



# *Channels of* Communication

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

*FOURTH QUARTER 2019*

The Official Publication of  
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**Holiday  
Season**  
AND A  
HAPPY NEW YEAR

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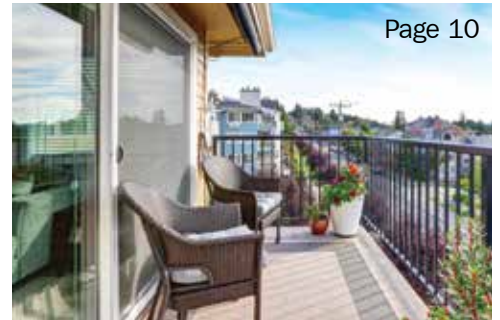
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**To receive CLAC updates and for more information on the Buck-A-Door, visit [www.caiclac.com](http://www.caiclac.com).**



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# president's message



Dear Members,

I hope this letter finds you well as we head into the holiday season. We have much to be grateful for here at CAI-Channel Islands Chapter as we have a fantastic group of leaders, partners, professionals and individual members that make the chapter one of the strongest in the country. Our chapter leaders continue to lead with professionalism while staying engaged and are committed to representing the chapter to continue to move us forward. Therefore, it is no surprise to me that we are nearing 900 chapter members and I look forward to celebrating this milestone soon. Thank you to the board of directors, committee chairs and committee members who have strived to make each chapter event successful. I am also grateful for your membership and continued involvement with the chapter. The stronger our network, the more benefits we can bring to our members, so thank you!

In regards to benefits for members, this is a great opportunity to remind you of the upcoming Chapter Luncheon on Tuesday, December 10, 11:00 am at Los Robles Greens in Thousand Oaks. This luncheon, "Disaster Strikes: Discussing Earthquakes, Floods & Fire in CA" will provide information to be prepared for the broad range of natural threats that face California residents. There is no way to know when an earthquake may occur and fires and floods are increasing in frequency and severity each year. This informational event is crucial for us to be safe and prepared moving forward. On a lighter note, if you can arrive by 11 am, you will get to experience the Shake Cottage, an earthquake simulator. Even the most seasoned California residents can always improve their earthquake safety skills.

Lastly, I would like to reiterate how grateful we are for the tremendous efforts of our volunteers. They sacrifice their time and energy to support our chapter and its members and we would not be nearing the 900 members milestone without them. That is why we would like to invite you to join us to celebrate at the Annual Awards Dinner on Friday, January 31, 2020 at The Westlake Hyatt. This is an opportunity to recognize our chapter volunteers, award recipients, sponsors and members. We hope you will join us for this evening in celebration of the folks that make the Channel Islands Chapter a leader in the state. For more information, visit [www.cai-channelislands.org](http://www.cai-channelislands.org).

This is a member driven organization so please reach out, get engaged and stay active. We are investing in our members that participate with support and educational initiatives, and I cannot emphasize enough how important it is for us to have a high level of participation. We have had a strong year and should not let ourselves be content, so I encourage you to find something you are passionate about and get involved.

This year serving as your President has been very exciting and gratifying. With the help of our Executive Director, Leah Ross, the board of directors and volunteers, we have reached many goals including membership growth, continuing to raise the bar on education and providing additional benefits to our members. As I pass the baton to our incoming Chapter President, Steve Roseman, Esq., I look forward to staying active in the chapter as I continue to serve on the board and volunteer to support our chapter leaders in making this the best chapter in the country.

Thank you for your support in 2019 and I look forward to seeing you at upcoming events.

Joe Smigiel, CIRMS

Joe Smigiel, CIRMS  
CAI-Channel Islands Chapter President

# What HOA Elections Will Be Like Under Senate Bill 323

**By Matthew L. Grode, Esq.**

*Gibbs, Giden, Locher, Turner, Senet, & Wittbrodt LLP*



On September 25, 2019, Senate Bill – 323 was approved by the California State Legislature. On October 12, 2019 Governor Newsome signed the bill into law over strong objections by CAI’s California Legislative Action Committee (CLAC). In its current form, substantial changes will need to be made to most associations’ election rules.

As space will not allow a discussion of every proposed change that SB 323 will make to Civil Code §§5100, 5105, 5110, 5115, 5125, 5145, 5200, and 5910, this article will seek to highlight the most important amendments. According to the Legislation’s Digest: “This bill enacts a series of reforms to the laws governing board of directors’ elections in common interest developments, commonly referred to as homeowners associations or HOAs. In broad strokes, the reforms seek to increase the regularity, fairness, formality, and transparency associated with such elections.” Although few can object to such goals, the devil is, as they say, in the details. In fact, this bill may result in an invasion into members’ privacy, a lessening of participation in the election process and a substantial increase in the cost of conducting elections.

