March 15th 2010 was the day a new set of ADA standards went into effect for most pools across America. The Americans with Disabilities Act, through the Department of Justice, issued standards requiring 2 accessible entrances to pools. The entrances can be in the form of a 2% slope ramp or a mechanical lift. These are very expensive components to install and you should be concerned whether your HOA needs to do this or face legal action.

Here’s how to tell whether your HOA has to comply with the new standards. HOA’s fall under Title III of the Act which doesn’t define HOAs in particular, but defines public and commercial uses. In a call to the ADA to clarify and find specific references, an ADA representative told me, “There aren’t guidelines clarifying that HOAs are exempt, but they don’t generally fit the application guidelines. An update to exempt HOAs is in the works, but a draft is not ready for public consumption.” So, if you are acting like an average Utah HOA where the pool is for owners only, you are exempt from these changes.

Here are ways you may qualify for the new ADA Standards:

- **Sell Memberships**: If you allow any non-owner/association member to pay to use the pool, you are making your pool open to the public and your pool must comply with the new standards. *(Continued on p. 20)*
FROM THE PRESIDENT

Great Start to the New Year

Hello All!

I hope that everyone has had as great a start to 2012 as the Utah Chapter has! We had 109 registrants for our January Legislative Luncheon and 88 for our Manager Licensing Panel in February. I’m hoping to see similar numbers for our upcoming events.

The UCCAI 4th Annual Golf Tournament has been scheduled for September 12, 2012 at the South Mountain Golf Club. Sponsorships are now available and more information will be provided in the coming weeks. If you have any questions, please contact Jeremy Bailey at (801) 641-9225 or jeremy@tlmllc.com.

As many of you know, the Utah Chapter has recently created a St. George Regional Committee to expand our membership base and to provide educational events to those community members, managers and business partners in the Southern Utah region.

Their first event, a homeowner roundtable, was held on February 16, 2012 and it was a HUGE success! There were 5 speakers and 12 vendors participating with 132 homeowners attending.

The Board of Directors currently has a position open for a Community Association Volunteer Leader (CAVL) Member, the term runs until August 2013. If you are interested in filling this position, please provide a brief statement of interest to Tonia at info@uccai.com. Thank you all for your continuing support and I hope to see you at our upcoming events.

Sincerely,

Sarah Crawford, CMCA®, AMS®, PCAM®
President
Utah Chapter Community Associations Institute

2012 Events Schedule

March 24 Essentials Course

April 5 St. George Post Legislative Round Table

April 11 Homeowner Roundtable

April 13 HOA Leadership Luncheon topic: Legislative Recap Cottonwood Country Club

May 2-5 National CAI Conference Las Vegas
2011-2012 UCCAI BOARD OF DIRECTORS

Sarah Crawford, CMCA, AMS
President
Community Manager

Vacant
Treasurer
Community Association Volunteer Leader

Julie Ladle
Secretary
Newsletter Committee
Business Partner

Jeremy Bailey, CMCA, AMS
Events Committee Liaison
At Large

Peter Harrison, Esq.
Education Committee Liaison
Business Partner

Béat Koszinowski, CIC, CIRMS
Membership Committee
Business Partner

Jerry Jensen, CMCA, AMS
St. George Committee
Community Manager

2011-2012 COMMITTEES

Events
Jeremy Bailey, CMCA, AMS - Liaison
Shaun Simmons, CMCA, AMS - Chair
Tod Bean
Jerry Jensen, CMCA, AMS

Education
Peter Harrison, Esq. - Liaison
Megan Deming - Chair
Lara Valenzuela, CMCA, AMS

Membership/Communications
Béat Koszinowski, CIC, CIRMS - Liaison
Doug C. Shumway - Chair
Dale Gifford, CMCA, AMS, PCAM, RS
John Morris, Esq.
Julie Ladle, Esq.
Michael Johnson, CMCA, AMS, PCAM

Newsletter
Julie Ladle, Esq. - Liaison
Michael Johnson, CMCA, AMS, PCAM - Chair
Carly Walker

St. George
Jerry Jensen, CMCA, AMS - Liaison
Greg Gardner, CMCA, AMS - Chair
Bruce Jenkins
Robert Frost
Ryan Anderson

2011-2012 LEGISLATIVE ACTION COMMITTEE

John D. Morris, Esq. - Chair
Bruce Jenkins, Esq. - Vice Chair
Michael Miller, Esq. - Secretary
Michael Johnson, CMCA, AMS, PCAM - Treasurer
David Houston, CMCA, AMS
Derek Peterson, CMCA, AMS
Jill D. Candland
Jerry Jensen, CMCA, AMS
John Richards, Esq.

