

# Community Trends®



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## LEGISLATIVE UPDATE

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The Legislative Action Committee issue of *Community Trends*® is undoubtedly my favorite issue for which I write this column. I get to read all of the articles before the issue is published, and offer a brief description of the context in which the articles were written.

The effort and coordination to produce this issue isn't evident when the issue arrives in the mail of each member. To appear in the September issue of *Community Trends*, the articles have to arrive in Jackie Oskierko's computer (the expression used to be "arrive on Jackie's desk") by early August in order for Jackie and the Editorial Committee to comb through the articles. But I put the LAC issue on the meeting agenda of the LAC beginning in March. That's when I encourage volunteers to write, acknowledging that everyone has other priorities, albeit personal or professional, and emergencies which sometimes make it difficult to generate an article on time and on topic.

The pressure of a looming deadline and the anxiety of writing is compounded by the topic selection process. Will a topic selected in March still be of interest come September? Will new developments in the in the community association arena arise before September which aren't included in the selected topics? And the most dreaded concern - Will members who volunteered to write not come through?

I thank everyone who wrote. The articles individually and, therefore, collectively are excellent. They demonstrate the breadth of knowledge and experience that the members bring to the LAC. The authors never lose sight of the reason they write. We work hard through the year

in meeting, analyzing and discussing bills, lobbying and advocating and then we produce "our" issue of *Community Trends* to showcase who we are and what we do. In a nutshell, we are here to serve the members of CAI-NJ. And it is a commitment which continues over the course of days,

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months and years. Our hope is that we educate our members, help them deal with issues, provoke consideration of potential relief in the context of legislation, and encourage them to seek out the LAC should recourse through legislative advocacy be the course to take.

**New Election Requirements.** The election procedures which were followed by the Radburn community in Fair Lawn, New Jersey was the catalyst for the passage of a law on July 13, 2017 to implement a fair election process at the Radburn community and throughout the State. The LAC committed its time and energy to a bill introduced by Senator Robert Gordon, as well as several other bills, which were intended to respond to the governance structure at Radburn which has many features which

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ran contrary to the procedures we often take for granted in the conduct of fair, open and meaningful elections.

**J. David Ramsey, Esq.**, who worked on the drafting of the bill and its passage into law along with other LAC members, shares in his article the history of the bill, the effort that went into the signing of the bill into a law, and what the law now means for community associations throughout New Jersey.

**Redemption of Tax Sale Certificates.** It is an understatement to say that the resources available to community associations and their professionals to collect delinquent common expense assessments are limited. Changes in the current statutes governing the sale of tax sale certificates warrant evaluation, leading to the possible adoption of new means to pursue delinquent assessments.

One avenue of relief is to afford community associations the right to redeem tax sale certificates. New Jersey courts have consistently interpreted New Jersey statutes to prohibit community associations from redeeming tax sale certificates.

Further consideration should be given to community associations in light of recent bankruptcy court rulings'. Decisions governing the nature of community association liens in recent bankruptcy cases, such as *In re Rones*, and *In re Keise*, have given rise to recommendations on behalf of community association by bankruptcy practitioners for legislative relief for community associations.

**Timothy P. Duggan, Esq.** elaborates on both of these problems and prescribes potential legislative action to enhance the tools available to our membership to pursue delinquent owners.

**Insurance.** The LAC is fortunate to have amongst its members a seasoned insurance professional. As such, the LAC looks to him for a perspective which only someone experienced in this field can bring to analyzing insurance-related bills and recommending amendments or opposition to such bills.

**Vincent Hager, CIRMS** brings to the forefront of this review of bills those which focused on insurance. These technical bills concern the assessment of insurance deduct-

ibles, the construction of structures to meet certain flood elevation standards, and the prohibition indemnification language in snow plowing contracts.

**Property Management.** The LAC also draws on the expertise of property managers of its membership and, in this context, the historical memory of its members. A bill the LAC has been considering this past year amends legislation dating back to 2000 relative to the retrofitting of lawn sprinkler systems.

Fast forward 17 years to the issue of electric charging stations in our communities – just as Tesla introduces its first mass-market sedan. With the advent of electric vehicles over a decade ago (and more than one instance of someone running an extension cord over a parking lot surface), a bill governing electric charging stations is more than ripe for consideration.

Finally, some possible relief from the costly investment our community associations make in the maintenance of fire hydrants brings to our attention a bill for the maintenance of fire hydrants by municipal utility authorities.

**Michael Pesce, PCAM** discusses these bills and his perspective which impacted the position which the LAC took on each of these bills.

**Mortgage Foreclosure Reform.** We had included in this issue of Community Trends an update to our report in the 2016 LAC issue. The wheels of the legislature grind slowly and the LAC's efforts with mortgage foreclosure reform is certainly proof of that. Mortgage foreclosure reform is also proof of the determination of the LAC to advance the interests of its members who are often burdened by delinquent mortgagor, owners who have ceased paying common expense assessments and have often vacated or failed to maintain their homes. Some progress has been made, but much more is needed and LAC continues to press for advancement of pending bills to faces the obstacles from mortgage bankers associations.

**George Greatrex, Esq.** writes on the history of mortgage reform bills and where pending bills currently stand.

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He also provides a synopsis of existing laws, for which the LAC advocated, in the past, which serve as a resource to community associations.

**Cooperative Ownership.** While not as common as in New York, there are a number of communities subject to the cooperative form of ownership in New Jersey. These communities are commonly referred to as "co-ops." Due to the paucity of those communities, when compared to condominium and subdivided lot communities, comes the concomitant confusion about the vesting of interests by way of proprietary leases, shares of stock and compliance with by-laws. While the Cooperative Recording Act became effective in 1988, there is no statutory structure for cooperatives as, for example, that which comes from the Condominium Act New Jersey

**Matthew Z. Earle, Esq.** explains the fundamentals of co-ops and the concerns which may arise in those communities. The LAC is mindful of the fact that among its members are apartment corporations and the shareholders in cooperatives and provides the requisite support to these

members, as well as those residing in more conventional common interest communities.

**Relationships between Community Associations and Municipalities.**

Last, but not least, is a discussion by a community association volunteer leader (CAVL) of the LAC. The interests of community associations are intimately related to those of municipalities. Sometimes those interests are similar and sometimes they are disparate. Nonetheless, common interest communities, and their residents, form a significant part of municipalities throughout the State.

**Paul M. Raetsch** discusses a number of bills which are under the scrutiny of the LAC. He brings a unique perspective to this issue that only a dedicated volunteer, who has served on the governing board of the community in which he resides, can.

I am certain the articles written by my fellow LAC members will hold your interest as much as they did mine. Feel free to reach out to the authors or to me to express your viewpoint or if you have any suggestions as to how we may better serve your community. ■