The news is not all bad however, as the new law includes a few positive changes. For example, only members of the

association may qualify to run for and serve on the board of directors. In our opinion, owners have a greater incentive than others to ensure that their association’s affairs are operated in the best interest of all of the members. Many other states already limit directorship to members and, we believe, California should follow this trend. SB-323 also prohibits the amendment of the election rules within ninety (90) days of an election (Civil Code §5105(h)). Such a restriction may prevent “bad boards” from adopting rules which would disqualify their competitors at the last minute. In order to encourage greater participation, this bill expressly confirms that persons holding a power of attorney for a member must be allowed to vote. Finally, SB 323 provides, in some instances, that election rules may provide for the disqualification of a candidate who is not current in their regular and/or special assessments. Disqualification would not apply however, where the candidate has failed to pay fines, collection charges, late charges or costs levied by a third party.

Unfortunately, the list of unfavorable provisions of SB-323 is larger than that of its benefits. By way of example, the law does not prohibit felons from serving on the board. Rather, an “association *may* disqualify a nominee if that person discloses, or if the association is aware or becomes aware of, a past criminal conviction that either prevents



Many in the industry have expressed their concern that SB-323 will invade the privacy rights of association members. Such concern is well founded. Civil Code §5105(a) (7) mandates the retention of both a candidate registration list and a voter list. The voter list must include the name, voting power, and either the physical address of the voter's separate interest, the parcel number, or both. Both lists are now deemed to be "Association Election Materials" (Civil Code §5200(a) (14) and (c)). Please note too, that the definition of membership list now includes the email addresses of those members who have not opted out pursuant to §5220. Incredibly, the new law allows any member to review other members' signatures which appear on their ballot envelope.

Although SB 323 purports to encourage "fairness," it actually creates two separate classes of members based upon the longevity of their ownership. Boards can now prohibit a candidate from running for a seat if he or she has been a member of the association for less than one (1) year. At the same time, the law prohibits disqualification of members who have committed major violations of the governing document and/or who owe fines to the association.

*(Continued on page 9)*

the association from purchasing the fidelity bond coverage required by §5806 should the person be elected or terminate the association's existing fidelity bond coverage should the person be elected." By utilizing the word "may" instead of "shall" the law permits convicted felons to serve on the board. When a candidate's criminal background is discovered, it may not be possible to determine whether such history will prevent the purchase or the cancellation of fidelity bond coverage before the nomination forms are distributed and the ballots are to be cast. As the grounds for disqualification must be specified in the bylaws or the election rules, most associations will incur substantial expense updating their rules.

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In terms of voting, the new statute provides: "... the rules adopted pursuant to this section shall do all of the following: (1) Prohibit the denial of a ballot to a member for any reason other than for not being a member at the time when the ballots were distributed." In other words, the board may no longer suspend the right to vote of any member or their power or attorney for any reason.

Finally, SB-323 increases the cost of elections. One example of such an impact can be found in the prohibition against the community management company serving as the Inspector of Election. Often the cost associated with this function is included in management fee. However, Civil Code §5110(b) prohibits management from serving in this capacity.

Without question, we all favor fair and open elections. SB-323 however, does not achieve these goals and, in fact, negatively impacts the association election process. The law also jeopardizes personal privacy. By allowing owners who are delinquent on their assessments to run for a seat on the

board and violators to vote, the law also places substantial limitations on the board's ability to enforce the governing documents. 

**Matthew L. Grode, Esq.**, a partner at Gibbs Giden Locher Turner Senet & Wittbrodt LLP, graduated on the Dean's List from Pepperdine University School of Law in 1986.



*In his many years of practice, Mr. Grode represents hundreds of community associations relative to a broad array of legal issues including, but not limited to, interpretation and enforcement of governing documents, drafting of governing documents, contract negotiations and disputes, and construction defect litigation. His practice includes the representation of commercial and residential owners, homeowners' associations and builders with regard to construction defect litigation.*



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# There is More to Senate Bill 326 than Just Balconies

By Rachel M. Miller, Esq. &  
Tracy R. Neal, Esq.  
The Miller Law Firm



On August 30, 2019, Governor Gavin Newsom signed into law Senate Bill 326 (“SB 326”), what was commonly referred to as the “Balcony Bill.” SB 326 codified three significant community association laws, including balcony inspection requirements (California *Civil Code* Section 5551), nullified owner voting requirements in construction defect and SB 800 claims (California *Civil Code* Section 5986) and amended meeting notice requirements for construction claims (California *Civil Code* Section 6150).

## Balcony Inspection Requirements (California Civil Code Section 5551)

A national call for action in response to the devastating Library Gardens deck collapse in Berkeley is now a matter of California law. The collapse of a deck extending off the exterior of a fourth-floor residential apartment building in Berkeley in 2015 led to a heightened awareness of the danger posed by elevated decks, walkways, and balconies in multi-unit residential construction. In response to an otherwise preventable tragedy, Senator Gerald A. Hill of San Mateo most recently introduced Senate Bill 326, which Governor Newsom signed into law.

The “Balcony Bill” is now codified as Civil Code Section 5551, and requires condominium associations with 3 or more

units to conduct visual inspections of not just balconies, but all “exterior elevated elements”, which may include balconies, decks, stairways, elevated walkways and railings.