Justin Rae
Keith Schoen
LaMond Woods
Ray Kimber
Sabine Liedel, CMCA
Val K. Weight

UTAH MEMBERS WITH NATIONAL DESIGNATIONS & ASSIGNMENTS

AAMC
FCS Community Management

CIRMS
Béat Koszinowski

CEO-MC Committee
Michael Johnson - Chair

CCAL
Lincoln Hobbs
John Richards

National Faculty Members
Lincoln Hobbs
Michael Johnson

RS
Dale Gifford
Bruce Jenkins
CHAPTER NOTES

Enhance 2012 with UCCAI Involvement

BY TONIA SNOW
UCCAI EXECUTIVE DIRECTOR

I’m looking forward to a new year with UCCAI and want to thank everyone who made our first event in 2012 such a success. On January 13th we held our monthly leadership luncheon, an annual CA Day event at the Utah State Capital. Thanks to the over 100 people who attended and to everyone on our panel. The lunch was very informative and a great way to kick off the 2012 legislative session.

There have been a number of bills proposed for our industry and the members of the LAC have been working to amend and influence these proposed bills so they end up affecting our industry in a positive way. I want to thank them for their many hours of hard work. Thank you!

There will be many future opportunities this year to attend more beneficial, educational and informative events, as well as several fun golf tournaments and socials.

I also want to thank all of our 2012 sponsors. UCCAI provides targeted opportunities for businesses to reach hundreds of decision-makers in the community association market. CAI’s members include community association volunteer leaders, professional managers, management company executives and product and service providers.

Our sponsorship packages allow for sponsor preferred advertising opportunities as well as enrollment in the UCCAI Preferred Vendor Program, which includes a special listing on the website and special listing in the directory. Our sponsors make it possible for our Chapter to make communities better through education.

I encourage all of our members to look through the preferred sponsor pages in the upcoming 2012 Directory to learn more about the extra value these businesses are offering to Chapter members. If you would like more info on becoming a UCCAI sponsor, please contact me at info@uccai.com.
Each governing document of a community association is an essential piece that holds the association together. The governing documents create a legally binding relationship between the owner and the association, allow for a well-defined operation of the community and promote harmonious living. One of the most important things to understand when dealing with a community association’s governing documents is the hierarchy of authority for these documents. Understanding this hierarchy is essential when enforcing rules, drafting resolutions or dealing with already existing conflicts between documents. The hierarchy of documents is best summarized by the Governing Documents Pyramid.

Documents that fall lower on the hierarchy cannot conflict with or change any of the documents that are above them. It is critical that boards check the documents that fall higher on the hierarchy before amending documents or writing resolutions. For example, if a board decides to increase the association’s late fee, they should first check the declaration. If the declaration explicitly states that a $10 late fee be imposed, then the board cannot raise the late fee without first amending the declaration, which will require a vote by the owners. By doing their due diligence, the board will minimize the headache that inevitably comes along when dealing with conflicts between documents. Case law, federal law and state law should also be taken into consideration, as they trump all of the governing documents of a community association.

Often conflicts between documents will already exist. In this case, the higher document will take precedence. It is important that boards seek legal counsel, or the counsel of their Community Manager, if they discover a discrepancy between their documents, or if their documents conflict with case, federal or state law.

