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E-Newsletter

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RECENT ARTICLES AROUND THE WEB

Proceed With Caution: Common Defenses to Covenant Enforcement Actions

Covenant enforcement ... explaining to a homeowner that the expensive new fence he built all by himself, but without permission from the architectural committee, must go ... breaking the news to the elderly woman who holds her new puppy in her arms that the association's rules prohibits animals ... telling the belligerent couple on the corner that although purple is a great color for grapes, it's not approved as an allowable color for their siding. As a board member, your duty to enforce your association's covenants might well be one of your least favorite responsibilities. However, as unpleasant as taking action may be, it is imperative not to put it off until another day. Remember, because of the application of certain defenses, time and careful planning is indispensable when it comes to successful covenant enforcement.

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Special Assessments Are Unavoidable but Trustees Can Reduce the Pain for Owners and for Themselves

Special assessment. The mere mention of the term infuriates condominium owners and terrifies condominium trustees, who duck and cover instinctively whenever the topic comes up.

In an ideal world, special assessments – levied to finance major and unanticipated expenditures – would never be required, because community associations would always have the funds they needed, either in their operating budgets or their reserves, to cover the costs. But the world, as you have no doubt noted, is not ideal, and even the best managed communities, overseen by the most conscientious trustees, sometimes encounter problems they didn't expect and couldn't predict. An unusually severe winter can bury the snow removal budget; a roof that was expected to last for 25 years may have to be replaced much sooner, because it is damaged by storms or falling trees, or simply because it ages more rapidly than projected; siding may prove to be less durable than the contractor suggested it would be.

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HOA Pluralistic Ignorance

Homeowner associations sometimes come under attack for suppressing Bill of Rights freedoms. Sometimes the accusation is one of principle (I'm not allowed to do what I want) rather than a specific instance (I'm not allowed to post signs). While the media makes it appear that this phenomena is pervasive, in reality, they are isolated cases caused by an overly aggressive board, member, or both, who lock horns.

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Ice Damming Leaks: What Happened?

It's that time of year again. The snow that is pretty for some is scary for others. You have experienced, read, or heard about ice damming. You are familiar with the damage the phenomena can cause. Perhaps your Association has spent several hundred thousand or even over a million dollars on roofing improvements and/or replacements within the last few years. Why do we have leaks from ice damming? Wasn't the roof replacement performed correctly or designed correctly? The answer is simple, with a properly designed and installed roof system, the possibility of damage resulting from ice damming should be significantly reduced.

[read more >](#)

Project Planning = Success!

Cameo Woods is a 384-condominium association sitting on 24 acres with over 600 trees that add to the beauty and value of the property. After many years of a hit-and-miss style of

Making the Connection with Your Local Government

Recognizing the need to work with your government officials will be an advantage in

NEW AT CAN

Hurricane Katrina

We've offered to post a web page of information and contacts for community associations in the storm area. To [post the information](#) and a [list of charities and resources](#)

New Blog Coming

The Community Associations Network will be creating a new blog in the next week aimed at Boards of Directors of Community Associations. This one will be a little different in that it's purpose will be to build a Board "How To" manual drawing on the talents of a number of different writers. Look for it soon.

Blogs

The Community Associations Network can host your blog. If you have an interest in writing items that would be beneficial to the community association industry, please [contact us](#) for more information.

Pass this along

Do you know someone in your office or association that could use the information that is in this newsletter? Why not forward them a copy? The subscription is free and we don't sell, lease or give out the mailing list.

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IN THE NEWS

Natural Gas Prices Set to Skyrocket, Expert Says.

The cost of keeping the nation cool this summer will slam those who use natural gas to heat their homes next winter. "Natural gas prices are very high and ugly on the futures board," said Tom Schneider of the Montana Public Service Commission. I don't see anything good for next winter." While most of the nation has focused on the extreme heat across the country this summer the price of natural gas has been pegging up to unprecedented levels, Schneider said. At the same time, the amount of natural gas going into storage for use during the heating season - November through March - is sharply below normal for this time of year.

CA: Ducheny foreclosure bill approved by legislature.

Senator Denise Moreno Ducheny (D-San Diego) announced Monday that Senate Bill 137 was approved by the legislature. The vote in the Senate was 29-3 and 64-12 in the Assembly.

FL: Ocala subdivision apologizes for barring temporary housing of evacuees.

A homeowners association has apologized for telling residents that subdivision rules would keep them from temporarily housing Hurricane Katrina evacuees.

OH: Age-targeting in hot seat. A federal court lawsuit filed by the non-

tree maintenance, we took a much different approach this year. We selected an arborist to assist in determining the type, condition and level of trimming necessary to improve the condition of all our trees. We had started this process in the past, but the association did not follow through with the arborist's advice and allowed themselves to be influenced by the advice of residents and the limitations of the budget.

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Contract Check List

In every contracting situation from the smallest everyday project to the largest construction project, consider the following issues:

[read more >](#)

Managers and Boards Affected by Katrina - Post Contact Information

The communications problems created by Hurricane Katrina will be around for awhile. In the meantime, boards, owners, managers, banks, insurance companies, attorneys and contractors need to somehow find a way to contact each other. CAN is offering its web site and encouraging other organizations to offer theirs to create a temporary reference resource that will help them get together. For more information:

[read more >](#)

maintaining and enhancing the quality of life for your community. Please note that many of the local development ordinances mirror your own Association standards and criteria. When reviewing your zoning and design guidelines, it is not unusual to find that the goals and objectives of the municipality parallel those of your Association. Previously adopted and implemented local ordinances ensure that a community is developed with consistency and provide aesthetic appeal as well.