The inspection requirements are as follows:

- To be conducted once every 9 years
- Using a licensed, qualified structural engineer or architect
- A determination if there is an “immediate threat to safety of occupants”
- First inspection required by January 1, 2025

For brand new construction where building permits are issued after January 1, 2020, the inspections are required no later than 6 years from a certificate of occupancy.

All condominium associations must meet these inspection requirements, regardless of the age and ability to engage the builder/developer in SB 800. If the condominium association is 10 years old or less, the builder/developer may be presented with these inspection and repair costs under SB 800. The ability to conduct the required inspections in connection with potential construction defects claims may relieve those associations that are 10 years and younger and have not yet pursued construction defects claims, the significant costs associated with the inspections, and subsequent required repairs.

Associations (10 years old or younger and that have not pursued construction defect claims) may engage in pre-litigation claims procedures which include an expert visual inspection of an association's common area and building components to determine the condition of the common area and building components and the extent of defects, if any. Thereafter, the results of the inspection are presented to the board with recommendations as to how those responsible may be required to pay for the required repairs. In California, under Civil Code Section 944 builders are responsible and associations are entitled to all "reasonable investigative costs". If there are defects, and the association presents a claim to the builder under SB 800, the inspection requirements in SB 323 are a recoverable cost.

**No More Owner Voting Requirements for Construction Defect and SB 800 Claims (California Civil Code 5986)**

In addition to extending the application of the "Balcony Bill" to condominium associations, SB 326 nullifies provisions within community association governing documents which require a vote of the membership before legal action may be taken against a developer.

In *Branches Neighborhood Corp. v. CalAtlantic*, 26 Cal. App. 5th 743 (2018), voting provisions in the association's

governing documents were upheld. The developer had inserted voting provisions to make it difficult to pursue claims against the developer. Ultimately, the association's voting provisions were the basis upon which the Court of Appeal found that an association's otherwise timely lawsuit was barred by the statute of limitations because the vote of the membership occurred after the commencement of the lawsuit.

With the signing of SB 326, *Civil Code* Section 5986 is added to the California Civil Code to preclude community association governing documents (initially drafted by developers) from limiting associations' authority to commence legal proceedings against developers. Civil Code Section 5986 provides that "an association has standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with its members in specified matters, including enforcement of the governing documents". Additionally, subject to compliance with Civil Code Section 6150, and notwithstanding any other contrary provisions in an association's governing documents, the board of directors has the authority "to commence legal proceedings against a declarant, developer, or builder of a common interest development, except as specified".

*(Continued on page 12)*

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California associations' governing documents are prohibited from "limiting a board's authority to commence legal proceedings against a declarant, developer, or builder of a common interest development." Civil Code Section 5986 mandates that:

*"Any limitation or precondition, including, but not limited to, requiring a membership vote as a prerequisite to, or otherwise providing the declarant, developer, or builder with veto authority over the board's commencement and pursuit of a claim, civil action, arbitration, prelitigation process, or legal proceeding against the declarant, developer, or builder, or any incidental decision of the board, including, but not limited to, retaining legal counsel or incurring costs or expenses, is unenforceable, null, and void."* (Emphasis added.)

Civil Code Section 5986 also provides that the voting provisions in an association's governing documents may not be used or asserted as legal defenses and is applicable to "all governing documents, whether recorded before or after the effective date of this section, and applies **retroactively** to claims initiated before the effective date of this section, except if those claims have been resolved through an executed settlement, a final arbitration decision, or a final judicial decision on the merits". (Emphasis added.)

**Notice to Members of Filing of Defect Claims (California Civil Code Section 6150)**

SB 326 also amends Civil Code Section 6150. Where claims are not resolved in the SB 800 process, boards of directors are required to provide notice to the owners prior to filing a notice of arbitration or a lawsuit against the declarant or developer or within 30 days after filing if the association has reason to believe that the applicable statute of limitations will expire.

As a matter of practice, construction defect counsel should assist management in providing appropriate notice. Managers and boards should now be on alert that this notice

must be written, informing the members that a meeting will take place to discuss potential impacts to the community association, the options available to address the defects and the time and place of the meeting.

To briefly summarize:

- Boards may now make SB 800 decisions without member approval, even if the associations' CC&Rs require a vote;
- Boards may make SB 800 decisions without undue influence or pressure where the builder serves on the board; and
- Owners are entitled to 30 days' notice before a lawsuit or arbitration is filed

In summary, associations may now more effectively and efficiently investigate potential defect claims through the inspection requirements. If defects are identified, boards may now pursue claims without the constraints of member voting provisions in governing documents. Boards have more freedom to undertake their fiduciary duties and may retain counsel and incur expert costs, while keeping members informed by timely disclosures and notice throughout the SB 800 process and litigation and/or arbitration.

We commend the legislature for introduction of the laws described herein and welcome legislation that serve to protect interest of community associations and the boards of directors that are vested with the authority to manage and maintain the associations. [↑](#)



**Rachel M. Miller, Esq., Senior Partner and Tracy R. Neal, Esq.** are attorneys with The Miller Law Firm which specializes in construction defect claims.



