Common Interest Communities and Condominium Hotels to adopt regulations requiring background investigations. This is not a new requirement, rather, an existing one moved from regulation to statute.

Assembly Bill 161 – Pets

Associations with governing documents that permit pets cannot amend those documents to prohibit an owner from keeping at least one pet and can no longer discriminate on the basis of breed.

- Developers may still create new pet-free community associations. Section 1(4) allows the original declaration (which would include all NEW developments) to prohibit pets.
- Section 5 (a) further protects an EXISTING association's right to prohibit pets if the prohibition is in the declaration as of October 1, 2019. After that date an existing association cannot amend its declaration from allowing pets to prohibiting pets.
- If an association amends its declaration or adopts a rule to restrict the number of pets an owner may keep, the owner's current pets are "grandfathered in": the association cannot require the owner to reduce the number of pets if the pets conformed to the previous restriction or rule.
- Associations may adopt reasonable restrictions on the ownership of pets by a unit's owner, such as ownership of a dangerous or vicious dog as defined in NRS 202.500.
- "Pet" means any domesticated bird, cat, dog, or aquatic animal kept within an aquarium or other animal agreed upon by the association and the unit's owner.
- AB 161 becomes effective on October 1, 2019.

Assembly Bill 335 - ***Resale Package***

Assembly Bill 335 makes a number of changes to the resale package process and the deadlines for responding to various requests made regarding the resale packages. The days as specified in NRS 116.4109 (e.g.e, ten days; three days) are now noted as referring to calendar days. Also, portions of AB 335 became effective upon the signing of the bill by the Governor and other portions become effective on January 1, 2020. The material portions of AB 335 that became effective upon signage were the following:

(a) The ten days an association has to provide the resale package information identified in NRS 116.4109(1)(a) through (f) is clarified to be ten calendar days (which would include weekends and holidays).

(b) The resale package information provided to an owner or owner's agent pursuant to NRS 116.4109(1)(a) through (f) must remain good for 90 calendar days. This means that, among other things, all charges and assessments that are anticipated or likely to come due from the selling owner and all assessments that will be levied against the selling owner or the membership in its entirety in those 90 calendar days need to be disclosed in the resale package.

(c) A copy of the Statement of Demand that is prepared after being requested by an owner, owner's agent, or holder of a security interest must be provided to all 'interested parties' which includes the unit's owner selling the unit and the prospective buyer of the unit. AB 335 does not define 'interested parties' to mean only the unit's owner selling the unit and the prospective buyer. Rather, it simply states that those two parties are interested parties for purposes of NRS 116.4109, in addition to whomever else may be considered an 'interested party.'

(d) Amendment to NRS 116.3102 by adding a new subsection 1(o) thereto, which expressly provides an association with the authority to impose a fee for the opening or closing of an owner's file (commonly referred to as a 'new owner set up' fee or other similar designation), subject to any limitations that may be in an association's declaration. That fee: (1) must be based on the actual cost the association incurs for such a service (often as charged by the management company to the association, per the terms of the management contract); (2) must not exceed $350; and (3) must not be charged to both the seller and the purchaser of the unit at issue. Moreover, the maximum amount of $350 can be increased with inflation but not more than 3 percent each year and cannot exceed the $350 limitation. Also, the 'set up' fee is also a fee that is included in the amounts that are specified as secured under an association's statutory lien pursuant to NRS 116.3116(1).

The material portions of AB 335 that will take effect on January 1, 2020, are as follows:

(a) The maximum fee that can be charged for the resale package certificate is whatever the Commission determines by regulation but cannot exceed $185, except that an additional 'rush' fee can be charged for a certificate requested to be furnished within three calendar days of the request. Such additional fee to be determined by the Commission. The maximum amount can

be increased with inflation but not more than 3 percent each year. As it stands now, NAC 116.465 already limits the resale package certificate to $160 and a 'rush' fee of no more than $125.

(b) Increases the Statement of Demand fee to $165. The maximum amount can be increased with inflation but not more than 3 percent each year.

The remaining changes in AB 335 are conforming changes that reflect the substantive changes noted above.

Assembly Bill 369 – *Super Priority Lein*
See Donna Zanetti's article, *"Sometimes the Most Important Bill is the One That Does Not Pass"* on page 16.

Assembly Bill 393 – *Prohibiting Foreclosure During a Government Shutdown*
The 35-day federal government shutdown (December 22, 2018, to January 25, 2019), the longest US government shutdown in history, brought into focus a potential moral dilemma for associations. Do we begin or continue a foreclosure when the property owner's paycheck is directly affected by the shutdown? LAC believes the collective mindset in our industry was a resounding no.

