

Channels of Communication

Serving Ventura, Santa Barbara, San Luis Obispo and Kern Counties

THIRD QUARTER 2018

The Official Publication of
CHANNEL ISLANDS CHAPTER
community
ASSOCIATIONS INSTITUTE

It Takes A Community

IN THIS ISSUE...

It Takes A Community

Best Practices: Committees Help
Your Board Do More With Less

Committees: A Manager's Friend or Foe?

Ask the Expert

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president's message



Tracy R. Neal, Esq.
Beaumont Tashjian



Dear Members,

First, I want to thank you for allowing me to serve this wonderful organization. Being a member of the Channel Islands Chapter has given me the opportunity to meet so many wonderful people and build relationships. The support of this organization has provided me with many opportunities for personal and professional growth in efforts to achieve stated goal to “cultivate communities”.

We have a busy remainder of the year ahead of us. As we approach the last months of 2018, you may be finalizing budgets for associations having a calendar year end. We thank you for making CAI membership a part of your annual budget and we thank those associations and companies that make an annual contribution to our California Legislative Action Committee (CLAC) as part of your annual budget. Your continued support is appreciated. I challenge you to find ways to encourage further support for and from our membership. This chapter serves as the backbone of support for the many challenges faced through the year.

As you know, legislation has been active in 2018 with new legislation being introduced throughout the year. I am happy to announce that most recently; Governor Jerry Brown vetoed Senate Bills 1128 and 1265, respectively. With these vetoes, we are continuing to protect local control over association elections and the privacy of those participating in the elections. Perhaps, Governor Brown, himself, recognizes that a “one size fits all” approach does not work for varied and diverse community associations throughout California. Having said this, thank you to our many Chapter members and members throughout California who sent a message to the Governor that these bills were not needed and would negatively impact community associations. Please know that our Chapter grassroots efforts are with purpose and we are able to send a loud and clear message to Sacramento, as members of CAI and California constituents. I would like to take this opportunity to remind us all that we need to continue to call and write to our legislators and support CLAC initiatives and efforts when we are called to action.

SAVE THESE DATES:

October 19 - CAI Legal Forum, Temecula, CA.

October 30 - Fall Community Faire, Westlake Village, CA.

November 13 – Channel Islands Chapter Annual Legislative Luncheon, Thousand Oaks, CA

Please save the date for our Chapter’s Annual Legislative Update Luncheon scheduled for Tuesday, November 13, 11:30 am at Los Robles Greens in Thousand Oaks.

In addition, we hope you will join us for our Spooktacular Community Faire on Tuesday, October 30 at The Westlake Village Inn. This event is an opportunity to network with over (50) business partner exhibitors specializing in providing services to the CID industry, as well as, to attend the legal Q&A session, educational dinner program titled “It’s A Scary World”, and opportunities to win great prizes and more! This event usually sells out so make sure to register early by going to www.cai-channelislands.org.

Please continue to maximize your membership by attending local, regional, and national chapter events. Please visit the Chapter’s website (www.cai-channelislands.org) as it is a valuable source of information on the Chapter and Chapter events.

Again, thank you for the opportunity to serve as your 2018 Chapter President.

Sincerely,

Tracy R. Neal

Tracy R. Neal, Esq.
CAI-Channel Islands Chapter President

In 2018, it seems we all want and need everything to be completed instantaneously. With these wants and needs, it may take what many call a “village” or in our case, a “community” to complete the tasks at hand. Homeowner association board members and community managers are not the only individuals who can help the community tackle these tasks. Many association board of directors seek the help of volunteers in the community to form committees. Committees can be an invaluable resource to the board, but before a committee is formed, the board will have to identify the needs of the community to ensure the proper committees are created and a call for volunteers can be sent to the membership.

There are many ways to notify the community that there is a need for help, whether it is in an email to the membership, a posting on the website, an announcement in the monthly billing statements and newsletters or as an agenda item. Many committee volunteers are homeowners who have either ran for a board or have considered running for the board. Once a homeowner volunteers for a committee, there is a good chance they will run for the board and their service on the committee will help give them an idea of what they could expect, but more importantly committees offer community members an opportunity to get involved and give back. Committees are a very important part of a homeowners association, and as a board member, it is imperative to understand the ins and outs of this process. With that, one might ask themselves where do we start?

Starting a committee doesn’t have to be a daunting task, much like creating rules and regulations, committees are only effective if there is a clear purpose and structure put in place for the committee members to follow. According to most associations governing documents, committees are appointed by the board and report directly to the board of directors. Most times, committees are useful for gathering information, making policy recommendations or suggesting solutions to outstanding problems that the community might be facing.