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# Accessory Dwelling Units Could be Coming to an Association Near You!

By **Dan Shapiro, Esq.**

*Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP*

It is common knowledge that California has a severe housing crisis. Housing production has simply not kept pace with housing demand. The California Legislature has determined that accessory dwelling units (“ADUs”) can play an important role in mitigating the lack of affordable housing in California.

ADUs, also known as “granny flats,” backyard cottages, and secondary units, are additional living spaces that have a separate kitchen, bathroom, and exterior access separate from the primary residence. ADUs can either be attached to, or detached from, the primary residence. Proponents of ADUs argue that ADUs are an affordable type of home to construct in California because they are built with cost-effective one-story or two-story wood frame construction or they involve the conversion of an existing construction, and they do not require paying for land or major new infrastructure (e.g., streets, sewers, etc.). Opponents of ADUs object to the change in character of their single family neighborhoods into multi-family neighborhoods and the increase in density of structures and residents.

Over the years, many cities and counties had passed ordinances and construction standards which either prohibited construction of ADUs on single family lots altogether or which effectively limited the construction of ADUs by, among other things, imposing stringent size, setback, and on-site parking requirements. In the last few years, the California Legislature has passed multiple bills to encourage the construction of ADUs by reducing local barriers to permitting and making it easier for individual homeowners to add them. As of January 1, 2017, local ordinances that prohibited ADUs became void as did certain burdensome design standards previously imposed by cities and counties.

Insofar as the 2017 state law related only to local laws, homeowner associations have remained free to prohibit or limit the construction of ADUs based on the restrictions contained in their governing documents. However, as of January 1, 2020, planned unit developments will no longer be immune from laws about ADUs.



**Internal**



**Attached**



**Detached**



On August 30, 2019, Governor Newsom signed AB 670 (Friedman) which adds a new Section 4751 to the Davis-Stirling Common Interest Development Act governing homeowner associations. The new law makes void and unenforceable any provision of a governing document that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the standards established for ADUs. Planned unit developments will be allowed to impose reasonable restrictions on ADUs that do not unreasonably increase the cost to construct, or effectively prohibit the construction of, an accessory dwelling unit or junior accessory dwelling unit consistent with those aforementioned minimum standards provisions.

During the legislative process, critics of AB 670 argued, among other things, that by overriding an association's governing documents, the bill takes away the rights of residents to continue living in the single-family development into which they entered when they purchased their home and that the bill should apply only to the construction of new planned unit developments; neither the California Legislature nor Governor Newsom were swayed by such arguments.

This new law has significant implications for planned unit developments. From a practical standpoint, ADUs will not be permitted to be installed/constructed in every planned unit development because of design constraints, but many planned unit developments will be directly affected. Such associations will have to grapple with what constitutes an unreasonable restriction on the construction or use of ADUs. A major area of concern is the ability to regulate the rental of ADUs. The new law is prefaced by the following language: "It is the intent of the Legislature in enacting this act to encourage the construction of affordable accessory dwelling units and junior accessory dwelling units that are owner-occupied and that are used for rentals of terms longer than 30 days." Unfortunately, this statement of intent by the California Legislature does not address a situation where a home is not owner-occupied. Can an association prohibit an owner from renting the primary residence to one tenant and the ADU to a separate tenant? If an owner leases his or her entire lot to a tenant, can an association prohibit the tenant from subleasing the ADU to another tenant? Another area of concern is the ability of the association to restrict tenants living in ADUs from using the common area facilities (e.g., the swimming pool or tennis courts). Until this new law is challenged in court, the answer to these questions, for now, is "maybe." If these issues arise, be sure to consult with your legal counsel. 🏠

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# HOA Boards Must Provide Reasonable Accommodation for People with Disabilities



*By Robert I. Long, Esq*  
*Law Office of Robert I. Long*

***QUESTION:*** *I have noticed that over the years, and especially recently, many board members become very upset when management suggests they make “reasonable accommodations” for a resident to use nearby outside parking spaces, usually in guest parking, even when the resident (owner or tenant) provides adequate proof for the need for this accommodation. When it comes to parking, what is the association required to do when faced with a request for “reasonable accommodation”?*

**ANSWER:** The short answer is that yes, provided the disability reasonably relates to mobility and the need for a parking space close to the person’s home or unit, the association should make the reasonable accommodation of providing the assigned space, even if it runs contrary to the association first-come-first-served policy regarding guest spaces.

This duty on the association to provide such a reasonable accommodation arises under the Fair Housing Amendments Act of 1988 (“FHAA”), 42 USC §§3601-3631. A common misperception is that the reasonable accommodation requirement arises under the Americans with Disabilities Act of 1990 (“ADA”). The ADA only applies in limited circumstances to associations. The FHAA applies to homeowner associations in myriad ways. It is not possible to provide in the confines of this article a comprehensive discussion of the FHAA, but here are some things to bear in mind. NOTE: key statutory buzzwords and phrases are shown in quotes.