But fear not, our representatives in the federal government were there to help, and indeed took swift and decisive action. The Federal Employee Civil Relief Act, Senate Bill 72, was introduced on January 9, 2019, and a similarly named bill originating from the House of Representatives, HR 588, was introduced on January 16, 2019. Unfortunately, tragically, neither bill even made it out of committee in their respective chambers. So close.

Thus, the Nevada Legislature set out to codify into Nevada law that which was attempted and failed at the federal level. On March 21, 2019, Assemblyman Jason Frierson introduced AB 393. The bill, amended twice and supported by the CAI Legislative Action Committee, passed the Assembly on April 23 and passed the Senate on May 24, each time with unanimous, bi-partisan support. It went into effect the very day Governor Steve Sisolak signed it into law, June 8, 2019.

AB 393 generally prohibits the foreclosure of a unit in a common-interest community owned by a federal worker, tribal worker, state worker, or household member of such a worker during a government shutdown, specifically during the period commencing on the date that a shutdown begins and ending on the date that is 90 days after the date on which the shutdown ends. The law also applies to the landlord of such a worker.

The law additionally states that any person who knowingly conducts a foreclosure sale in violation of these provisions is guilty of a misdemeanor and is liable for actual damages, reasonable attorney's fees, and costs incurred by the injured party.

The foreclosure protections provided in AB 393 are similar to those in existing law that protect a service member on active duty or deployment.

Senate Bill 117 - *Discriminatory CC&Rs*
Senate Bill 117 provides provides that if any written instrument, including a declaration, contains a provision that purports to forbid or restrict a conveyance, encumbrance, sale, lease, or mortgage to any person on the basis of race, color, religion, ancestry, national origin, disability, familial status, gender, sexual orientation, or gender identity or expression is void (as opposed to voidable). Further, rather than requiring the declaration be amended, SB 117 allows an association with an offending provision to record a form provided by the NRED to declare the provisions void.

Senate Bill 212 - *Towing*
Before towing a vehicle, an operator must place a notice on the vehicle in a residential complex, the date and time, the vehicle will be towed, if the owner of the property and the tow operator have an agreement. A vehicle may be towed immediately if a notice was previously posted on the vehicle, for a similar reason, or three or more times for any reason in the last six months; even if the vehicle was previously towed. A vehicle can be towed immediately if parked in a space that is marked for a resident or a unit in a residential complex. The bill amends NRS 706.4477 which defines "residential complex" as a group of apartments, condominiums, or townhomes. It does not impact NRS 116.3102 which deals with the powers of associations to remove vehicles improperly parked, pursuant to NRS 487.038, which is the towing law for the State of Nevada. This bill does not change associations' ability to tow vehicles from areas owned or leased by the association.

Senate Bill 382 – *State Bar Real Property Bill*
With respect to community associations, Senate Bill 382 made three notable changes, which, overall, had a positive and/or neutral effect upon the community association industry.

First, it added a new provision to NRS 116 specifying that NRS 116 does not apply to non-residential associations absent an express provision in the non-residential association's declaration that NRS 116, or one of the limited portions thereof, applies. This change is not relevant to homeowners, but it will affect persons creating, purchasing, or managing non-residential associations.

Second, SB 382 clarified that unit owners are not entitled to a mailing of information (estimated legal costs, explanation of benefits and adverse consequences, and disclosures that will be required for resales) regarding a prospective legal action under NRS 116.31088(2) ten days prior to commencement or ratification of a civil action where the

owners do not have a right to vote on the action. It has been the standard in the industry that such a mailing was never required where owners were not entitled to vote on the matter and otherwise had access to the information if desired or necessary. However, due to confusion by some individuals regarding the existing language this clarification was added to the section.

Finally, and most notably, SB 382 removed changes of "use" from the unanimous approval requirement for amendments to an association's declaration under NRS 116.2117(4). Unpublished Nevada case law has indicated that the Nevada Supreme Court may consider any governing document section falling under a section titled "use" as being subject to the previous unanimous consent requirement for an amendment under NRS 116.2117(4). Now, associations may amend their governing documents without a concern that an amendment may be deemed a "use" amendment requiring unanimous approval.

Senate Bill 392 – *Ombudsman's Office*

This is a perennial bill to move the Ombudsman's office from the Real Estate Division to the Attorney General's office and has been re-appearing every session for quite a few years now. Finally, with some amendments, it has passed, and in a form that should be very helpful to the Real Estate Division and the industry as a whole.

Now, instead of moving the Ombudsman to the supervision of the AG's office, they will provide additional help to the Real Estate Division in preparing affidavits and reports. Also, the Division will hire a CPA to assist in auditing and looking into association finances where there are problems and issues.

The Director of Business and Industry is authorized to establish a task force to study issues of concern to common interest communities in Nevada, and, if appropriate, to recommend the enactment of legislation or adoption of regulations that would be beneficial to common interest communities in this state. If the task force is established, it must include members that represent the Real Estate Division, the Ombudsman's office, the Attorney General's office, and representatives of the common interest community industry.

