

COLLEGE OF COMMUNITY ASSOCIATION LAWYERS PRESENTS

33RD ANNUAL



COMMUNITY ASSOCIATION

Law Seminar

Community
Insurance and
Risk Management
Specialist (CIRMS)
Insurance Masters
Program
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A one-of-a-kind event exploring trends and practices in association law for attorneys, management professionals and other industry leaders.

Jan. 26–28, 2012 | Palm Springs, CA
Register by Dec. 14 and save \$50!



Schedule

OPTIONAL HALF-DAY PROGRAM | THURSDAY, JAN. 26

CAI Mortgage Matters | \$75 early registration by Dec. 14; \$90 registration after Dec. 14

1–2:15 p.m.

FHA Condo Guidelines: Where to Now?

Stephen M. Marcus, ESQ.*; George E. Nowack Jr., ESQ.* and Loura K. Sanchez, ESQ.*

Over the past three years, the Federal Housing Administration (FHA) has transformed from a niche player to the de facto standard setter, underwriting criteria for condominium mortgages. Despite its growing role, FHA continues to develop standards for condominium association underwriting without public notice or input, creating a host of ongoing problems, from FHA's initial guidance in 2009 to the updated guidelines in 2011. CAI has worked effectively to help FHA evolve their guidance, but important policy areas remain fluid. This session explores how FHA criteria continue to evolve and what this means for your clients today and in the future.

2:15–3:30 p.m.

Qualified Mortgages: New Standards, New Challenges

C. Scott Canady; Ronald L. Perl, ESQ.* and J. David Ramsey, ESQ.*

In 2011, the federal government undertook an expansive restructuring of the regulations governing mortgage finance. Driven by the sweeping provisions of the Dodd-Frank Act, new proposed regulations governing Qualified Mortgages and Qualified Residential Mortgages will establish new standards for borrowers that could include mandatory 20 percent down payments, no financing of closing costs or realtor fees and may impact community association special assessments and transfer fees. Find out what standards for borrowers and associations are in the current regulatory proposals, how CAI is working to address these challenges and what the new regulatory regime will mean for your community association clients.

3:45–5 p.m.

Looking to the Future: Emerging Issues for Community Associations

Andrew S. Fortin, ESQ. and additional speakers

Want to get ahead of the competition on issues your clients will be struggling with in the coming years? This panel can help. Learn what issues are popping up in state legislatures and how lawyers can help shape laws yet to be written. This wide-ranging discussion includes a focus on debt collection and environmental issues as well as federal mortgage and consumer protection challenges. Find out about tomorrow today.

5–7 p.m.

Early Registration

FRIDAY, JAN. 27

7–8 a.m.

Registration and Continental Breakfast

8–8:45 a.m.

NEW TIME!

Welcome and CCAL and CIRMS Inductions

8:45–10 a.m.

NEW TIME!

Wayne Hyatt Lecture Series: Leadership Insight for the High-Velocity Economy

10:15–11:15 a.m.

Concurrent Sessions

You Can Use the Mediator—Really

Lisa J. Anderson, ESQ. and James P. Lingl, ESQ.*

After a brief discussion about mediation and other forms of alternative dispute resolution in the context of community associations, this session focuses on the tactics and strategies needed to assure a satisfactory outcome when associations and owners turn to mediation for conflict resolution.

Lawyers, Roll Up Your Sleeves: An Integrated Approach to Major Repair Campaigns

Sandra M. Bonato, ESQ. and Kathy Mills, ESQ.

Before clients embark on a major repair campaign, their attorneys need to be prepared to educate them on the process involved and guide them through each step, from initial planning to project completion. This session delivers an overview of a major community association repair campaign and then focuses on the different parties' perspectives, agendas and roles during each stage of the process.

Recalls: The Hidden Pitfalls

Michael L. Hyman, ESQ.* and Richard P. Neuland, ESQ.*

This session presents an in-depth look at the recall process from the attor-

ney's perspective, explaining how to most effectively represent a client while avoiding setbacks. It covers ethics, recall committees and representation issues. In addition, early warning signs of corruption, such as budget increases and personal agendas, are highlighted. The legal criteria of recall cases are also covered.



Friday, Jan. 27, 8:45–10 a.m.

NEW TIME!

Wayne Hyatt Lecture Series: Leadership Insight for the High-Velocity Economy

Jim Carroll

In today's economy, you have to innovate to prosper—or even just survive. Jim Carroll is a leading futurist who has guided some of the world's most prestigious organizations, such as Disney, KPMG and American Express. His dynamic, high-energy presentation

provides direct and focused insights linking future trends to how our practices and associations will need to innovate to thrive.