For further reading on this topic please refer to: M100 Participant Guide: The Essentials of Community Association Management by Community Associations Institute.
Sponsorship Opportunities

2012 UCCAI ANNUAL SPONSORSHIP PACKAGES

<table>
<thead>
<tr>
<th>Platinum Package</th>
<th>$1,800</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exclusive Sponsorship of one 2011 HOA Leadership Luncheons (10), Essentials Courses (1), Homeowner Education Roundtables (2), PMDP Courses (1) or Socials (2).</td>
<td>Value: $500</td>
</tr>
<tr>
<td>Includes:</td>
<td></td>
</tr>
<tr>
<td>Logo on event advertisement flyers</td>
<td></td>
</tr>
<tr>
<td>Table top presentations</td>
<td></td>
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<tr>
<td>3-5 minute opening remarks</td>
<td></td>
</tr>
<tr>
<td>Logo on name badges</td>
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</tr>
<tr>
<td>One 1/4 page ad in each of the four 2011 Utah Community Living Newsletters and a listing on the sponsor page.</td>
<td>$700</td>
</tr>
<tr>
<td>Recognition as “Sponsor of the Week” on the front page of the Chapter website - <a href="http://www.uccai.com">www.uccai.com</a>.</td>
<td>$300</td>
</tr>
<tr>
<td>On a rotating basis with other Platinum Sponsors.</td>
<td></td>
</tr>
<tr>
<td>One Hole Sponsorship for the 2011 UCCAI Golf Tournament.</td>
<td>$580</td>
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<tr>
<td>Twenty passes to the 2011 HOA Leadership Luncheons. (Limit of two passes per luncheon)</td>
<td>$500</td>
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<tr>
<td>Recognition as a Chapter sponsor at each of the ten 2011 HOA Leadership Luncheons. On a PowerPoint presentation</td>
<td>$250</td>
</tr>
<tr>
<td>Logo and hot link on the Sponsor Page of the UCCAI website.</td>
<td>$300</td>
</tr>
<tr>
<td>Enrollment in the UCCAI Preferred Vendor Program. Includes special listing on website and special listing in Directory.</td>
<td>$100</td>
</tr>
<tr>
<td>$100 donation to the Utah Legislative Action Committee.</td>
<td></td>
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<tr>
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Gold Package | $1,000
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<tbody>
<tr>
<td>One Team Sponsorship in the 2011 UCCAI Golf Tournament</td>
<td>Value: $250</td>
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<tr>
<td>Twenty passes to the 2011 HOA Leadership Luncheons. (Limit of two passes per luncheon)</td>
<td>$500</td>
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<tr>
<td>Recognition as a Chapter sponsor at each of the ten 2011 HOA Leadership Luncheons. On a PowerPoint presentation</td>
<td>$250</td>
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<tr>
<td>Logo and hot link on the Sponsor Page of the UCCAI website.</td>
<td>$300</td>
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<tr>
<td>Enrollment in the UCCAI Preferred Vendor Program. Includes special listing on website and special listing in Directory.</td>
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<td>$75 donation to the Utah Legislative Action Committee.</td>
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Silver Package | $700
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<td>Ten passes to the 2011 HOA Leadership Luncheons. (Limit of two passes per luncheon)</td>
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<tr>
<td>Recognition as a Chapter sponsor at each of the ten 2011 HOA Leadership Luncheons. On a PowerPoint presentation</td>
<td>$250</td>
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<td>Logo and hot link on the Sponsor Page of the UCCAI website.</td>
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<tr>
<td>Enrollment in the UCCAI Preferred Vendor Program. Includes special listing on website and special listing in Directory.</td>
<td>$300</td>
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<tr>
<td>$50 donation to the Utah Legislative Action Committee.</td>
<td>$50</td>
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<td>Total: $1,150</td>
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</table>

Contact UCCAI with questions:
Executive Director
801-597-5977
info@uccai.com

The 2012 UCCAI annual sponsorship packages include more and new advertising opportunities, from the Platinum Package which offers premium exposure for your company to the Silver package. Sponsorship gives you and your company ample advertising opportunities, access to complimentary professionals in your industry, recognition on the UCCAI website, enrollment in the preferred vendor program and lunch passes to the leadership luncheons. Don’t miss this chance to take advantage of the advertising and educational opportunities that are part of our sponsorship packages.
As consumers, we consciously or subconsciously compare competing products and services before making a purchase. Various factors may influence our daily decisions of consumption, such as price, perceived quality of materials and benefits, prior experience and the real or perceived reputation of the product or company.