The term “handicapped” is no longer politically correct. Instead, we refer to “disability.” The FHAA not only makes it unlawful to discriminate against a person with disability, but also against a person “associated” with a disabled person. If a common laundry area is restricted to use by residents, the association must make a “reasonable accommodation” to allow a disabled person’s caregiver access in order to do the disabled person’s laundry, even if that caregiver does not reside on the premises.

Exactly what is a disability? The FHAA defines a “handicapped person” as someone having a mental or physical impairment that substantially limits one or more of that person’s “major life activities.” Not only is discrimination prohibited against such persons under the Federal FHAA, California law, *Civil Code* §4225 also voids a restrictive covenant that discriminates on the basis of disability. Not only does an association have an affirmative duty to remove such a discriminatory provision, its failure to do so may serve as a basis for awarding attorney fees against the association. §4225 (d)

The association may not inquire whether a prospective resident has a disability, but a thorny issue arises when a prospective resident inquires whether the association will approve a modification of the common area or suspension of a rule as an accommodation. In that case, when the disability is not obvious, the association may request “reliable verification” of the disability.

The FHAA makes it unlawful for an association to refuse to make reasonable accommodations in “rules, policies or practices” when such accommodation is necessary for the disabled person to use and enjoy the dwelling or common area.

It is important to distinguish between an “accommodation” and a “modification.” Costs associated with provision of “reasonable accommodations” are generally borne by the

association. Providing the assigned parking space is an example of an accommodation, not a modification. In contrast to the rule in which the association bears the costs of a reasonable accommodation, the general rule is that the disabled resident is chargeable with the costs of a modification. A modification is deemed “necessary” if there is an “identifiable relationship, or nexus, between the requested modification and the individual disability.” Typical modifications include changing doorknobs to levers, installing grab bars in bathrooms, widening doorways to accommodate wheel chairs, installing ramps, and lowering countertops and cabinets. Since the homeowner bears the costs of the modifications, it follows that the board may not unreasonably withhold approval of the modifications. *Civil Code* §4765 requires an association to provide a “fair, reasonable and expeditious procedure” for making decisions regarding proposed modifications to the separate interest or common area. From a disabled person’s standpoint, this is tantamount to justice delayed is justice denied.

**CONCLUSION:** If it reasonably relates to mobility issues of a disabled person, an association must make the reasonable accommodation of providing a close-by parking space to the disabled person, even when to do so runs contrary to the association’s rules and policies regarding assignment of parking spaces. ⬆

**Robert I. Long** is the principal of the Law Offices of Robert I. Long, a general, private-practice law firm located in Ventura, California with a focus on community-association law. Mr. Long has been practicing since 1984, and was the 1996 President of the Channel Islands chapter of Community Associations Institute. He is a frequent presenter and author regarding community-association topics.





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# Buried in Email

By Julie Adamen  
Adamen Inc



## From a management executive:

*“Hi Julie! ... I’m wondering if you have come across any companies that are having the same problem we are: Too many emails, and not enough time to answer them! Our managers are literally buried in emails! This is a big problem as our contract states emails will be answered in 24 business hours – which we strive to do but honestly there just aren’t enough hours in the day! What are other companies doing about this? Any help you can give will be greatly appreciated...”* - (Name withheld to protect the innocent)

Sound familiar? Of course it does.

Let’s say a manager receives 60 emails per day, and let’s say each one takes (a very conservative) 5 minutes to read, answer and dispatch: **that’s 5 hours per day**. If a manager received 120 emails per day... **do the math! It is LITERALLY impossible** to answer that many emails in a normal work day. Our staff is drowning in email communications and it’s only going to get worse as more of society and the industry moves away from phone calls – yet still expects immediate response/resolution. What to do? For starters, here are some practical suggestions for the day-to-day issues, and some thoughts on how we move on from here.

## For the Managers

### USE AUTO-RESPONSE EVERY DAY, ALL THE TIME

Auto-response is the fastest and easiest way to begin managing your inbox, and here’s why:

**It gives the “needed” instant response.** Everyone wants to know their email has been received, and auto-response gives that touch back to the client.

**It can set expectations.** *“Hi, this is Julie Adamen and your email has been received. Due to the volume of email received, if your message requires a personal response I will do so no later than 2 pm tomorrow. If this is a service request, it will be forwarded to the correct department for resolution. If this is a matter concerning a threat to life or property, please call our office at 000.555.1212. Thank you for contacting Adamen Management.”*

**And you can impart general information.** To the above, add: *“For planning purposes, I will be out of the office this Friday attending multiple board meetings.”*

**IMPORTANT! Remember to update the response!** Check your response daily – is it still good for today? If not, change it! Not doing so not only confuses the senders, it will likely make your email workload worse and makes you look unorganized.

### TRIAGE: URGENT OR IMPORTANT?

**‘Urgent’** - Compelling immediate action or attention; pressing

**‘Important’** - Strongly affecting the course of events or the nature of things; significant

Read/respond to/dispatch all those emails as quickly as possible: Emails that can be forwarded to vendors or another department go first. Next, triage, or work on the

remaining emails in **order of importance**, *not in order of urgency*. **Important items** are critical information from board and committee members or service providers, legal issues, liability issues... even political issues can be very important! **Emails from your standard complainers (for the most part) are merely urgent, not important.** Everyone thinks their email is the most important thing coming your way today – but don't be fooled. It's up to you to respond to the "important" (see above) items first, and the "urgent" ones next. Remember, everything is urgent, but not everything is important.

