

Community Trends®



LEGISLATIVE UPDATE

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Seasonal maintenance is not an easy theme to adapt to a legislative updates column. But I have learned that anything is possible!

A-1484 – Automatic Rain Sensors.

Everyone is all too familiar with seeing sprinkler systems operating while it is raining. In the past few months, the Legislative Action Committee has learned that A-1484, a bill which mandates automatic rain sensors on irrigation systems installed in common interest communities, has resurfaced. The bill was pre-filed for introduction in the 2016-2017 session pending technical review. It requires that every contract of sale of real property upon which a lawn sprinkler system was installed on or prior to September 8, 2000 is to include a provision requiring the installation of an operational automatic rain sensor device or switch that will override the irrigation cycle of the automatic lawn sprinkler system when adequate rainfall has occurred.

The bill does not apply to the closing of title on the sale of property within a common interest community, which means a horizontal property regime, condominium, homeowner association, cooperative, or mutual housing corporation, in which some of the property, commonly known as “common elements” or “common areas,” are owned or controlled by the unit or association owners or members. However, the bill provides that, within 24 months after the bill becomes law, an automatic lawn sprinkler installed on or prior to September 8, 2000 in a common interest community must

be retrofitted with an operational automatic rain sensor device or switch that will override the irrigation cycle of the automatic lawn sprinkler system when adequate rainfall has occurred.

There have been significant advances in irrigation equipment intended to address this problem. The bill is prob-

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lematic as it requires the use of outdated equipment while not acknowledging significantly enhanced technology in irrigation controls and rain/moisture sensors in the industry. CAI will be one of the voices, on behalf of its community associations and property managers, in the discussion of this bill.

S181/A3656 – Prohibition on Indemnifications in Snowplow or De-icing Service Contracts.

In the vein of seasonal legislation, I now shift from irrigation to the other end of the seasonal spectrum – snowplowing!

This bill makes void and unenforceable any provision in a snowplow or de-icing service contract that purports to

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indemnify, defend, or hold harmless the party that engages snowplow contractors from or against any liability for loss or damage resulting from the negligent, intentional acts, or omissions of the snowplowing contractor.

These contractual clauses are often referred to as indemnity clauses, which generally shift the responsibility to pay damages from one party to another party, often without regard to whom actually caused the loss. This bill voids any provision in a snowplow or de-icing service contract that indemnifies or defends a party, such as a community association or property manager, from liability due to the negligent, intentional acts or omissions of the snowplow contractor. Essentially, the bill prohibits property owners/community associations and snowplow contractors from agreeing to indemnification provisions in service contracts.

Currently in New Jersey, certain statutes limit indemnity clauses in certain construction contracts, contracts relating to architects, engineers, and surveyors, and motor carrier transportation contracts. This bill would similarly limit these types of contractual clauses in snowplow or de-icing service contracts.

A4484/S2884 – Deed Restrictions or Agreements that Prevent Raising or Constructing of a Structure to Flood Elevation Standards are Unenforceable.

This bill would potentially counter the uniformity in design and construction that is at the core of common interest communities, and essential to attached housing units. The bill states that any deed restriction or agreement, no matter when entered into or made, that prohibits or has the effect of prohibiting any otherwise lawful raising or constructing of a structure to a “new and appropriate elevation,” (as defined in the bill) is contrary to public policy and, therefore, is unenforceable. The bill would also clarify how certain exemptions from development regulations under existing law apply in the case of townhouses or row houses for which title to each unit is held in fee simple.

The bill defines the term “structure” to mean any dwelling or building; however, in the case of attached townhouses or row houses for which title to each unit is held in fee simple, it would mean a single townhouse or single row house. LAC members are working along with Tim Martin of our lobbying firm, MBI-GluckShaw, to address the problematic aspects of this bill.

Legislative Update Programs.

Four programs were conducted throughout the State during March and into early April. We were able to offer four locations – Mays Landing, Manchester Township, Monroe Township, and West Orange – for the convenience of CAI-NJ members. LAC members Matthew Earle, Christopher Florio, George Greatrex, Thomas Martin, Mike Pesce, David Ramsey, and Caroline Record all presented, along with Tim Martin, of our lobbying firm MBI*Gluck Shaw. To welcome CAI members to each location was a LAC members, Liz Comando, Carol Koransky or Jack McGrath, who also introduced our guests to the CAI’s PAC.

I am very happy to report that each program was attended by a large and enthusiastic audience. We thank everyone who we met at each location for coming and hope you found the programs to be valuable. We look forward to receiving your ideas and seeing you again next year.

New Jersey Conference of Mayors (NJCM) Spring Conference.

CAI-NJ and LAC will be exhibiting at the Annual Spring Conference & Exposition of the NJCM on Wednesday, April 26 through Friday, April 28, 2017 at the Borgata Hotel Casino & Spa Event Center, in Atlantic City. We will be there to showcase our organization to Mayors and other State and municipal officials and representatives, and other businesses. Come join us! ■