Starting with a good structure is key and you can accomplish this by creating a committee charter. A committee charter is established by the board and the charter will put in place parameters for the committee to follow to help them function effectively. Similar to association’s rules and regulations, the charter should define the following items:

- **Purpose:** A committee should only be established for one of two reasons; either the governing documents are requiring the formation of the committee or there is a project/problem that needs to be addressed, which the board cannot accomplish solely on their own efforts. The

IT TAKES A



committee needs to understand their scope of authority, which may simply be providing a recommendation based on gathered information or working on a project and seeing it through to the end of the specific task.

- **Product:** This can be tricky. Is the board providing the committee with the authority to make decisions and report back to the board based on those decisions, or is the committee only to be reviewing items, creating suggestions and then reporting to the board with proposals based on their recommendations.
- **Timelines:** This is crucial! You will want to determine what kind of committee needs to be created for the task at hand. Is the committee a standing committee or an ad hoc committee with a specific deadline of a 1-year term? It is important that these time frames are clearly spelled out within the charter to be sure that the committee members understand their volunteered timeframe, what is being asked of them, and when the task needs to be completed by.
- **Financial Restrictions:** If the committee will be making decisions and approving items on behalf of the board, be sure to allocate the amount of money that is available to the committee to spend. It is typically recommended this be a monthly spending limit and the amount spent should be included each month in the report from the committee to the board so there is a report within the meeting minutes of what was spent and how. If your committee is given spending authority, it may be wise to appoint a board member liaison to the committee so ensure they are spending within their authority. If the committee is not



By Sabrina French, CMCA, AMS
PMP Management AAMC

approved to spend money, this also needs to be set forth within the charter. But before you assign a committee spending authority, make sure you consult with your legal counsel and check your governing documents to ensure you are not in breach of your fiduciary duties.

- **Reports:** The reporting should be included within the charter and determined on how frequent the reports will be provided to the board and what the report should include.

There are many types of committees an association might have the need for. The most common I have seen in associations are: HOA communication/newsletter, architectural, landscape, social, and parking. While this is the most common I have seen, this is by no means a complete list. I would recommend that the board review their CC&R's to determine if any of these committees are required by their specific governing documents. Once the board of directors finds the need or requirement for the committee, it is time to seek volunteers to help! This is a process. Many times, it is a struggle to find volunteers to serve on the board, let alone a committee. It is important to keep an eye out for homeowners who are at meetings, events or have concerns with the community. Keep lines of communication open and look for homeowners who have talents that can be used to assist with the specific committee needs.

Once you have your volunteers and a committee is created, the board must assign responsibilities to the committee and you will typically see the following positions:

- **Committee Chair:** Committee chairs are appointed by the board and once appointed they cannot be changed by the committee itself. To change the committee chair, the committee would need to apply to the board for a new appointment. A board of director may serve as a committee chair if the governing documents allow for it. The committee chair will be responsible for the meeting guidelines, setting the agenda and being sure it is sent to the other committee members.
- **Committee Secretary:** The committee secretary would be responsible for the meeting minutes and sending these reports to the board or managing agent of the community to update the community of the work that is being done by the committee.
- **Other Members:** The other members on the committee would also be responsible for maintaining the timelines and setting goals. The committee chair can also delegate other responsibilities to these members.

It is important that when creating these committees, it is discussed and placed within the general session meeting minutes. After the minutes have been created, it is a good practice to submit a copy of these meeting minutes to the association insurance company, this will ensure that the insurance is aware of who is volunteering on behalf of the association. Remember, when properly formed, committees can be a great attribute to the association and help not only the board of directors, but management save time and even money for the association. ⬆

Sabrina French has been in community management for 10 years and working with Property Management Professionals, LLC since September 2013. In addition to managing a portfolio of communities, including condominium associations, and master planned developments, Sabrina is responsible for mentoring newcomers to the industry, business development and attending CAI events.



Sabrina currently holds her CMCA and AMS designations and is in the process of obtaining her PCAM Designation. She also volunteers her time on two committees for the CAI-Channel Islands Chapter and is running for a position on the 2018 CAI-Channel Islands Board of Directors.



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Best Practices: Committees Help Your Board Do More With Less

By James E. Perero and Kelton Lee Gibson

Attorneys at Law, Myers, Widders, Gibson, Jones & Feingold, LLP

Effective committees solve a number of problems. They are an important part of a board's toolkit for accomplishing the work of an association. But committees are not a panacea. Poorly organized or supervised committees can cause more

problems than they solve. This article discusses common committee types, basic legal principles, and practical tips to help your association make the best use of committees.

approve or deny construction requests from owners. In the absence of a designated ARC, the CC&Rs typically provide for the board to serve the same function. Owners who believe the ARC has improperly denied a request have the option to appeal the decision to the

ment often results in the imposition of discipline or monetary penalties. If handled improperly, enforcement activities can cause unnecessary discord and non-compliance with the Davis-Stirling Act or other laws. (E.g. Civil Code § 5855 and various state or federal anti-discrimination statutes.) Such duties are best reserved for the full board, in consultation with management and legal counsel. A committee addressing neighborhood safety should do so only in an advisory capacity. A security patrol of any kind should be left to law enforcement professionals, meaning police or a private security service. Owner-involved patrols can lead vigilantism. An association exposes itself to substantial risk if a committee member perceives that he or she has the authority to confront potential law-breakers on behalf of the association.