11:30 a.m.–12:30 p.m.

Concurrent Sessions

Four Decades of Defects: A History of Construction Defect Claims and What the Next Decade Will Bring

Bruce W. Lorber, ESQ.; Thomas E. Miller, ESQ. and Richard A. Tinnelly, ESQ.

Panelists for this session have seen four decades of construction defect claims in their own practices. Representing associations, builders, insurance companies and general contractors, they reveal a whole new generation of claims they anticipate will afflict associations for decades to come.

The Ethics of Representing Associations During Times of Owner Discontent

David Firmin, ESQ. and David Graf, ESQ.

Using scenarios relating to board recalls, implementation of special

records to the board after termination of representation. Preventative tips and checklists are provided.

Trends in Fair Housing Laws

Joseph E. Adams, ESQ.* and JoAnn Nesta Burnett, ESQ.

This session covers current trends and recent case law under the Fair Housing Act, including reasonable accommodations and modifications. Emphasis is placed on developing law as it relates to emotional support animals and the impact of the recent amendments to the Americans with Disabilities Act. The session also includes coping with the challenges of handicap status verification, conditions that can be placed on approvals and mistakes often made by associations that result in retaliation claims.

12:30–1:45 p.m.

NEW TIME!

Case Law Update Part I

George E. Nowack Jr., ESQ.* and
Wilbert Washington II, ESQ.*

Join CCAL members George E. Nowack and Wilbert Washington as they discuss the significant cases that shaped community association law in 2011. In addition to reviewing individual cases, this session examines emerging trends in association jurisprudence.

2–3:30 p.m.

Concurrent Sessions

Synergistic Decision Making

Steven E. Black, ESQ. and
Paul K. Mengert, CMCA, PCAM

This session presents breakthrough material demonstrating how groups that work effectively together make better decisions than even the most qualified individual. Video will help show how different people see the same situations differently; groups make better decisions than individuals (often 40–50 percent better); different views, when combined, lead to better solutions; and time invested in understanding situations from multiple viewpoints increases decision quality.

**Managing Risk in an Efficient
Community Association Law Practice**

Kenneth E. Chadwick, ESQ.*; Marc D. Markel,
ESQ.* and Beth Mulcahy, ESQ.*

Efficiency and minimizing liability exposure are crucial for a successful community association law practice. This session explores the top five policies to implement in your practice to minimize liability exposure and how these risk-management techniques can also improve your efficiency and bottom line.



**The Human Spirit and Healthy and
Ethical Law Practice**

David S. Mercer, ESQ.* and Robert E.
Sylvester, ESQ., CSC

For centuries we have understood that human beings have a spiritual life, but with the growth of secularism, this understanding has begun to fade. Without spirituality, we limit our ability to integrate the human experience and adversely affect our well-being and effectiveness. A loss of spiritual understanding can increase the risk of depression, alcohol abuse, marital discord and suicide and can make work less joyful. This session aims to awaken your ability to see yourself and others as embodied spirits and improve your personal well-being and ethical conduct.

3:45–5:15 p.m.

Panel of Pundits

Sandra L. Gottlieb, ESQ.*; Lincoln W.
Hobbs, ESQ.*; Julie McGhee Howard, ESQ.*;
James H. Slaughter, ESQ.* and
Steve S. Weil, ESQ.*

Got questions? Get answers. This interactive session gives attendees of all experience levels the opportunity to ask an expert panel of attorneys about issues that have arisen, or may arise, in their practices. It also gives the panel of experts the opportunity to pose questions about pressing legal concerns and trends in the industry. *Advance submission of written questions encouraged. E-mail questions to Holly Carson at hcarson@caionline.org.*

5:30–6:30 p.m.

Law Seminar Reception

Hosted by CCAL

Join your colleagues for great food and drinks and an opportunity to socialize with the premier experts in this field.

SATURDAY, JAN. 28

7–8 a.m.

Continental Breakfast

8–8:30 a.m.

NEW MEETING!

CCAL Business Meeting

8:30–9 a.m.

NEW TIME!

Welcome and Don Buck Award

9:15–10:15 a.m.

Concurrent Sessions

**When Owners Get Too Old:
Addressing the Challenges
of Aging Owners**

Jennifer A. Loheac, ESQ. and J. David Ramsey, ESQ.*

This session addresses the legal and practical issues surrounding dementia, incontinence and other mental, emotional and physical limitations that accompany old age. Boards are legally treated as landlords when dealing with disabilities, and amendments to the Fair Housing Act require accommodation for people who suffer mental infirmities (such as Alzheimer's) in addition to physical handicaps. The challenges of mental and physical infirmities require a balanced approach between avoiding liability to the association for the potential acts of the infirm while not violating an owner's rights under federal and state laws.