Community associations go through a similar exercise when comparing vendors’ competing bids and ultimately selecting a vendor for the association. There is little doubt that a major factor influencing associations’ selection of vendors is price. However, how often are associations considering the factor of insurance in this vendor selection process? A vendor that carries inadequate or no insurance likely has a price advantage over another vendor that carries proper insurance. If an association does not consider insurance as a factor and merely selects the vendor with the lowest price, the association may have just decided to act as the de facto insurance carrier for its vendor. (See Shay Bertola, “Worker’s Comp Reduces Liability Risk,” Utah Community Living, Issue 3-2010 (discussing case of Heiman v. Workers Comp. Appeals where association and management company found liable when uninsured vendor’s employee is injured).

When selecting vendors, associations should take steps to protect themselves by requiring vendors to carry certain types of insurance. Associations should consult with their insurance professionals, their managers and possibly with their attorneys to discuss what types and levels of insurance vendors should have for particular projects. At a minimum, vendors should have general liability insurance and worker’s compensation insurance. When requesting bids from vendors, an association should require that each vendor’s bid contain information and documentation related to the vendor’s insurance coverage. The association should also ask for permission to verify coverage directly with the vendor’s agent or insurance carrier.

Once the association selects its vendor, it should consider including in the association-vendor contract provisions requiring (i) the association, and possibly its management company, to be named as an additional insured under the vendor’s insurance policies, (ii) the vendor to maintain its insurance coverage at all times that it is under contract with the association, (iii) the vendor to notify the association of any change in insurance coverage and (iv) the vendor, upon the association’s request, to provide proof of insurance.

Depending on the specific type of work to be completed by the vendor, the association may also require the vendor to be bonded. For example, with major construction or remodeling projects, both performance bonds and payment bonds should be considered.

After a vendor has been selected, it is equally important to regularly verify that it has the insurance that the association required.
THANK YOU TO OUR CAI NATIONAL SPONSORS

Alliance Association Financial Services  
Associations Insurance Agency, Inc.  
CINC Systems  
Management Resource Center  
Community Associations Banc/Condo Certs  
Ian H. Graham  
James Hardie  
NCB  
Outdoor Lighting Perspectives  
Popular Association Banking  
Servpro  
SmartStreet, a Division of RBC Centura Bank  
G4S Wackenhut  
Union Bank

THANK YOU TO OUR 2012 LOCAL SPONSORS

Platinum

Advantage Management  
Class One Disaster Recovery  
Complex Solutions  
FCS Community Management, AAMC  
McKay, Burton & Thurman  
Sentry West Insurance  
The Buckner Company  
Total Landscape Management  
Utah Condo Law  
Vial Fotheringham, LLP  
Western Architectural

Gold

Empire Painting  
Sean Gores

Southern Utah Sponsors

American Family Insurance  
ARC  
B&B Pest Control  
Community Association Management  
FCS Community Management, AAMC  
Gallian Wilcox  
Hinton Burdick  
Holbrook Asphalt Co.  
Jensen Bayles  
LandTrends  
Richards, Kimble & Winn

Silver

Community Association Consultants  
Mutual of Omaha Bank  
Richards, Kimble & Winn

Sentry West  
Sharky  
Vial Fotheringham, LLC  
The Village Bank  
Western Architectural

The Essentials of Community Volunteer Leadership  
March 24, 2012  
For HOA Board Members and Home Owners

- How to communicate with HOA members  
- How to instill a sense of community among residents  
- How to hire qualified product and service providers  
- How to develop and implement enforceable rules and regulations  
- How to read and monitor financial statements

Vial Fotheringham provides HOAs with the everyday advice you need and can understand. We offer practical answers to your questions, free training, publications, and online resources. Our team helps you break out of the box to proactively and successfully navigate community life. Visit www.vf-law.com for more info.

VIALFOTHERINGHAM LLP
LAWYERS

Join us on Twitter, Facebook, Blogspot, call 801 355 9504
Legislative Luncheon Event

January 13, 2012, officially declared Community Associations Day by Governor Herbert, was the date of our annual Legislative Event held at the Salt Lake Capitol. Attendees received the latest updates on proposed bills affecting our industry this year. They also received copies of the bills and an invitation to receive updates from the LAC via LACLink.
To Snow or not to snow, that is the question. If you have lived in Utah for a few years, you probably know that we have some very unique weather patterns. In the winter, Utah can experience temperatures in the 60s as well as temperatures well below freezing. We can expect it to be cold and snowy anywhere from October until April!