Although the Corporations Code authorizes a board of directors to form committees comprised entirely of directors, this is rarely necessary or advisable. An exception would be in the event a director has a conflict of interest with the association, say for instance, if a director named the association in a lawsuit.

Forming Committees

Committees are almost always formed pursuant to board resolution. Committee members are appointed by and serve at the pleasure of the board. By the same token, committees may be dissolved or its members removed by the board without cause or notice.

Committees can be formed on an ad hoc or continuing basis. Ad hoc committees have a specific duration.



board, assuming it was not the board that denied the request in the first instance. (Civil Code § 4765(a)(5).)

Many election rules provide for a nominating committee to identify and recruit candidates for the board.

Committees to Avoid

Committees formed to address rule enforcement or neighborhood safety raise liability concerns and are discouraged. Both areas can involve emotionally charged conflicts. Rule enforce-

Common Committees

The most common committees are an architectural review committee and a nominating committee.

CC&Rs frequently require an architectural review committee ("ARC") tasked with the responsibility to

For example, an ad hoc committee might be tasked with preparing a draft budget for the upcoming fiscal year or for nominating board candidates. Standing committees carry out their function on an ongoing basis. An example would be a finance committee responsible for regular review of financial matters. Another example might be an agenda committee, serving to prepare board meeting agendas where discussion of such items by all board members (e.g. via email) could violate the Open Meeting Act. (E.g. Civil Code § 4910(b).)

The board may delegate to a committee (including one with non-directors) the management of the activities of the association. (Corp. Code § 7210.) However, the committee's management of association affairs and activities and its exercise of any corporate power must occur under the ultimate direction of the board. (Id.) Additionally, no committee may adopt any provision which exceeds the authority delegated to the committee by the CC&Rs.

Be careful if a committee has enough board members on it to constitute a quorum of the board. The meeting of any such committee will constitute a "board meeting" governed by the Open Meeting Act. (See Civil Code §§ 4090, 4900, et seq.) Such meetings require proper notice, are open to association members, and must follow the agenda included with the meeting notice. (Civil Code §§ 4920, 4925, 4930.) Boards with (for example) five members avoid this issue by appointing no more than two of their members to any committee. Just as too many board members on a committee can create challenges, the absence of a board presence on a committee can also cause problems. A board member liaison appointed to the committee can facilitate communication between the committee and the board, and also provide the committee with a sense that the board takes its work seriously.

Operating Committees Smoothly

Unless the governing documents clearly explain a committee's scope of work (as is often the case with an architectural committee), the board should take care to do so in its resolution creating the committee. In addition, each committee should have an understanding as to the timeframe for delivering its final product, and the form the work product will take (e.g. written recommendation, oral presentation to the board at an open board meeting, etc.). Committee members will appreciate clear direction, and with it, better meet board expectations for their function.

Especially with an ad hoc committee, boards should consider expressly limiting the committee's existence so that its members know at the start when the committee will stop meeting. This prevents a committee from continuing to meet where there is no need and facilitates recruitment.

Committees must keep minutes. (Corp. Code § 8320.) However, unlike with most board meeting minutes, the association has no legal obligation to make committee minutes available within 30 days of the meeting. (See Civil Code § 4950.) But take note: committee minutes constitute "associ-

ation records" as the term is defined at Civil Code § 5200. That means when a member properly requests them, the association must timely grant access to committee minutes. (Civil Code § 5210(b).) The best practice is for committees to keep and approve minutes on the same schedule as the full board.

Insurance Protection for Committee Members

Directors and Officers Insurance ("D&O") policies typically protect committee members who might be sued for failing to discharge their duties with reasonable care (i.e. negligence). Usually it is not required to specifically identify committee members to the insurance carrier to obtain coverage under a D&O policy. However, it is good practice to ensure that board minutes reflect the identity of all persons serving on the association's committees.

Conclusion

A board's work in leading an association is substantial. Board members who properly understand the role of committees and the rules governing their operation can safely rely on committees to help them discharge their duties with less effort. ⬆

James Perero is an attorney at the law firm Myers, Widders, Gibson, Jones & Feingold, LLP where he represents community associations as general and litigation counsel. His work with community associations aims to improve and strengthen the quality of life for community association members through development and enforcement of effective governing documents, and, when necessary, through litigation. Mr. Perero is an active member of CAI-Channel Islands Chapter and currently serves as the chapter's CAI-CLAC delegate.