**Electronically Stored Information:
The Shocking Truth**

Robert E. Kmiecik, ESQ.

With the ease of e-mail, we hurl messages, documents, photos and videos into cyberspace at the speed of light. But where does that information go when we hit "send"? Is it really deleted when we hit "delete"? More importantly, how much of this electronically

stored information (ESI) can or must be produced in a lawsuit or other investigation? And what is the attorney's obligation to advise an association on these issues? This session reveals the shocking truth about ESI.

**The Ethics of Referral Fees:
Who Pays Whom to Get Business
and Do Work?**

J. Roger Wood, ESQ.

Money makes the world go around, as lawyers are keenly aware. The pressure to survive in this post-recession business world challenges even the most seasoned veterans, and the balance of keeping clients happy and bringing new work in the door is every practitioner's conundrum. It's easy for attorneys to fall into quid pro quo business relationships that compromise objectivity and loyalty and may violate ethical rules. Presenting some challenging facts, this session frankly discusses how to watch our bottom line and our professionalism related to referral fees, gifts and other forms of legal payola.

10:30 a.m.–Noon

Concurrent Sessions

**Meetings Without Mayhem:
Everything Attorneys Need to Know
About Meeting Procedure
in 90 Minutes**

James H. Slaughter, ESQ.*

Community association lawyers are regularly asked for advice on meeting procedures, and some states now mandate a parliamentary authority for associations. Are you giving the correct parliamentary advice? This session presents a fast-paced look at running effective meetings and using proper procedure to make meetings shorter and more legal. Learn about parliamentary books, agendas, minutes, board vs. annual meeting procedures, motions, voting, proxies, absentee balloting and executive sessions.

**When a Director or Manager
Gets SLAPPEd: The Ins and Outs
of Strategic Lawsuits Against
Public Participation**

Edmund Allcock, ESQ. and Steve S. Weil, ESQ.*

A poor economy and its impact on assessments, maintenance and internal governance fuel discontent in community associations, and the internet, social media and board and membership meetings provide forums for the expression of that discontent. In this context, how free is free speech? This entertaining session provides "east coast" and "west coast" perspectives on the evolving area of strategic lawsuits against public participation and basic judicial procedures to help community association practitioners answer the question, "Can they really say that about me and get away with it?"

**Protecting Your Reputation
in the Media**

Corey Saban

In today's world, the reputations of ourselves, our firms and our clients are challenged frequently in the media. An upset owner, an aggressive competitor or a disgruntled ex-employee can use television, radio, newspapers and social media to question ethics, image, purpose, competency and much more. This session, led by an experienced media professional, discusses techniques to protect your public image through preparation and positioning. You'll also learn ways to build media opportunities to enhance reputations and create positive publicity.

Noon–12:30 p.m.

Break and Boxed Lunches

12:30–2 p.m.

NEW TIME!

Case Law Update Part II & Federal Legislative Update

Andrew S. Fortin, ESQ.; George E. Nowack Jr., ESQ.* and Wilbert Washington II, ESQ.*

Join CCAL members George E. Nowack and Wilbert Washington as they continue their overview of significant cases that shaped community association law in 2011. In addition to reviewing individual cases, this session examines emerging trends in association jurisprudence. CAI's Governance and Public Affairs department will also present a federal affairs update covering critical changes to laws and regulations affecting community associations.

2:15–3:45 p.m.

Concurrent Sessions

The Ins and Outs of D&O Liability Insurance: What Attorneys Need to Know to Maximize Client Protection

Joel W. Meskin, ESQ., CIRMS

Directors and officers liability insurance is a part of the insurance puzzle that is both critical and highly misunderstood by attorneys, community managers and association boards. As the single type of coverage that significantly differs between carriers, it is critical for community association attorneys to understand the coverage, how it works and what steps to take to maximize this protection for clients. This session focuses on where the policy fits in the puzzle, key issues and misconceptions and how to make this coverage work best for the association.

When Board Members Go Bad: Defense Counsel's Relationship When Ultra Vires Actions Are Alleged

Maryanne Larsen, ESQ. and Edward J. Stolarski Jr., ESQ.

This session presents a study from the perspectives of the defense counsel for the board member and the insurance company for the association in a case where a board member is



alleged to have engaged in ultra vires actions detrimental to the association. It covers issues of conflict among the board member, the association and its insurer, as well as defense counsel's ethical obligations.