With such varying patterns, we deal with the frustration on the timing of some winter storms. I’m sure that we’ve all experienced a storm like this at some point after a long day. So, what can you do to prepare for these harsh, cold and snowy conditions?

Those of us living in an HOA community enjoy the fact that we have a service provider in place to clear our property in the event of a snow storm. However, as good as your provider’s intentions may be, they may struggle to be there when you seem to need them the most. Know that your provider is doing everything in their power to get there and keep up with demands, especially in the case of the heavier snow storms.

So, here are some things you can do to be better prepared for these untimely snow storms that can really ease some unwanted inconveniences.

- **Check the weather** – Be prepared and know what’s coming. Look online or watch the weather on the news. Plan your day according to every snow storm. Give yourself an extra 15-20 minute head start so you can reach your destinations safely.
- **Parking Outside** – If temperatures are going to be cold enough to freeze, be prepared to scrape ice. In order to avoid scraping, you can place a blanket over your windshield. Pull your wiper blades up so they don’t freeze to your windshield and accumulate ice. Never try to remove snow by running your wipers and emitting windshield fluid. This can quickly damage your wiper blades, as well as cause new ice to form on your windshield. You can, however, try using de-icing wiper fluids or spray products to help remove snow and ice.

- **Keep your own ice melt nearby if possible** – Most service providers apply salt and ice melt after a snow clearing to prevent ice from forming. However, once these products melt the snow and ice, new ice can form. Help protect yourself and others from dangerous slips and falls by having your own bag of ice melt on hand. Ask your HOA or service provider about ice melt delivery.
- **Be Patient if possible** – Snow Storms can hit anytime. Based upon the accumulations, your provider will be there as soon as possible. In most cases, two inches of snow accumulation is the amount required to mobilize and start the clearing process. This won’t happen sometimes until 3 ‘o clock in the morning. Due to the late hours, this work can make some noise. The goal if possible is to have your property cleared before you begin your day. If these noises create problems, call your provider to see if there are ways to work around these issues. Please be patient and know that safety for everyone involved is the focus in providing snow removal services.

“In the winter, Utah can experience temperatures in the 60s as well as temperatures well below freezing.”
Southern Utah Events

Round Table & Trade Show - April 5th 2012
Round Table & Trade Show - November 1st 2012
Legislative Action Golf Tournament - October 19th 2012

For more information & details email info@uccai.com  RSVP At www.SouthernUtahUCCAI.com

Thanks To Our Southern Utah Event Sponsors
A management company reported recently receiving a Request to Sign Up for Electronic Assessment Payments form. In the space provided to attach a voided check it simply said, “If I had checks to void, I wouldn’t need to sign up for electronic payments.”
## 2012 NEW MEMBERS
December 30 - February 9

<table>
<thead>
<tr>
<th>Cody Anderson</th>
<th>James North</th>
<th>Pamela Lyon</th>
</tr>
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<tr>
<td>The Cottages at Temple View</td>
<td>The Cottages at Temple View</td>
<td>Sultan Valley Down HOA</td>
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<td>Eugene Campbell</td>
<td>Jeanellen Sims</td>
<td>Paul Huber</td>
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<td>The Cottages at Temple View</td>
<td>Sultan Valley Downs HOA</td>
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<tr>
<td>Gary Ludwig</td>
<td>Michelle Allaye Chan</td>
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<td>The Cottages at Temple View</td>
<td>First Citizens Bank</td>
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## 2012 RENEWED MEMBERS
December 30 - February 9