Kelton "Lee" Gibson has practiced law for over 40 years and focuses his practice in the areas of construction defect litigation, community association law, real estate and civil litigation. He has an AV peer rating from Martindale-Hubbell, the highest rating an attorney can receive. Mr. Gibson is a past two-term president of the Channel Islands Chapter and is a frequent speaker and writer in connection with legal issues for the chapter.





What's the difference between a standing committee and an ad hoc committee and what are the most common committees an association should consider?

By Chelsi Rueter, CCAM, CMCA, AMS, PCAM and Paul Saccoccio, CCAM, CMCA

Community Property Management

ANSWER: Running a corporation is no easy task, especially with ever changing laws and regulations. One of the big “game changing” laws affecting CIDs was the Open Meetings Act, which took effect in 2013. The Act prohibits boards from conducting business outside of a duly called board meeting, with some exceptions. While transparency was achieved by the enactment of this law, it has greatly hindered a board’s ability to conduct business efficiently and promptly. This can lead to homeowner frustration and seemingly unnecessary delays in even the most mundane tasks.

Fortunately, the Open Meetings Act does not apply to committees. As such, committees have become crucial in completing routine and time sensitive tasks, such as architectural review.

The most common committees are called “standing committees”, which typically include architectural and landscape committees, among others. These kinds of committees are ongoing without just a single task to complete. Landscape Committees can assist the board by conducting site inspections, bringing items of concern to the board, reviewing landscape proposals, etc. Many boards have found it helpful to grant the landscape committee a monthly spending limit so that small replacements or enhancements can be approved without having to wait for a board meeting.

Architectural Committees wield more responsibility and often times are required by the governing documents. This committee reviews architectural modification applications and is tasked with approving or denying requests in accordance with the community’s architectural review guidelines. The requests can include a wide variety of projects ranging from painting to landscape enhancements to the construction of an entire home.

Governing documents typically provide a deadline in which the architectural committee must respond to requests (usually 30-45 days). Often times the documents deem the request approved if no response is given to the homeowner within the stated deadline. This could be a catastrophic

situation, which is why an Architectural Committee is essential, especially if the Board doesn’t meet monthly.

Another type of committee is an Ad Hoc Committee, which is formed to address a specific project or issue.

Examples of Ad Hoc Committees include:

- Budget Committee: Drafts/reviews a budget for the following fiscal year.
- Decorating Committee: Makes recommendations on paint colors, flooring, etc. for an upcoming clubhouse remodel.
- Rules Committee: Reviews and recommends updates to the Association’s Rules & Regulations to ensure they are relevant, necessary, and legally compliant.
- Insurance Committee: Investigates appropriate levels of insurance coverage and carriers that offer competitive pricing.
- Plumbing Committee: Creates a scope of work and Request for Proposal (RFP) for an upcoming plumbing replacement project, and reviews proposals prior to them being presented to the Board to ensure accuracy.

Situations may arise in which the board finds it necessary to create an Executive Committee. Executive Committees are usually formed to address specific executive session matters that one or more board members cannot be a part of. This could be because there is a conflict of interest, a board member has been censured for breach of confidentiality, a board member is engaged in litigation against the association, etc. Since homeowners are not privy to executive session matters, this committee must be comprised entirely of directors (with a minimum of two directors).

Powers and authority of an Executive Committee may be delegated by the Board to act on the board’s behalf on matters that may include:

- Setting the compensation of a manager (assuming said manager is an employee of the Association)
- Litigation matters
- Any other matters permitted to be in executive session per CA Civil Code §4935



Regardless of the type, all committees are appointed by the Board of Directors. Non-board members do not have the right to appoint themselves to a committee or to form a new committee. Each set of governing documents is unique in that some require certain committees and set a minimum and maximum number of members that may serve.

Should it be necessary for the board to form a new committee, they must do so in an open session board meeting. We should caution, however, against appointing too many members to a committee. It can often cause chaos, lack of clear guidance, and too many opinions. In our experience, a committee functions best with a maximum of 5 members.

It is important to remember that if a majority of the board serves on a committee, each committee meeting will be considered a board meeting. As such, an agenda will need to be posted in accordance with the Open Meetings Act. For ease of business, it is advisable to avoid having a majority of the board serve on a committee.

Each committee should have a committee chair who is appointed by the board. Unless the governing documents state otherwise, board members may serve as committee chairs. The committee chair should provide a report to the board at or before the board meeting to keep the board apprised of the committee's activity.

In order to clearly outline boundaries, duties, and responsibilities, each committee should have a charter that clearly defines such. The charter should include details such as what, if any, decision making authority the committee has, what the specific duties of the committee are, when and how the committee should report to the board, the term of the committee, etc. This will alleviate any power struggle that can often arise between Boards of Directors and committees.

Except for Executive Committees, and unless the

governing documents provide otherwise, there are no restrictions on who may serve on advisory committees. That means boards may appoint people to advisory committees who are not members of the association. Unless the governing document provide otherwise, boards can establish their own criteria for the committee members they appoint.