[read more >](#)

Splitting Legal Hairs: Improvement vs Replacement is Not Always Clear Cut

Of all the work a condominium board approves, perhaps the most legally murky is what is known as an improvement to the condominium. A board can order repair, replacement, and maintenance of existing common area elements without the approval of the unit owners, but before the board can approve an improvement, it must first get at least 50 percent of the owners to vote for it.

[read more >](#)

Individual cities ponder management ordinances.

Florida - A proposed state law imposing greater oversight on condominium management companies founded in the most recent legislative session. So activists are now turning to individual cities. In the first such move, on Thursday Miami Beach Commissioner Luis Garcia introduced an ordinance requiring condo management companies to obtain a license from the city before they can be hired by a condo association. The measure also calls for standardized hurricane preparedness guidelines and requires condo managers, condo boards and companies doing business with condos to disclose any personal relations.

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BEST OF THE BLOGS

The [Virginia Condominium & Homeowner's Association Law Blog](#) answers the question - "My association has only three board members and two of them just resigned saying they didn't have time any more. We are a self managed

profit Fair Housing Center of Toledo accuses Waterside and local developer Duane Ankney of violating those laws. The case could be one of the first nationally to challenge an increasingly popular way of setting up and marketing so-called "active adult communities," according to lawyers.

N.H. Judge rejects plea deal for condo manager. A judge has rejected a proposed plea bargain for a woman accused of stealing several hundred thousand dollars from the condominium association she once managed.

Justice Dept. Sues NAR for Anti-Trust. The Department of Justice's Antitrust Division today filed a lawsuit against the National Association of Realtors (NAR), challenging a policy that obstructs real estate brokers who use innovative Internet-based tools to offer better services and lower costs to consumers. The Department said that NAR's policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting.

TX: Two Sienna residents asked to "depose" on weblog postings. Chris Calvin, co-chair of a group of Sienna homeowners opposing apartments, and Matthew Feinberg, owner of MissouriCityTalk.com, a website for Sienna homeowners to discuss issues in their community, have received a notice from Sienna/Johnson Development Corporation of their intent to take depositions, as a prelude to a potential lawsuit that the developers may file against the two residents.

FL: Homeowners Fear More Rentals. One or two rental homes in a deed-restricted community was once the norm across much of Southwest Florida. But with speculators investing in the area's robust housing market, hundreds of rental homes are on the market, many in more affluent communities unaccustomed to sharing the neighborhood with more than a few renters.

Rooftops reign as effort to curb urban runoff. When it rains on the Yorktowne Square Condominiums in Falls Church, VA, one of its buildings doesn't pour as much runoff into local waterways as it did in previous years—nor is there as much of the sediment and nutrient pollution that travels with it. The reason is a new layer of rooftop greenery.

AZ: Old homes, new colors. "A lot of people are asking for darker colors if their homeowners association will allow it," said Jim Schriener, who has painted three homes for Fulton. Schriener, owner of Chandler-based Arizona Repaint Specialists, said HOA boards are slowly switching approved palettes to include darker, earth-tone colors.

IL: Homeowners claim they were bilked, Lockport residents say association is owed \$100,000. Joseph Burke didn't think twice about paying \$3,200 in homeowners association fees when he built two Lockport homes — one for himself and one for his daughter — in 2002. But he and other residents of the large Thunder Hill of Broken Arrow subdivision were surprised when they took over the association one year later — and found only about \$4,100 in the coffers.

IL: Commonwealth on Prairie haunted by old tax bill. Two years

association with 34 homes and a fair amount of common area and a swimming pool. Being on the board is a lot of work and I am afraid of not getting any volunteers. What can be done if no one comes forward? I cannot run this association alone."

From the **California Condo & HOA Law Blog - Two Annual Meetings, No Election - What To Do?...What to Do??**

The **Community Association Network Blog** looks at "**Dealing with the "Anonymous" owner(s)**"

The **Condo & HOA Management Blog** looks at work orders in "**Disaster - But Who Do I Contact and How?**"

The **Condo & HOA Technology Blog** looks at some of the internet scams that center on condo rentals and Katrina donations.

Blogs hosted by the Community Associations Network:

- ▶ [California Condominium & HOA Law](#)
 - ▶ [Community Associations Network](#)
 - ▶ [Condo & HOA Technology](#)
 - ▶ [Condo & HOA Management](#)
 - ▶ [Condo & HOA Case Law](#)
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See all of the latest blog postings at CAN

For the CAN Daily News for PDA/Cell enter http://www.communityassociations.net/pda_news.htm in your bookmarks.

For the current Blogs for PDA/Cell enter http://www.communityassociations.net/pda_blogs.htm in your bookmarks.

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http://www.communityassociations.net/newsletters/enews_09_13_2005.html

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after the completion of the Commonwealth on Prairie development near 18th and Prairie, an overdue tax bill of nearly \$150,000 has town house and condominium owners fretting. While the developer, the Rezmar-owned South Prairie LLC, has acknowledged its liability, the company has a little more than a month to settle the bill or risk the possible foreclosure of some of the now-carved-up property.

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