So, a bill that we have fought very hard against for many years, was successfully turned into something positive for everyone by working together with all interested parties. All in all, this is a great success story, something we don't always have a lot of when dealing with legislation!

The above laws and their potential impact on our HOA communities were carefully monitored and addressed by our Nevada Chapter Legislative Action Committee (LAC) and our CAI Nevada Chapter lobbyist, Garrett Gordon. A few bumpy moments of turbulence threatened an otherwise smooth "ride." Thanks to quick responses from LAC members and Grassroots, we enjoyed a fairly uneventful legislative year.

Bioengineered Living Shorelines

The Newest Erosion Control Solution

By J. Wesley Allen

When development companies design community associations with lakes and stormwater ponds, they envision them as beautiful aquatic resources to attract homeowners, connect with nature, and enhance the surrounding property. Without proper management, however, these waterbodies can quickly become eye-sores that produce harmful algae and bad odors, lead to damaged and eroded shorelines, and result in displeased community members.

Most aquatic management professionals will tell you that when a property manager calls about an issue at their waterbody, it's often past the point of a quick fix. This is regularly the case when we arrive on site to look at an erosion issue on a lake or pond embankment. Rather than finding a few problematic patches of rock or soil, we discover steep, unstable banks, deep washouts, and extensive bottom muck caused by years of sedimentation.

Erosion is a natural process caused by wind, rainfall, poor design, cultural impacts like mowing and recreation, or simply an aging aquatic ecosystem. These erosion issues are all exacerbated by human disturbance. Unfortunately, erosion can also negatively affect your lake, stormwater pond, canal, or coastline by causing loss of habitat and property value, nutrient loading, reduced storage volume and waterbody depth, and excess runoff. When topsoil

is displaced, stormwater pipes and structures can be exposed and damaged. Over time, erosion can lead to the formation of trenches and gullies that pose a serious danger to the public.

There are many ways to correct erosion with rip-rap, bulkheads, and other hard armoring systems; in certain situations, they may be the preferred option. In my experience, however, a lot of them have a shorter life-span or restrictions. Fortunately, there is a new solution available for both the immediate and long-term stabilization of shorelines and hillsides.

Bioengineered living shorelines are the latest technology in erosion control. These patented woven systems offer an innovative, environmentally-friendly solution to immediately stop shoreline and embankment erosion and create a natural foundation for vegetation. The most effective systems available are designed using a combination of eco-friendly, biodegradable burlap sock-like fabric, and heavy-duty knitted mesh. The socks can be filled with local pond muck and sediment, which is why many property managers choose to pair this solution with proactive hydro-raking projects. After the woven mesh systems are filled, they are then secured to the embankment and can be immediately sodded, planted with native beneficial buffer plants, or seeded through the mesh and fabric layers.

As an environmental scientist, I've utilized several different shoreline restoration techniques over the years, but this

innovative system is certainly creating some excitement! It provides immediate stabilization while effectively filtering and buffering run-off water, removing harmful contaminants, and benefiting waterways and water quality, all the while providing a seamless planting platform and long-lasting erosion control. Restored banks and hillsides can be walked on within just a few days, making bioengineered shorelines a fast, aesthetically-pleasing and long-lasting solution for most properties.

Depending on your waterbody and specific erosion issues, goals and budget, your lake management professional may recommend other natural restoration tools. Lakes and ponds that experience heavy water movement may be suitable candidates for erosion control using logs comprised of coconut fibers. Installed in areas with direct water flow, these biodegradable logs can help redirect water movement while reducing erosion along delicate banks. Coconut "coir" logs are biodegradable, compact, and excellent solutions for properties in need of a truly custom erosion control approach.

Just like lawn care, the management of lake and stormwater ponds is an ongoing commitment that requires different approaches throughout the year. While no two bodies of water are the same, each and every aquatic ecosystem is susceptible to shoreline erosion and can benefit from custom management plans that integrate buffer management and nutrient remediation, as well as other sustainable tools like hydro-raking, aeration, biological augmentation, and regular water quality testing. Whether your waterbody is in its prime or has seen better days, contact your lake management professional to restore and prolong your water resources—starting with the shoreline.