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<th>Allen Zachry</th>
<th>Jeffrey Grover</th>
<th>Melissa Carsey</th>
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<td>CASE Forensics</td>
<td>HOA Solutions</td>
<td>Capital Consultants Management Corporation</td>
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<td>Christy Dix</td>
<td>Jessica Glazier</td>
<td>Mik’L Behunin</td>
</tr>
<tr>
<td>AlliedBarton Security Services, Inc.</td>
<td>Jim Simmons</td>
<td>F1 Property Management</td>
</tr>
<tr>
<td>Cindy Cassin, CMCA, AMS, PCAM</td>
<td>All Seasons Resort Lodging</td>
<td>Sabine Liedel, CMCA</td>
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<td>Capital Consultants Management Corporation</td>
<td>John W. Parten, CMCA, AMS</td>
<td>Management Resource Center</td>
</tr>
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<td>David C. Houston, CMCA, AMS</td>
<td>Thunder Spring Homeowners Association</td>
<td>Sheri Thomas</td>
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<td>Capital Consultants Management Corporation</td>
<td>Jolen M. Zeroski, CMCA</td>
<td>Tod Bean, CMCA</td>
</tr>
<tr>
<td></td>
<td>Union Bank</td>
<td>Capital Consultants Management Corporation</td>
</tr>
</tbody>
</table>
Run a Smooth Board Election

BY JASON SUCHER
PRINCIPAL BROKER
ADVANTAGE MANAGEMENT

Of the many exciting and demanding issues facing a Homeowners Association Management Committee or Board of Directors, running a productive and stress free annual meeting may be the most challenging. For some HOAs the most wearisome part of the annual meeting is the Election of Board Members. The reasons behind this frustration can range from sheer lack of participation by community members to contention created by a hotly contested election. The good news is that, as with most other challenges in life, the strain accompanying an HOA election can be minimized with careful preparation.

Some of the key points to anticipate are the following:

1. Make sure that you adequately advertise the election in accordance with the CC&Rs and Bylaws. Most CC&Rs give guidelines on when a notice must be delivered and by what method. Check your community’s legal documents to ensure that you are familiar with and operating within accordance with the instructions contained in them.

2. When sending the annual meeting notice, be sure to announce the election to be held at the meeting. It is also generally preferred to include some key points, such as how many positions will be available and the length of the terms that will be elected. You may also wish to include a notice that the HOA is seeking volunteers to serve on the HOA Board of Directors. Please note that it is important to understand how candidates are obtained for the board member election – nominating committee or nominations prior to the annual meeting or nominations from the floor.

3. When the date of the meeting finally arrives, be sure that you are operating the meeting within the quorum requirements outlined in your CC&Rs and Bylaws. Frequently it is difficult for communities to gather enough community members to meet quorum requirements. If your CC&Rs and Bylaws permit it, you may wish to send out proxy appointments with your annual meeting notice.

4. Even the best laid plans and well promoted meetings will sometimes not garner enough members or votes to meet the quorum requirements. One technique HOA Attorney Sam Bell has seen used successfully is taking a stack of proxies to the original meeting and having all the owners present sign the proxies appointing the board as their proxy at the next meeting.

5. Have the ballots prepared in advance of the meeting if possible. If your documents allow for volunteers to announce their candidacy at the annual meeting, you may want to leave a few lines blank on the ballot for write-in candidates. Most Bylaws dictate that there is only one vote allowed per home or lot (one big difference to that standard is Declarant voting, but that is something on which an entire separate article could be written). Most Bylaws also dictate that the voting must be done by private ballot. Lastly, to avoid any accusations of ballot box stuffing or inaccurate vote results, it is best to get at least two people, who are not on the current board or running as a candidate, to count the ballots. Count them twice to be safe. Then save the ballots and the results for public inspection should the request arise.

There are many variations and nuances that can come up with any election and annual meeting, but following these suggestions and operating strictly within the provisions of your CC&Rs and Bylaws should minimize the stress surrounding your homeowners association board member elections. As always, if you have questions about how to conduct your meeting or election in accordance with your community’s legal documents, it is recommended that you consult with your association’s legal counsel for further advice.
This year is starting out to be another important year for legislation affecting community associations. House Bill 56 would empower the Utah ombudsman’s office to investigate disputes between homeowners and associations and advocate for homeowners in those disputes.

It would further require associations to engage in nonbinding mediation and arbitration, all conducted by the ombudsman’s office. In essence, the ombudsman is acting as the lawyer for the owner in a dispute while also acting as the judge and jury! Most importantly, although associations cannot seek help or advice from the ombudsman’s office, they pay the bill with a new tax on all associations.

While the bill is intended to address legitimate concerns, the LAC committee members have very serious concerns about the cost imposed on associations both with the annual fee and the arbitration and mediation requirements. There are also many problems with unfairness in the drafting.