For example, a board could require that candidates:

- Have no violation of the governing documents within 12 months
- Reside on the property
- Attend a minimum number of board meetings

The term of each committee typically coincides with the election of directors. At such time, the Board may re-establish the same committees with the same committee chairs, establish new committees, disband committees or choose not to have committees at all (unless required by the governing documents). The appointment of committees is at the discretion of the board, however, a committee that is run efficiently and effectively can be an extremely helpful tool for the board. [↑](#)

Chelsi Rueter is the Operations Manager & Senior Community Manager at Community Property Management. Chelsi is a Certified Community Manager through both CAI and CACM and has earned the PCAM credential, the highest achievement for community managers. Chelsi has served on several committees for CAI-Channel Islands Chapter, is a frequent program speaker, and has written for CACM and CAI's magazine publications.



Paul Saccoccio has been a Community Manager at Community Property Management for 5 years. He is a Certified Community Manager through both CAI and CACM and continuously works to enhance and further his education and expertise. In addition to managing several communities, Paul trains and mentors new community managers.



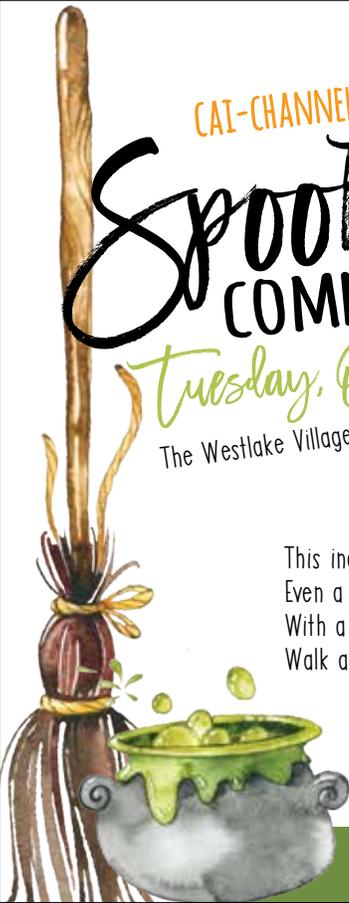
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Committees: A Manager's Friend or Foe?

By **Karen Kokowicz, CMCA, AMS, PCAM**
Coro Community Management & Consulting

Having committees in a community can both be a huge help and a hindrance.

All too often boards are anxious to get homeowner participation and form committees in hopes of creating a more harmonious environment with lots of people working to improve their community. Unfortunately committees formed with little thought or as a knee jerk reaction often end up like chickens with their heads cut off!

make decisions to move the project forward.

When precautions and guidelines are not set up prior to the formation of a committee, chaos often ensues and makes more work for the manager. Committee members with no direction try to micro-manage the manager, get frustrated, waste vendors' time, and aren't focused on the board's end goal. This leaves everyone unhappy.

In closing, make committees your friend by



In order to have well-functioning committees, it is recommended that the committees have a clear goal or charter. This ensures the committee members are working to fulfill the board's goals and not wasting time on pet projects that have no chance of coming to fruition.

Committees can be on-going or ad hoc (one time project). Committees should have accountability, report routinely to the board on their progress, and make recommendations to the board.

It's important for the Board to set specific goals and guidelines before owners volunteer to serve. Once those are in place, ask for volunteers and request your committees to set a meeting schedule up front. Let them know when their WRITTEN reports are due to the board; i.e., 1 week before the board meeting. Avoid allowing oral reports only. Generally oral reports often leave out important details. Memories can also fade on what was said or reported which makes it harder for everyone to be on the same page and

communicating to your boards the value of operating with a clear charter, precise guidelines and a defined goal. Through keeping these expectations in mind, committees can be of help to their community (and not a foe!) [↑](#)

Karen Kokowicz is CEO & Owner of *Coro Community Management & Consulting*, a full service management company exclusively dedicated to the management of community associations. Karen has worked in the industry for more than 25 years and has the Certified Manager of Community Associations (CMCA) designation, CAI's Professional Community Association Manager (PCAM) designation and the CCAM certification.





By Dana J. Rosenberg, Esq.
Adams | Stirling PLC



Lately, persons who are not committee members are showing up for committee meetings. Must we allow them to attend?

ANSWER: With certain narrow exceptions discussed below, no, you need not allow the general membership to attend committee meetings. The Davis-Stirling Open Meeting Act (Civil Code §§ 4900-4955) applies only to board meetings, not committee meetings. Therefore, notice of committee meetings is unnecessary, and meetings may be closed to owners who are not committee members. Certain committee meetings must be closed if they involve confidential issues such as personnel decisions, litigation, or discipline.