J. Wesley Allen, Environmental Scientist and Regional Manager at SOLitude Lake Management

Book Review

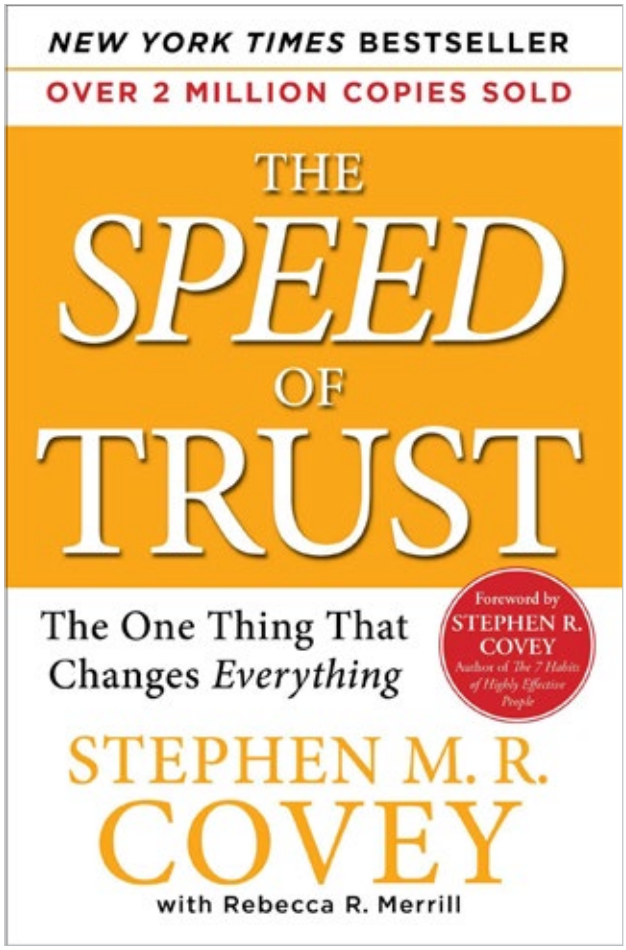
The Speed of Trust, Written by Stephen M. R. Covey

By Vicki Niggemeyer

Trust. Everything in life is built upon trust: personal relationships, leadership roles, business associates, friendships.

In *The Speed of Trust*, *The One Thing That Changes Everything*, Stephen Covey has articulated the value of trust that is essential to the success of any kind of relationship.

In the forward of the book, Covey states: "Trust impacts us 24/7, 365 days a year. It undergirds and affects the quality of every relationship, every communication, every work project, every business venture, every effort in which we are engaged. … Contrary to what most people believe, trust is not some soft, illusive quality that you either have or you don't; rather trust is a pragmatic, tangible, actionable asset that you can create – much faster than you probably think possible."



In the five chapters of this book, Covey identifies four core principles of credibility and 13 specific behaviors that dramatically affect trust. The four core principles of credibility are: integrity, intent, capabilities, and results. The thirteen beneficial behaviors are: talk straight, demonstrate respect, create transparency, right wrongs, show loyalty, deliver results, get better, confront reality, clarify expectations, practice accountability, listen first, keep commitments, and extend trust.

Throughout the book, Covey provides examples from his own life, insights on how to improve your own trust skill set, and a revelatory questionnaire that will lead you into an assessment of your own trust levels. Covey offers plenty of advice for strengthening trust in all aspects of your life.

Are any of us perfect? Of course not. Can we all do a better job of interfacing with our bosses, our fellow board members, our spouses/significant others? Of course we can! Whether you are a business partner, manager, homeowner, or trying to improve upon a personal relationship, this book can help you learn how to interact with others in ways that increase trust and avoid interacting in ways that destroy it.

Stephen M.R. Covey shows how trust—and the speed at which it is established with clients and, employees—is essential to a successful organization. With nearly 750,000 copies in print, this instant classic shows that establishing trust is "the one thing that changes everything" (Marcus Buckingham, coauthor of *Now, Discover Your Strengths*) in both business and life.

Trust, says Covey, is the very basis of the new global economy, and he shows how trust—and the speed at which it is established with clients, employees, and constituents — is the essential ingredient for any high-performance, successful organization.

Improving life skills should be a perpetual quest. As Stephen Covey says: "Unless you're continually improving your skills, you're quickly becoming irrelevant."

Vicki Niggemeyer, DCAL, *Community Interests* Magazine Committee Chair

Advanced DCAL Class Gallery

Visit our Facebook page for more photos! Search **CAI Nevada.**

Lively discussions regarding ethical dilemmas in our HOAs brought a variety of thought provoking recommendations from members of the Advanced DCAL class.

Gaining Altitude

LSM – Large Scale Manager

By Ryan Bossman CMCA

Ryan Bossman, CMCA, Epic Association Management

The specialist designation. Those who have been in the industry for a while will inevitably grow their careers through their continued education and experiences. After your PCAM designation, you will have a unique opportunity to earn the Large-Scale Manager (LSM) designation.

Seen as a specialized designation, the LSM will allow PCAMs to take their knowledge and experiences and apply them to large-scale associations that have more than 1,000 units or 1,000 acres, provides municipal-type services, and has an annual budget of at least $2 million. Communities of these sizes have unique requirements to run efficiently and the LSM designation will ensure that you have all the knowledge and experience to successfully manage these demands.