## PRO-TIPS

**Don't be cc'd on conversations you don't need to be in on.** Managers don't need or want (for the most part) to be looped in a "reply to all" discussion about hedge trimming or paint color between board and committee members. Tell them to include you in once a course of action need to be taken by you.

**Practice short and professional email responses to even the worst senders.** Have you ever received a lengthy, train-of-thought email full of commentary and opinion masquerading as "deep concern" sprinkled with rhetorical questions such as: *"Do you think this is acceptable in our community?"* or *"What are you and the board doing?"* (Of course you have, there's probably one in your inbox right now!). Recognize these types of communications are intended to get you sucked in to a lengthy back-and-forth conversation which 1) is designed to catch you/the board in a mistake and 2) something for which you don't have time. Simply write a short, professional acknowledgement and inform them of your course of action: *"I have reviewed your communication dated June 12, thank you. It will be presented to the board for their review at the next meeting, currently scheduled for July 29."* Seldom

does even the lengthiest communication require a lengthy response. **Be as brief as possible in all your responses.**

**Never hop the crazy email train.** Without doubt you will receive a long, angry email from some group in the community, with dozens of names in the cc list and probably a lot more in the bcc list. Typically these are full of emotion and speculation, not fact, so it's very tempting to want to jump in and set the record straight. **DON'T DO IT!** Doing so opens you up for your comments being taken out of context, cut and pasted or changed altogether. It also gives the crazy train more ammunition to use against you and the board and will likely create hours of unnecessary work for all of you.

**Know when to pick up the phone.** You know, sometimes it actually IS faster to pick up the phone.

## The Big Picture for Executives

**Review existing contracts.** Is your company operating on contracts negotiated 5 or 6 years ago? Then the email response times outlined in those old contracts may be completely unrealistic today – and not just because communication methods have changed but **the demographic of the community(ies) may have changed:** They also may be more "needy" than when you bid the account.

**Ask for staff input.** How much time is being spent on email for each account? Inquiring minds should want to know so service, pricing, policy or *training* of staff members can be adjusted accordingly.

**Give staff guidelines/set policy.** I would venture to say that most staff members – especially newer staff members – don't know what they should get involved in email-wise or how they should answer (brief, professional and fit for public consumption) in general. Consider developing guidelines – or

*(Continued on page 20)*



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updating old ones – on email responses, provide “form” emails for routine matters and crazy email trains (see above) are not answered by staff without express permission of their supervisor.

**Recognize this: New managers will take a LOT longer to process emails than experienced managers,** as they have to “earn while they learn” and look up answers to questions, read unfamiliar documents and on and on. So that 5 minutes to process email we talked about up top? Triple that, at least. Is this communication workload burning your new managers out at a faster rate than normal? Can you afford that?

**The Big One:** Many management companies have agreed by contract to return email in 24 or 48 hours. Is this turnaround realistic, sustainable and importantly, necessary? Or as executives are we making promises that can’t be kept; thus setting client expectations higher than our staff can deliver? Managers I talk to are working all day and well in to the evening hours responding to emails. How long can or will they keep it up?


## The Wrap: Executives Must Take the Lead

**1. Understand communication flow.** Where to start? By actually researching the existing communication conditions managers work under, not what we would like to tell ourselves. First quantify by counting the number of emails coming in, where they come from and how long it takes staff to answer. Then determine if **that communication processing time is acceptable or excessive** (most companies have software that can track this).

**2. Help staff manage incoming communications.** If workloads are excessive, provide new company guidelines on answering those communications, give them “form” answers for standard questions, and set policy for the use of auto-response.

**3. Manage client expectations.**




- a) Bring clients in to the process by letting them know the number of emails received from their community as a part of the management report, along with the amount of time it takes (on average) to respond.



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This could also be a talking point in your company e-newsletter that goes out to your clients.

- b) Consider revising communications in existing contracts; perhaps auto-response *is* sufficient for low-priority issues and publish this information through your managers, your website and your own personal outreach. Explain why you're taking this action.
- c) Consider new contracts to be "X" amount of emails per week are included, more than "X" are charged back to the client (non-auto-response emails only). Perhaps this is only for the most egregious violators; but if we start thinking like other professions, we'd be charging for emails now.

Hey, I'm just spitballin' here. I don't have all the answers, and of course all companies are different. What I do know is that staff is buried in email and we need to get in front of this present – and looming – issue. 🏠

**Julie Adamen** is the principal of Adamen Inc., a national consulting and employment firm specializing in the community management industry. She is a recognized expert in community management, management compensation and association / management operations. She is a prolific author, educator, motivational speaker and trainer for managers and boards. She has been primary writer and publisher of *The HOA Manager NewsLine*, an industry e-newsletter and *Community Association Management 101*, online classes for new community managers and for board members.