The two noted exceptions to the general rule that committee meetings need not be noticed or open is 1) when the association's governing documents require they permit owners to attend, and 2) where a committee's members include enough board members to constitute a quorum (i.e. majority), and the meeting involves hearing, discussion, or deliberation of business within the board's authority. Such meetings are considered board meetings and require notice and posting of an agenda. Most boards avoid appointing a majority of directors to committees in order to avoid notice requirements.

Except as noted above, while committees are not required to allow owners to attend, the committee certainly can allow owner attendance or invite outside parties when appropriate. For instance, a landscaping or architectural committee may request the advice of an industry professional, or a rules committee may open a particular meeting to the membership in order to get feedback on substantive changes to operating rules.

Allowing committees to operate without attendance and participation by owners who are not committee members does not reduce transparency. Unless committee business involves confidential issues, committee reports should be given in open meetings where owners have the opportunity to hear the committee's recommendations. Also, because committees must keep minutes of their actions and meetings, all non-confidential committee meetings minutes are available for inspection and copy by owners.



What if we have a rogue committee member? Can you remove him or her from the committee, and if so, how?

ANSWER: Unless a committee is established by the governing documents and its members elected by the association, only the board, not the committee itself, may remove a committee member who is obstructing committee progress or otherwise causing problems. Otherwise, only the board has authority to appoint a committee, designate its chair, and delegate specific tasks or duties to the committee. Committees serve at the pleasure of the board, thus committee members may be added or removed by the Board without prior notice or cause.

If a committee feels a member should be removed, it can ask the Board to address the issue in executive session. Removal of a committee member should not be discussed in open session. Public admonishment discourages other owners from volunteering for committee work, and worse, could expose the Association to a defamation claim. No noticed hearing for the committee member being removed is necessary, as no fines or loss of rights are involved.

Is the Association opening themselves up for liability by having committees?

ANSWER: It is true that a board is ultimately liable for the conduct and decisions of its committees, but there are enormous benefits to the use of committees that outweigh liability concerns, and there are effective ways to reduce potential liability.

Committees allow a board to operate efficiently by taking on specific, detailed, time-consuming work that is impractical to carry out during board meetings. For instance, committees may obtain bids for goods and services and advise the board as to which contracts should be accepted; they can inspect common areas and recommend changes; organize special events; survey membership on important issues; etc. Use of committees is especially valuable given the meeting limitations imposed on boards under the Davis-Stirling Act, which prohibits directors from taking action on any item of business outside of a meeting. Moreover, thoughtful appointment of committees brings in owners with relevant professional and practical experience for the task at hand, broadens the board's resources, and allows the board to make more informed decisions.

Committees are an important tool for involving more of the community in the operation of the association's business and affairs. Committees serve as good training grounds for future board members, and foster willingness to serve on the board – it is important to keep the leadership pipeline full.

Proper use of committees involves the following, all of which reduces liability:

- Boards must be aware of tasks which they cannot lawfully delegate to committees, such as review of association finances; decisions to record a lien for delinquent assessments or to foreclose on a lien; or decisions to file a lawsuit or approve a settlement. The board may not delegate authority to appoint committees or their members; to elect corporate officers; to decide who will fill board vacancies; or to vote on motions.
- Board minutes must make clear the purpose of the committee, the scope of its authority, the specific tasks to be accomplished, and the term of the committee. Establishing these parameters assures the committee will not stray from the board's intent.
- Written criteria should be developed to help to insure appropriate persons serve on committees. Helpful requirements would encourage appointment of persons



with special skills, expertise, or experience for the task required; and would require committee members to be members in good standing, and not involved in litigation against the association.

- Implementation of a policy for committee operations should be developed to insure appointees understand their ethical obligations and the limitations on their authority. For instance, committees must keep proper minutes and maintain confidentiality when required. They may not choose their own committee members or elect their own chair; they may not give direction to management, employees or vendors, or bind the association to contracts; and they must avoid self-dealing and disclose the existence of any conflict of interest.
- Whenever possible, committees should be advisory only, without decision-making authority. Where committees must have decision-making authority, as with architectural committees, committee decisions must be reported in the minutes of the next open meeting.
- Board members have protection from liability under statute, but the same is not true for other volunteers. Therefore, if your governing documents do not provide similar protections for committee members, consider amendments to implement such protections. Likewise, make sure your insurance covers committees. ⬆

***Dana Rosenberg** is an associate at Adams | Stirling PLC, working from its Santa Barbara office. Dana has been practicing association law since 2010. She is experienced in litigation as well as transactional work related to all types of community associations. Dana assists associations with board education, dispute resolution, and general legal guidance.*



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Channel Island Chapter's Second Annual Local Legislative Action Day

By **Samantha Kim, Esq.**, Kulik Gottesman Siegel & Ware, LLP

Each year, thousands of bills pass lawmakers' desks. And each year, hidden within these mountains of legislation, several bills that directly affect community associations await approval. CAI's California Legislative Action Committee (CLAC) volunteers work tirelessly to dig up these bills, analyze their potential impact, and advocate for or against them. However, CLAC also recognizes that some of the most effective advocacy comes from actual homeowners and community managers—folks with practical experience in running community associations—sitting down with their elected officials to voice their concerns and opinions.