Associations and Police Power: Where Does One End and the Other Begin?

Melissa M. Garcia, ESQ. and Elina B. Gilbert, ESQ.*

Sometimes there's a fine line between enforcing the covenants and enforcing the law, which can make it difficult for boards, managers and attorneys to determine the best course of action. This session reviews actual scenarios that have occurred in the community association world and discusses possible resolutions, including situations in communities involving sex offenders, speeding, growing medical marijuana, criminal activities and more.

EARN CONTINUING LEGAL EDUCATION CREDIT

The Community Association Law Seminar has been submitted for CLE credit. In past years, the seminar qualified in most states for 11–13 hours of CLE credits. CAI applies for CLE credit in California, Colorado, Florida, Georgia, Indiana, Minnesota, Missouri, Nevada, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washington and Wisconsin. CAI cannot guarantee CLE approval for all of the listed states. For information regarding CLE credit in other states, please contact CAI at (888) 224-4321.

COMMUNITY INSURANCE AND RISK MANAGEMENT SPECIALIST (CIRMS)

Insurance Masters Program

CCAL and CIRMS members are pleased to bring back the CIRMS Insurance Masters Program, conducted concurrently with the Law Seminar. Taught at a master's level by community association insurance experts, the program goes beyond the basics of community association insurance to include risk management and legal issues. Space is limited. Registration for the Law Seminar includes the CIRMS Insurance Masters Program.

THURSDAY, JAN. 26 | 1–5 p.m.

Leadership and Risk: D&O Liability Insurance Coverages, Claims and Risk Management

Adam Collins, CIC; Kevin Davis, CIRMS; Mary M. Howell, ESQ.*; David K. Kasdan, ESQ.; E. Richard Kennedy, ESQ.*; Jason LoMonaco, ESQ.; Marc D. Markel, ESQ.*; Joel W. Meskin, ESQ., CIRMS; Robert G. Morgan, CIRMS; George E. Nowack, Jr., ESQ.*; Jamie Schraff, CIRMS; Seth Weinstein, ESQ. and Jennifer Wojciechowski, ESQ.

This session presents an in-depth look at directors and officers liability insurance, including policy forms, accepted and denied claims, common policy exclusions, selection of coverage counsel, related insurance coverages, communities/property managers/firms as additional insureds and best practices in minimizing and allocating risk.

FRIDAY, JAN. 27 | 10:15 a.m.–12:30 p.m.

Building a Partnership in Community: Working with Agencies, Regulators and Lenders to Ensure Compliance, Minimize Risk and Protect Values

Ezzard J. Alves; Kevin Brown; C.Scott Canady; Diana Chevalier; Kevin Davis, CIRMS; Robert M. Diamond, ESQ.*; Mitchell Frumkin, RS; F. Scott Jackson, ESQ.*; Albert LeQuang; Robin C. Manougian, CIRMS and Mark Mellon

This session features a collaborative discussion with representatives of Fannie Mae, Freddie Mac, the Federal Housing Finance Agency, the National Flood Insurance Program and the Federal Deposit Insurance Corporation.

SATURDAY, JAN. 28 | 9:15–10:45 a.m.

Mixed-Use Communities: Document Drafting, Community Management, Insurance and Risk Management

Nancy Ayers, CPCU; Daniel L. Bauman; Robert M. Diamond, ESQ.* and Robert Nordlund, RS

Examine critical document-drafting issues, the most common community management issues and key points in structuring an insurance and risk management program for mixed-use communities.

Faculty

This program is developed each year by CAI's College of Community Association Lawyers (CCAL) as part of its commitment to advance the knowledge and practice of community association law.

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Ft. Myers, FL

Edmund Allcock, ESQ.

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ABOUT CCAL

CCAL was established in 1993 to acknowledge CAI member attorneys who have distinguished themselves through contributions to the evolution or practice of community association law and who have committed themselves to high standards of professional and ethical conduct in the practice of community association law. The college provides a forum for information exchange among experienced legal professionals for the advancement of the community association field.

The goals of CCAL are to:

- Promote high standards of professional and ethical responsibility in the practice of community association law through education
- Improve and advance community association law and practice
- Facilitate development of community association legal education materials and programming for professionals and homeowners
- Cooperate and consult with international, national, state and local organizations; government agencies; and other groups with an interest in community association law and practice
- Encourage members to use their expertise to make community associations function effectively
- Create an environment in which members can work together to meet their professional needs and goals
- Achieve the goals and objectives of CAI

For more information about CCAL or for an application for membership, visit www.caionline.org/ccal.