Eligibility for the LSM designation requires specific educational qualifications and experiences, which is only available to experienced large-scale managers who hold an active PCAM designation.

An LSM candidate must have a minimum of ten years of community association management experience, or five years of community association management and five years of municipal management experience, or a comparable position of responsibility at the executive level. Candidates could also hold a master's degree in Public/Business/Parks & Recreation Administration.

Candidates must currently be a professional large-scale manager for at least five years and be responsible for the day-to-day operations of a large-scale community association. Candidates must attend one Large-Scale Managers Workshop or complete the Community Associations Institute's (CAI's) M-340 course. The workshops are hosted by at least one large-scale community and give the participants opportunities to tour the properties and attend education sessions. The M-340 course delves further into the management aspects of large-scale communities, the relationships between large-scale associations and municipalities, the relationships between master associations and sub-associations, and the differences between open, commercial, and residential properties.

Your education, participation, and experiences within the industry are all assigned point values and those points qualify you to earn and maintain the designations we've discussed in the previous articles. LSM candidates must earn a total of 135 points before they can submit the LSM application to qualify for the designation. Please visit CAI's website for further information on the point system and application fees.

Once you've earned the LSM designation you must continue with your education and service activities. Along with an annual fee, you must maintain your PCAM designation. You must also attain at least 75 points within a three-year re-designation period, which must include attending at least two of the events, the CAI Large-Scale Manager's Workshop or the CAI Annual Conference (National). You can be exempt from these events if you are a Managing Host/Co-Host for the CAI Large-Scale Managers Workshop (within the past six years).

The LSM designation is arguably one of the most demanding designations but it is also one of the most respected. It demonstrates true dedication to a unique aspect of community association management that doesn't go unrecognized.

Sometimes the Most Important Bill Is the One That Does Not Pass!

By Donna Zanetti, Esq.

Sometimes the most important bill in a legislative session is the one that does not pass. This was the case with AB 369, a bill sponsored by Las Vegas Assemblywoman Sandra Jauregui and supported by Legal Aid. As originally proposed, AB 369 eliminated the super priority lien, which is the statutory provision that allows an association to recover up to nine months of assessments when a lender forecloses. In fact, the bill eliminated an association's ability to foreclose its lien at all. Instead of judicial or non-judicial foreclosure, an association would only be able to pursue its claim to past due assessments in small claims court, where it could obtain a money judgment. A money judgment is nothing more than a piece of paper. To collect, an association must spend more money to locate and execute on the debtor's assets.

While an association is not required to have an attorney represent it in small claims court, NRS 73.012 provides that a corporate entity, like a community association, may be represented by its "director, officer or employee." Since most associations do not have "employees," this bill would have required volunteer board members to take time from their paying jobs to prosecute these claims for delinquent assessments. Alternatively, the association could pay its attorney for the work, a cost which it cannot recover from the delinquent owner because attorney's fees are not allowable in a small claims action. See NRS 73.040.

In theory, association assessment claims would get an expedited hearing in small claims court, but the bill proposed no new justices of the peace to hear these cases. To add

insult to injury, in small claims court, the prevailing party (likely the association) is required to deposit the amount assessed as court costs with the court before the court will enter final judgment. See NRS 73.030(2). Presumably, the association could recover this amount from the delinquent owner once the association locates and sells his or her assets to satisfy its judgment.

The next iteration of AB 369 restored an association's right to the super priority lien but would have kept an association from foreclosing until the owner was delinquent on at least 12 months' worth of assessments at the time the association recorded the notice of sale. Keep in mind that most lenders pay the nine-month super priority lien when they receive a copy of the notice of default in order to protect their priority position in the event of an HOA foreclosure. Given this reality, it would take literally years for the delinquent to accrue 12 months of unpaid assessments when each year the lender would pay off nine months of what was owed.

Assemblywoman Jauregui proposed several conceptual amendments in an attempt to garner support for the bill including adding a provision that would have required an association to open the bidding at an HOA foreclosure sale at 60 percent of fair market value, no matter what the association itself was owed, and to remit any "profit" an association made on an HOA-owned unit to the Nevada Real Estate Division.

Thanks to our lobbyist and the efforts of LAC's Grassroots supporters, AB 369 did not pass out of the Assembly. However, Assemblywoman Jauregui vowed to work on it during the interim in the belief that, with more time, she can mobilize the support she needs to get to the root of the problem.

Throughout this legislative process, LAC was unable to identify "a problem" unless one believes that community associations should be involuntary creditors and further burden those owners who do pay their assessments and play by the rules in favor of those who cannot or will not.

Donna Zanetti, Esq., Leach Kern Gruchow Anderson and Song

SB 212 Makes Towing in CICs Easier

By Eden Kearns and Kim Rushton, Esq.