In 2017, CAI - Channel Islands

an Jacqui Irwin, the bill was amended to exclude community associations from the statute.

This year, the chapter successfully held its second annual Local Legislative Action Day on July 12, 2018. CLAC's mission this time around was to bring two pending bills to our representatives' attention: Senate Bill 1265 (Wieckowski) and Assembly Bill 2912 (Irwin). CLAC sought to persuade legislators to oppose SB 1265, which would threaten privacy rights and significantly increase costs to hold an election. An additional mailing of election rules, the requirement that someone other than management be hired to serve as election inspector and additional legal hurdles would all combine to drive association election costs through the roof!

Conversely, CLAC advocated in favor of AB 2912, which would establish measures to better protect association finances from fraud and conversion by requiring associations to purchase fidelity bond insurance in an amount equal to or exceeding current reserves, plus three months of assessments. The bill also requires board members to review financial statements monthly rather than quarterly and prohibits electronic transfers of association funds without board approval.

With this mission in hand, CAI



members—a solid mix of board members, homeowners, and community managers—gathered at the Courtyard Marriott in Oxnard. There, attendees were served a light continental breakfast while Chapter Delegate James Pere-ro gave a crash course on the history, strengths, and weaknesses of AB 2912 and SB 1265. He then led a lively discussion with CAI members, who contributed insightful questions and shared points they planned to make to each legislator.

After the morning's strategic huddle, a chartered bus shuttled the group through Oxnard, Camarillo, and Ventura to meet with several officials. CAI members and CLAC volunteers met with Assemblywoman Jacqui Irwin, Patricia Quiroz from Senator Hanna Beth Jackson's office, and Assemblywoman Monique Limon. With attentiveness and warmth, each representative encouraged CAI members to share their personal experiences and thoughts on each of the bills. They also provided helpful tips on how to best advocate for or against legislation.

Attendees expressed that the experience was incredibly educational. Colleen



Chapter instituted Local Legislative Action Day as a way to engage with local legislators right at their offices. By meeting face-to-face with elected officials, CAI members have helped quash bills that would have been detrimental to homeowners associations. Take, for instance, Senate Bill 721, which would have forced community associations to inspect and repair balconies at huge financial cost to the associations. Thanks to the combined efforts of CAI members and representatives like Assemblywoman

Scott of Anchor Community Management states, "It was fascinating to pick the brains of the lawmakers and their staffs to find out what they understand and what they don't understand about our industry. I was amazed to realize how our chapter members can truly influence the decisions these legislators make as those decisions relate to our industry. A very enlightening day where I felt all of our voices were heard by legislators. I encourage more members of our chapter to sign up for this event next year."

Robert Bromber, a board member of Surfside I Homeowners Association decided to attend after attending Legislative Action Day last year. When asked if he would recommend the event to other CAI members, he responded, "If you'd like your voice heard by policy makers and legislators this is for you. Instead of just polite form letters in response to your outreach, you will sit down, face-to-face with the 'un-reachables' and share ideas. The reason they hear your concerns is because they understand that CAI, and CLAC, represents a huge slice of their constituency."

Adriene Forester, a homeowner at Villa Constance North HOA in Santa Barbara, states that she decided to attend Legislative Action Day on a whim. "I was curious about how laws

become law and how to use "our" voice to amend or cancel pending new legislation," said Ms. Forester. Upon meeting with the representatives, Ms. Forester found that each was empathetic and able to teach the group about the lawmaking process. "All three of them listened to our concerns, genuinely cared, and had very good questions for us. I learned the process, and time frame, of how potential new bills are reviewed at the local legislative offices, written, introduced and then voted on," she recounted.

Overall, the Chapter's Local Legislative Action Day 2018 provided an opportunity to advocate for community association interests, learn about the law-making process, and even network with other industry members. Special thanks to Leah Ross, James Perero, and the CLAC committee members who made this event possible. 🏠

Samantha Kim, Esq. is an associate at Kulik Gottesman Siegel & Ware, LLP in Sherman Oaks, California.



The Value of Supporting CAI's California Legislative Action Committee

By **Ted Lansing**,
Leisure Village Association

As a board member and long time member of CAI, I encourage the Chapter's Association members to consider contributing to our Legislative Action Committee. Recently, CAI's Legislative Action Committee (CLAC) was successful in removing Common Interest Communities from SB 721. In short, during a visit to local representatives in Camarillo, we described in detail how the bill could literally destroy small condominium associations. The bill described potential costs incompletely, and could have actually cost 3 to 5 times what the bill supporters had proposed. One of those legislators, Assemblymember Jacqui Irwin went directly to the bill's author, and made the case brilliantly, such that Common Interest Associations were excluded from the bill's requirements. That was CLAC at it's very best, and this chapter's CLAC committee caused it to happen.