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Federal Housing Finance Agency
Washington, DC

J. David Ramsey, ESQ.*
Becker & Poliakoff PA
Morristown, NJ

Corey Saban
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Carpenter Hazlewood Delgado & Wood
Tucson, AZ

Accommodations

Rancho Las Palmas Resort & Spa is Palm Springs at its laid-back best, exuding the sun-drenched charm and relaxed elegance of the Southern California desert. Emerging from a spectacular \$35 million transformation, the luxury resort boasts a new lobby, enhanced guest rooms, a refurbished 20,000-square-foot spa, 27 holes of classic desert golf, an internet marketplace, a signature restaurant and a new bar and lounge.

Hotel Reservations

To make reservations, contact Rancho Las Palmas. Reserve your room early, and mention that you are a Community Association Law Seminar attendee to receive the discounted group rate. The hotel reservation deadline is Dec. 23 or until the room block is sold out. Reservations received after the deadline will be subject to availability.

Rancho Las Palmas
Resort & Spa
41-000 Bob Hope Drive
Rancho Mirage, CA 92270
(760) 568-2727
www.rancholaspalmas.com

Room rate is \$250 per night (single/double), and the resort fee is discounted to \$10 per day. Law Seminar attendees can also receive a 10 percent discount on spa treatments and reduced spa admission of \$20 per day (if you don't get a spa treatment).

Spouse Activities

CAI has arranged a variety of activities for spouses through the hotel. Most activities will be complimentary. You will receive details and scheduling information at registration.

Registration Fees

CAI member: \$645
Nonmember: \$745

The registration fee includes the Law Seminar proceedings on CD, all continental breakfasts, refreshment breaks, lunches and the Friday evening reception. All fees must be paid prior to the seminar start date by check or credit card. Thursday's optional half-day program is an additional fee. Please see the registration form for more information.

Early Registration Discounts

Register by Dec. 14 and receive a \$50 discount. Early registration is encouraged.

Group Discounts

Register three or more individuals from the same firm, and the third registrant may deduct \$25 from the registration fee. If at least one of the registrants is a CAI member, all registrants qualify for the member rate. Group registrations must be submitted together to qualify for the group discount.

Seminar Proceedings

All seminar materials are provided on a fully searchable CD provided at registration. They will also be available online before the seminar.

Travel Arrangements

CAI's preferred travel agency, Passport Executive Travel, can be reached at (800) 222-9800, from 8:30 a.m. to 6:30 p.m. (ET), Monday-Friday. When making reservations, be sure to identify yourself as a Community Association Law Seminar attendee.

Taxi fare from the airport to the hotel is about \$42. Desert Valley Shuttle Service is approximately \$60 per person round trip. Call (800) 413-3999 to make reservations.

Cancellation Policy: Full refunds will be issued if written cancellation is received by Dec. 14. Cancellations received between Dec. 15-28 are subject to a 50 percent administrative fee. Registration fees are not refundable after Dec. 28. Fax cancellations to Holly Carson at (703) 997-2177 or e-mail to hcarson@caionline.org. Substitutions may be made by phone or e-mail until Jan. 18. After Jan. 18, all changes must be made on site.

CAI Suitcasing Policy: CAI has a no-tolerance policy regarding "suitcasing," which describes the practice by nonexhibiting companies or individuals of soliciting sales or sales leads in the aisles or in the lobbies, and/or representing their services or soliciting seminar participants, including social activities. Nonsponsoring suppliers participating in the seminar as attendees or speakers are prohibited from soliciting business in or after sessions or in the seminar hotel.

Private Party Policy: All hospitality suites and hosted events must be reserved, approved and paid for through CAI. Hospitality suites/hosted events are not permitted during official conference activities. Nonexhibiting suppliers are not permitted to host events at the official hotel during the conference.

Violators of these policies will be ejected from the show, if exhibiting, and charged the tabletop sponsorship rate (\$2,000), which must be paid prior to registering as an attendee, exhibitor or sponsor at any future CAI conference or other event.

REGISTER BY DEC. 14 AND SAVE \$50!

After attending the Community Association Law Seminar you will:

- Be prepared to deal with the most pressing issues facing condominium and homeowner associations today
- Know how to plan for the next five years in the practice of association law
- Have a valuable, powerful network of colleagues around the country
- Receive a reference copy of the seminar proceedings on CD

COMMUNITY ASSOCIATION
**Law
Seminar**

Jan. 26–28, 2012 | Palm Springs, CA

**Hear expert advice and learn
about the latest developments
on topics including:**

- FHA regulations
- Debt and assessment collections
- Ethics
- Dispute resolution
- Information technology

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