Let's be honest, no one likes to have their car towed. It's inconvenient and costly. However, it's equally frustrating to a resident living in a common interest community (CIC) to find another car parked in their assigned spot, or when a person uses a handicap space without a permit, or leaves their vehicle in a red zone hindering the necessary access emergency vehicles need. The 2019 Nevada Legislature understands and has responded by passing Senate Bill 212 making it easier for residential communities to have cars removed for parking illegally inside a CIC.

Most of us are aware that part of living in a CIC is the requirement that homeowners and guests abide by rules and restrictions intended to protect the "community" and preserve its aesthetics. Doing so helps owners maintain the property value in their communities. These rules, commonly referred to as CC&Rs (covenants, conditions, and restrictions), restrict the usage and enjoyment of real property. A staple of all CC&Rs is parking guidelines – where you can park, where you can't, and when your car will be towed.

Under Nevada law, there are two types of legal tows: consent and non-consent[1]. Anytime a car is towed from a residential community without the owner's permission it's deemed to be a non-consent tow. To protect car owners, the law requires a CIC's homeowners association (HOA) to give notice of the possible tow. The notice may be in the form of a vehicle sticker affixed to the car advising the owner that it may be towed if, after 48 hours, the violation is not cured[2]. However, more serious parking violations, which will be discussed in further detail below, could subject a vehicle to being towed "immediately."

Recognizing that Nevada law requires both the HOA and a tow operator to provide notice to car owners prior to and after a vehicle is towed from a CIC, most HOAs have a designated tow operator authorized to perform tows inside the community, as well as a separate agent authorized to place notice tags (otherwise referred to as a "vehicle sticker") on cars parked in violation of the CC&Rs or lacking proper registration. In their contracts, among other terms and conditions, an HOA will specify for the tow operator which parking violations will result in a 48-hour notice and subsequent tow and the individual authorized to request tows. Thereafter, consistent with Nevada law[3], the HOA

will post signage in conspicuous places notifying residents and guests that their vehicles are subject to tow[4].

The 48-hour notice tag - which must specify the violation, the date, and the time after which the vehicle will be towed - often serves as sufficient warning and the subject vehicle is voluntarily moved. However, a vehicle may be towed immediately if it is:

- blocking a fire hydrate, fire lane, or parking spaced designated for the handicapped;
- posing an immediate threat of causing a substantial adverse effect on the health and safety of the residents;
- parked in another resident's designated space; or
- previously had a notice tag affixed to it in the same residential complex, on three or more occasions within a six-month period, or had a notice tag affixed to it in the same residential complex for the same or similar violations, regardless of the amount of time between the affixing of the tags. **Under the new law, which became effective July 1, 2019**, the immediate tow can occur regardless of whether the vehicle was subsequently towed[5].

Succinctly stated, whether you're a resident of a CIC or visiting one, you're now on notice. With the passage of Senate Bill 212, ***three strikes and your car is (towed) out!***

The law no longer allows chronic violators to continue bad parking practices inside a CIC. Without question, residents of a CIC are expected to adhere to their CC&Rs and be good citizens by respecting the importance of not blocking a fire hydrant or intentionally using a handicap space without an authorized permit.

For those of you who still need clarification - violators beware! Starting this summer, your failure to follow a CIC's parking guidelines is going to cost you time and money - and let's be honest, no one likes to have their car towed.

Eden Kearns, QUIK TOW

Kim Rushton, Esq., Cooper Levinson, former chairman of the Nevada Transportation Board

[1] See, NRS 706.166.
[2] Nevada law gives residents of a CIC up to 60 days to renewal their vehicle registration before being subject to a 48-hour notice to tow. NRS 706.4477(2)(b)(3)(I)(II).
[3] NRS 706.4477(1)(b).
[4] It's also advisable for HOAs to regularly remind residents about CIC parking guidelines. This can be done through HOA newsletters, billing statements, or emails.
[5] NRS 706.4477(2)(b)(4)(I)(II); SB 212, 2019 Nevada Legislature.

Go Ahead, Walk All Over Me!

But not really!

By Melissa Ramsey, CMCA, AMS, PCAM

At CAI's National Conference this year, the PCAMs were celebrated with bubbles on the floor leading to a large board to sign. With several of us from Nevada, we joked that it was everyone's opportunity to walk on us. Unfortunately, in this industry, it often feels this way as a manager. The demands of owners, residents, boards, vendors, and even the employer can leave us feeling overwhelmed and possibly even under appreciated. Long days, unrealistic expectations, and of course the undesirable interactions that lead to threats, cursing, and harassment are becoming more of the norm.