There can be no better reason to support CLAC's efforts by contributing to the "Buck-a-door" fund, which ultimately protects our investment as a homeowner in a Community Association. Let your voice be heard and I hope you will consider contributing.

For more information on how your community or company can contribute to CLAC, call the chapter office at 805-658-1438 or visit www.caiclac.com.



Chapter Calendar of Events

2018

- Oct 9** Business Partner Appreciation Luncheon, Los Robles Greens, Thousand Oaks, 11:45 am
- Oct 11** Santa Barbara Luncheon, Hyatt Centric, Santa Barbara, 11:30 am
- Oct 18** CID Law Course / BP Essentials Course / CLAC Dinner, Pechanga, Temecula, CA (pre-Legal Forum Activities)
- Oct 19** CAI Statewide Legal Forum, Pechanga, Temecula, CA
- Oct 30** Community Faire, The Westlake Village Inn, Westlake Village
- Nov 8** Central Coast Dinner Program, Ventana Grill, Pismo Beach, 6 pm
- Nov 13** Chapter Luncheon, Los Robles Greens, Thousand Oaks, 11:30 am
- Dec 11** Chapter Luncheon, Los Robles Greens, Thousand Oaks, 11:30 am

2019

- Jan 29** Chapter Luncheon, 11:30 am, Los Robles Greens, Thousand Oaks
Chapter Board Meeting, 10:15 am
- Jan 31-Feb 2** M-100 Managers' Course, Oxnard
- Feb 1** Chapter Awards Dinner, Location TBA, 5:30 pm
- Feb 7** Central Coast Dinner Program, 5:45 pm, Ventana Grill, Pismo Beach
- Feb 21** Santa Barbara Luncheon, Hyatt Centric, Santa Barbara, 11:30 am
- Feb 26** Chapter Luncheon, 11:30 am, Los Robles Greens, Thousand Oaks
Chapter Board Meeting, 10:15 am
- Mar 26** Chapter Luncheon, Los Robles Greens, Thousand Oaks, 11:45 am

Please Note: Event dates, times and locations are subject to change. Please check the chapter website: cai-channelislands.org for the most current information

What is CLAC?

CLAC stands for California Legislative Action Committee which consists of a team of volunteers along with our advocate, Louie Brown, Esq., who diligently monitors legislation that can directly impact the Community Associations industry. We strive to keep our members up-to-date on how bills can positively or negatively impact your investment and what you can do to let your voice be heard! Every dollar helps our cause! Consider supporting CLAC. For more information on how you can support CLAC and let your voice be heard, visit www.caiclac.com. [↑](#)

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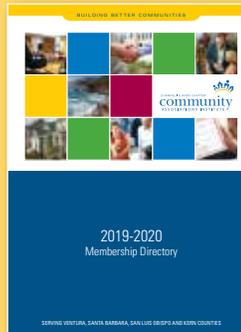
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 Kelli Shane DiNapoli, Gold Coast Association Management
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JAMES PERERO, ESQ.

Myers, Widders, Gibson, Jones & Feingold, LLP
James Perero is an attorney at the law firm Myers, Widders, Gibson, Jones & Feingold, LLP where he represents community associations as general and litigation counsel. His work with community associations aims to improve and strengthen the quality of life for community association members through development and enforcement of effective governing documents, and, when necessary, through litigation. Mr. Perero is an active member of CAI-Channel Islands Chapter and currently serves as the chapter's CAI-CLAC delegate.



STEVEN A. ROSEMAN, ESQ.

Roseman Law, APC, CAI-CLAC Delegate
Steven Roseman, Esq. is the founder and managing partner in the law firm of Roseman Law, APC. During the past (20) years, Mr. Roseman has represented homeowners associations and their boards handling their Association legal matters. Mr. Roseman is an active member of both CACM and CAI and currently serves as the Channel Islands Chapter's Delegate for CAI-CLAC.



LOUIE BROWN, ESQ.

Louie Brown, Esq., CAI-CLAC Advocate
Louie A. Brown Jr. is a partner with Kahn, Soares, & Conway, LLP and manages the firm's Government Relations Team representing clients before the California State Legislature and various state administrative agencies. Louie specializes in providing clients with expert advice in maneuvering through California's complex legislative process. He testifies regularly in the Capitol before many legislative committees on behalf of clients and has written numerous laws and played key roles in many of the Legislature's major accomplishments and budget negotiations over the last decade.

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Schedule of Events

October 19, 2018

Statewide Legal Forum
Temecula, CA

October 30, 2018

Spooktacular Community Faire
Westlake Village, CA

November 8, 2018

Central Coast Dinner Program
Pismo Beach, CA

November 13, 2018

Chapter Luncheon
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For more information or to register,
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