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# The Legislative Year in Final Review

By James Perero, Esq.

Myers, Widders, Gibson, Jones & Feingold, LLP

Two thousand and nineteen will leave a mark with respect to three new laws, which range from very good to worrisome.

In a win for community associations, irresponsible developers now have one less way to avoid being held to account for shoddy construction, thanks to SB 326 (Hill). Developers have become fond of drafting CC&Rs that make it difficult for associations to sue them for construction defects, for example, by requiring a membership vote to approve a lawsuit. In general, this new legislation gives a board authority to sue a developer without prior membership approval.

The legislation also requires periodic inspection of balconies and elevated wooden structures (e.g. walkways) in condominium common areas. CLAC worked with the bill's authors to develop practical inspections procedures that can be accomplished when an association performs its reserve study.

Under the new law, no later than January 1, 2025, condo associations must retain a licensed structural engineer or architect to complete a "reasonably competent and diligent inspection" of exterior elevated components for which the association has maintenance and repair responsibility. Inspections must then occur every nine years.

The Legislature's press to expand the housing supply is catching up to planned developments. **SB 670 (Friedman)** renders void any provision in the governing documents that would prohibit an accessory dwelling units ("ADUs") (usually detached, and up to 1,200 square feet) and junior accessory dwelling units ("JADUs") (up to 500 feet, within existing structure) on lots zoned for single-family residential use. However, associations may adopt reasonable restrictions that do not unreasonably increase the cost to construct or effectively prohibit the construction of an ADU or JADU.

Big changes are coming to association governance, and they appear problematic. Among other things, **SB 323 (Wieckowski)** limits an association's ability to restrict who qualifies as a candidate for the board of directors. As of January 1, 2020, associations must disqualify from nomination any person who is not a member of the association. Through its Bylaws or election rules, an association may disqualify someone who: i) has a prior criminal conviction that would interfere with the association's ability to obtain fidelity bond coverage, ii) is not current in payment of regular or special assessments (subject to certain exceptions), iii) if elected, would serve on the board at the same time as another person on title to the same

interest, or iv) has been a member of the association for less than a year.

Additionally, election procedures will be more complicated and expensive. For example, an association must now provide general notice of nomination procedures at least 30 days before the nomination deadline. Also, the bill prohibits anyone from serving as an inspector of elections who "is currently employed or under contract to the association for any compensable services other than serving as an inspector of elections." That means managers can no longer serve as an inspector. Association members may do the job—if they are willing to follow what (for some) are intimidating procedures.

Member email addresses are now part of the "association records" which each member has a statutory right to obtain. Although a member apparently may opt out of having their name and addresses shared, few know about the option and poor drafting by the legislature clouds the issue.

CLAC led a robust challenge to the legislation and forced the author to make numerous changes that reduced its negative impact. The measure almost failed to make it out of the legislature because of the tremendous effort CAI members made to persuade local representatives to oppose the measure. When the bill went to

# The Importance of Homeowner Involvement

**Guest Blog by Randy Stokes**

*CAI-CLAC Channel Islands Liaison*

the governor's office, community association homeowners and their allies inundated the governor's office with so many calls to veto the bill that his office requested that CLAC route phone calls to a separate telephone number. It was a disappointing outcome, but a great advocacy effort. CLAC will be evaluating the negative impacts of SB 323 and will be looking for help to gather data over the next 12 months.

Last month, CLAC held its Annual Planning Meeting where discussion included combatting SB 323, electronic notifications, and assessment liens, among others. CLAC is planning to sponsor legislation in the new year, so stay tuned! For up-to-date information on CLAC's advocacy efforts and how you can get involved, visit [www.caiclac.com](http://www.caiclac.com).



**James Perero** is an attorney at the law firm Myers, Widders, Gibson, Jones & Feingold, LLP. He has been practicing law for 10 years. He represents

community associations as general and litigation counsel and is an active member of CAI-Channel Islands Chapter and serves on the Chapter's CLAC Committee.

About three years ago, I joined our local CAI-Channel Islands Chapter and began hearing about the value the California Legislative Action Committee (CAI-CLAC) brings to homeowners associations by representing their interests at the State Capitol in Sacramento. The more I heard, the more important I believed CAI-CLAC's contributions to be. I learned of CAI-CLAC's Buck-A-Door program to raise money to support CAI-CLAC's good works, and proposed to my fellow HOA directors that our association contribute to that campaign. I was told that our governing documents prohibited us from using association funds for any political purpose. Upon learning this, I reviewed the documents and confirmed this in fact was true. I contacted our local chapter's executive director to see if I could make a personal contribution to the CAI-CLAC campaign. She gave me an enthusiastic YES, and I immediately wrote a check.

The following year, I continued to extol the value provided by CAI-CLAC's work and challenged/invited my fellow directors to join me in making personal contributions to the Buck-A-Door campaign. Together, we ALL enthusiastically made contributions that exceeded the "dollar-per-unit"

total the program requested. I expect this level of contributions to continue in future years.