But it should NOT be this way! Community associations are advanced enough to recognize the professional nature of the industry and treat the managers with the appropriate level of respect. This should be a desirable field to pursue with people looking to grow and achieve success both locally and nationally. Companies, as well as CAI, should be able to recruit candidates out of college to join the ranks of this industry as many fields of study are relevant to the daily tasks we do. Whether it's business or journalism to math or social work, the qualities learned are beneficial to the work being done for associations. What board wouldn't be excited about a professional managing them who brings a superior level of service and organization?

Well, this is something to consider. Boards often comment on manager turnover experienced in this industry which will happen if people are being treated poorly and not viewed as a true professional. Instead, we all need to work together to elevate the perception of associations, especially in Nevada! We need

to create an environment of respect and professionalism between managers, board members, and owners. Additionally, it needs to be understood that 'you get what you pay for.' Although boards are mindful of their budgets, you cannot expect someone to work for less than a McDonald's employee, especially not for long. As an industry, we need to adequately compensate for the level of professional desired.

At the end of the day, having a bubble of yourself on the floor should truly be a celebration of the hard work someone has put into their career.

Melissa Ramsey, CMCA, AMS, PCAM,
Vice-President Community & Lifestyle Services for FirstService Residential

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A Drink or a Dram?

Is the HOA Responsible?

By Michael McKelleb, Esq.

When was the last time you visited a dram shop? A dram (drahm or drachm) is a unit of measure English apothecaries used in the 1700s; it is about the same as an eighth of a fluid ounce. Considered a favorable measure because it was roughly equivalent to the common English spoon, English Pubs sold gin by the spoonful, or dram, causing the word "dram" to become synonymous with a small drink. Hence some patrons might be heard asking for a "wee dram to ward off the winter chill." Because of this, English pubs became known as dram shops, meaning if you watched the Blues beat the Bruins in game seven at your local bar or pub – and we don't know why you would, it should have been the Knights – then that was the last time you visited a dram shop.

Many associations across the country host parties to foster a sense of community within the association. Hosting an event often prompts boards of directors to wonder whether they can serve alcohol at the event. The answer, perhaps unsurprisingly, is cautionary.

The courts refer to laws that allow injured victims to sue those who served alcohol to a person that subsequently caused them injury as dram shop or social host liability laws. Social host liability is a category of laws related to serving alcohol in a private setting, such as in a home. Dram shop laws then, refer to commercially serving alcohol, such as at a bar. The settings where alcohol is served are categorized differently because some states do not impose liability on social hosts but do on dram shops. For example, California Civil Code § 1714(c) states:

> No social host who furnishes alcoholic beverages to any person shall be held legally accountable for damages suffered by such person, or for injury to the person or

property of, or death of, any third person, resulting from the consumption of such beverages.

In Nevada, however, the laws are the same:

> A person who serves, sells or otherwise furnishes an alcoholic beverage to another person who is 21 years of age or older is not liable in a civil action for any damages caused by the person to whom the alcoholic beverage was served, sold or furnished as a result of the consumption of the alcoholic beverage. (NRS 41.1305(1))

As you can see, NRS 41.1305(1) places the onus squarely on the drinker to drink responsibly or find an alternative route home other than driving, while absolving the purveyor of all liability. Indeed, the Nevada Supreme Court summarized NRS 41.1305 by stating, "Nevada subscribes to the rationale underlying the nonliability principle—that individuals, drunk or sober, are responsible for their torts." Rodriguez v. Primadonna Co., LLC, 125 Nev. 578, 585 (2009).

This might give the impression that serving alcohol has little risk. However, there is one exception that applies to social hosts, such as an association – serving alcohol to minors! Knowingly serving, selling, furnishing, or allowing a minor to consume alcohol on association premises will make the association liable for any subsequent injuries the minor causes. As you can guess, whether such was done knowingly – such as when a fake I.D. is used or when an I.D. was never checked – is an expensive and arduous legal fight when the association is ultimately successful and could result in financial disaster if the association is not. Thus, serving alcohol is inherently risky.

Accordingly, if an association wishes to serve alcohol at an association event, it should consider disclosing the proposed event to its insurance broker, purchasing an event-specific insurance policy, and hiring a vendor to serve the alcohol. Further, the contract with the vendor serving the alcohol should require the vendor to indemnify the association, including any costs for defense and damages.

Michael W. McKelleb, Esq., McKelleb Carpenter Hazlewood

Pets in a Common-Interest Community — Assembly Bill 161

By Ryan W. Reed, Esq.

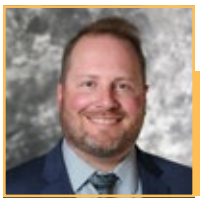
A common interest community refers to real estate to "which a person, by virtue of the person's ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance or improvement of, and other expenses related to common elements" of a community. *See* Nevada Revised Statutes (NRS) 116.021 (definition of common interest community). By purchasing a property in a common interest community, the purchaser is agreeing to restrictions on how they can use their property. As common interest communities have increased in popularity within Nevada, issues surrounding pets and pet restrictions within common interest communities have likewise increased. See Community Association Institute, Community Association Fact Book 2014, p. 7 (2014) (CAI estimates the number of U.S. community associations in 2015 was between 336,000 and 338,000. CAI estimates that the number of U.S. community associations in 1970 was 10,000.)