I proudly serve on our chapter's Legislative Support Committee for CAI-CLAC and on the CAI-CLAC statewide committee. My continued involvement is because I believe so strongly in CAI-CLAC's mission in service to homeowners associations throughout California.

Learn more about CAI-CLAC's Buck A Door Campaign and Legislative Advocacy by visiting [www.caiclac.com](http://www.caiclac.com)

**Randy Stokes**, currently serves as the CAI-CLAC Channel Islands Liaison. He is the Vice President and homeowner member with Surfside III Condominium Owners' Association, Inc. in Port Hueneme.



## Increasing Your Knowledge While Expanding Your Network

By **Nancy Adamczyk**

HOA President, Hillcrest Garden, Thousand Oaks, CA

Living in a community and serving on its HOA Board can be both challenging and rewarding. Being a member of CAI is one way to minimize the challenges and accentuate the rewards.

Receiving the *Channels of Communication* Magazine from our local chapter is a great way to stay up-to-date on upcoming events and pertinent topics of interest to our communities. The CAI Membership Directory, published annually, is a useful tool in guiding members to business partners, helpful products, and beneficial services.

The *Common Ground*, CAI Magazine, provides a wider scope of community association issues from a national perspective.

Personally, I have found that our CAI luncheons, dinner meetings, and community faires are an excellent way for HOA board members to increase their knowledge of relevant topics and expand their networking. A wide range of subject matter is covered by the speakers and I have found some useful information to take home with me every time. These events are well organized and always well attended.

So, check it out and see what CAI membership can do for your community.

**Nancy Adamczyk** has been an educator and coach for 42 years. She is also a Water Safety Instructor Trainer and a First Aid Trainer with the Red Cross. Nancy has served on her own HOA board for the past 18 years.



## Chapter Calendar of Events

— 2019 —

### NOVEMBER

- 19 Chapter Luncheon: Annual Legislative Update, 11:30 am, Los Robles Greens, Thousand Oaks

### DECEMBER

- 10 Chapter Luncheon: Disaster Strikes! Discussing Earthquakes, Floods and Fires in CA, 11:00 am, Los Robles Greens, Thousand Oaks

— 2020 —

### JANUARY

- 28 Ventura County Chapter Luncheon, 11:30 am, Thousand Oaks  
31 Chapter Awards Dinner, 5:30 pm, Hyatt Westlake

### FEBRUARY

- 6 Central Coast Luncheon, 11:30 am, Pismo Beach  
20 Santa Barbara Luncheon, 11:30 am, Santa Barbara  
25 Ventura County Chapter Luncheon, 11:30 am, Thousand Oaks

### MARCH

- 31 Community Faire & Educational Programs, 4:15 pm, Oxnard

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

## Business Partners and Management Companies



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Michael Foore, Lake Shore Community Association • James P. Lingl, Esq., Loraine Luxury Townhomes • Philip Morris, Hancock Village  
 Laura Passmore • Janet Polk, Los Verdes Park II • Adrienne Schuele  
 Sharon Gammill, Los Verdes Park II

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 Decksides Villas HOA • Harbor Lights HOA • Harborwalk HOA  
 Hillcrest Garden HOA • Hitching Post Estates • La Ventana • Lakeside Village  
 Las Casitas Maintenance HOA • Las Posas Garden HOA • Leisure Village HOA  
 Los Robles Estates HOA • Mallard Green HOA • Oaknoll Condominium Assoc.  
 Orchard Lane HOA • Palm Colony Condominium Association • Peter's Ridge HOA  
 Rancho Adolfo Estates HOA • Rancho Ventura HOA • San Luis Bay Mobile Estates  
 Surfside I HOA • The Colony at Mandalay Beach • The Highlands of Rancho Grande • Valle Del Sol HOA • Village Green Property Owners Association  
 Whalers Village Club dba Malibu Shores Village • Yankee Landing HOA

## Community Managers

Natasha Ashe, PMP Management AAMC • Michelle Atkinson, Ross Morgan & Company, Inc. • Stephanie Dayton, CMCA, AMS, Oak Shores Community Association • Kelli DiNapoli, Gold Coast Association Management • Jill Foley, Kern City Civic Association • Marianne Freeman, CMCA, Ennisbrook HOA  
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# Welcome

*to our new members!*

## Homeowner Volunteer Leaders

Rose Real, Summerset Village

## Community Association Boards of Directors

Channel Islands Park Homeowners Association  
 Coral Tree Villas  
 Southshore Hills Property Owners Association  
 Ventana Neighborhood HOA  
 River Ranch Owners Association  
 Surfside II Condominium Association  
 The Cape at Weston Village  
 Village Homes Property Owners Association  
 West Park Condominium Homeowners Association

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## Schedule of Events

**December 10, 2019**

**Chapter Luncheon**  
**Disaster Strikes! Discussing**  
**Earthquakes, Floods and**  
**Fires in California**  
Thousand Oaks

**January 28, 2020**

**Chapter Luncheon**  
Thousand Oaks

**January 31, 2020**

**Chapter Awards Dinner**  
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