Assembly Bill (AB) 161 (2019) provides some guidance as to the "dos" and "don'ts" of pet-related restrictions within common interest communities. The term "pet" is defined within the bill as "any domesticated bird, cat, dog, or aquatic animal kept within an aquarium or other animal as agreed upon by the association and the unit's owner." This expansive definition of the term "pet" highlights that this bill is intended to apply to virtually any animal so long as it has been agreed upon between the association and unit owner. Some of the highlights of the bill are as follows:

- If your existing governing documents allow you to have a pet, the governing documents cannot be amended to prevent you from keeping an existing pet. This means existing pets are "grandfathered in."
- A declarant can create a pet-free common interest community; however, such use restrictions must be set forth in the original declaration of the community.[1]
- A common interest community can still have reasonable rules pertaining to pets, but it cannot prohibit a pet simply because of its breed. For example, a rule that prohibits pit-bulls would be unenforceable.

- However, a common interest community can still prohibit a pet based on that pet's dangerous or vicious behavior. *See* NRS 202.500.

In sum, AB 161 recognizes that common interest communities and pets co-exist. Under this bill, reasonable rules governing pet restrictions will continue to be valid and enforceable but anti-breed discrimination provisions, or efforts to amend governing documents to eliminate or prevent a person from keeping an existing pet, will not be enforceable.



Ryan W. Reed, Esq., Partner, Leach Kern Gruchow Anderson Song

"The term "pet" is defined within the bill as "any domesticated bird, cat, dog, or aquatic animal kept within an aquarium or other animal as agreed upon by the association and the unit's owner."

[1] Keep in mind that this proposed legislation is necessarily impacted by, and in some cases subject to, a number of Federal and state laws, including the Fair Housing Act and the Americans with Disabilities Act, along with their state and local counterparts.

Grassroots 2019 Legislative Voice — COMMITTED to The End

By Chuck Niggemeyer, DCAL

The title says it all. The 2019 CAI Grassroots community maintained a committed campaign and continual watchful eye on the Nevada Legislative process until the Legislature adjourned on June 3, 2019.

Everyone's participation throughout this legislative period proved you were totally committed. The collaborative effect of your efforts, making your voices heard in Carson City, occurred during the timeframe of April 10 -23. Assembly Bill 369, a piece of bad HOA legislation, introduced originally to eliminate the super priority lien and non-judicial foreclosures, was front and center in the Assembly. Grassroots, in close coordination with CAI's outstanding lobbyist, Garrett Gordon, sprang into action and exercised our collective "voter voice." Grassroots testified, sent emails/texts, and phone messages to the bill sponsor(s) and each specific Assembly person explaining just how devastating AB 369 would be to homeowners. Our voices were heard, the bill was never introduced for a vote. That, my fellow Grassroots members, was total commitment!

Grassroots sent out over 8400 emails during the 2019 Nevada Legislative Session. Timely updates were provided from LAC and sent to the Grassroots community. When you were called to action you responded. Pat yourselves on the back, you deserve it.

Word of caution is appropriate, don't let down your guard. The 2021 Nevada Legislative session will be here in the blink of an eye. Please continue to spread the word about Grassroots to your neighbors and friends asking them to join Grassroots and have a voice in Carson City.

GRASSROOTS: YOUR CHALLENGE: Recruit and sign up at least one new Grassroots member so we can double our membership and be ready for 2021. THANK YOU to everyone in Grassroots.

Chuck Niggemeyer, DCAL, LAC Vice-Chair, NV Chapter BOD President, Sage Hills BOD President, CICCH Commissioner

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9:00 a.m. to Noon ..... Brand new legislative update, 3 hours law CE credit, learn about decisions affecting the HOA industry from the recent legislative session. *Guest panel, Adam Clarkson, Esq., Gayle Kern, Esq., Greg Kerr, Esq., Michael McKelleb, Esq.*

Noon to 2:00 p.m. ..... Buffet lunch, trade show and raffle.

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Friday October 11th

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- 8am Meet the LAC, *Garrett Gordon, Esq. LAC lobbyist*
- 9:00 a.m. to Noon.....Brand new legislative update, 3 hours law CE credit, learn about decisions affecting the HOA industry from the recent legislative session. *Guest panel, Adam Clarkson, Esq., Cheri Hauer, Esq. , Greg Kerr, Esq., Michael McKelleb, Esq.*
- Lunch will be served for seminar attendees.
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