We are in direct communications with the sponsor and we have expressed these and other concerns, including the fact that this type of dispute resolution process removes disputes from the community and would supersede the dispute resolution procedures already built into every community association. In addition to this bill, the LAC is working on updates and revisions for last year’s legislation and adding further provisions of UCIOA into the Community Association Act.

The ombudsman bill is just one of many bills that the LAC is responding to that would otherwise have no input from our industry, but for the volunteer service of the LAC members and the contributions to the LAC that support our lobbying efforts.

The trials and successes of prior years contribute to our overall strategy and approach to legislation and the legislative process. We continue to build both credibility and relationships that further the influence of the LAC. The LAC remains the front line and the only line of defense for our industry in the legislative process.

Please get your contributions mailed in today, in any amount, to do your part in this effort that benefits us all. If you want to receive communications about pending legislation, contact executivedirector@utahlac.com and have your email address added to the LacLink today.
Chapter President Earns PCAM

Sarah Crawford, a Senior Community Manager at FCS Community Management, AAMC, has earned the top industry designation – the Professional Community Association Manager (PCAM) designation. The PCAM designation is the highest professional recognition available nationwide to managers who specialize in community association management.

FCS Community Management President Michael Johnson – the only other portfolio PCAM in Utah managing associations for more than one client – says, “Sarah has continually demonstrated her professionalism through her interactions with FCS Community Management managed communities and her service as President of the Utah Chapter of the Community Associations Institute.

“To successfully pass the PCAM Case Study while handling all her other responsibilities is a tremendous accomplishment. There is a reason so few nationally achieve the PCAM designation – it requires the highest levels of knowledge in regards to community association management.

“Sarah has this knowledge and uses it for the betterment of our communities, CAI and FCS Community Management. We are very proud of her.”

From the Community Association Institute:
The PCAM designation is the pinnacle of community association management. Recommended for experienced managers who want to demonstrate advanced skills and knowledge and who wish to be recognized as one of the best and most experienced managers in the nation.

What did it take for Sarah to earn the PCAM designation?

- Comply with the CAI Professional Manager Code of Ethics
- Earn and maintain the Certified Manager of Community Associations (CMCA) certification
- Earn the Association Management Specialist (AMS) designation
- Successfully pass all six 200-level courses in CAI’s PMDP curriculum, plus a Case Study
- Complete five or more years of community association management experience
- Attend national and local conferences, workshops and educational forums
- Volunteer on industry-related committees and issues
- Redesignate every three years
- Pay annual maintenance fees
- Meet continuing education requirements
CASE STUDY
(ISSUE 4, 2011)

Association Makes Banks Pay

BY SAM BELL
ATTORNEY
SEB LEGAL

While the real estate bubble was expanding, several families overextended themselves to buy a piece of the American dream. Their particular American dreams happened to be in the same community. For a time, they lived the dream. Then their interest rates adjusted. Suddenly the dreams became tough but manageable realities. Then their interest rates adjusted again. The dreams turned into nightmares.

These families could no longer afford to live in the community. They stopped paying their mortgages and HOA assessments. The banks started foreclosure. The association sent demands and watched their account receivables increase. The families moved and the banks took over ownership. The association hoped that the banks would pay assessments and care for the property; however, the banks did neither.

Over the next few months more owners fell into similar circumstances. Some owners attempted to short sell their properties while others let the banks foreclose. The association’s board became concerned handling what they viewed as a crisis. They weren’t familiar with foreclosures or the bank’s obligations to the association. In the board’s view, the banks were the worst owners in the community. The yards were unkempt, the assessments unpaid, and the homes appeared abandoned. The board was anxious to force the banks to honor the community standard, but unsure how to approach the problem.

The board decided that they would take a “wait and see” approach to the bank owned problem. Their reasoning: the homes should sell quickly given their discounted sale prices. Unfortunately, home prices declined, lenders tightened the qualifications to obtain loans, and home sales in the community stopped.

The board realized that it would need to take a more proactive approach to the bank-owned homes. First they contacted their manager and legal counsel to gain understanding of the foreclosure process and bank obligations. Once they had a better understanding, they formed a policy with the following points:

• Treat bank-owned properties as any other property and treat banks as any other owner for CC&R violations. This includes sending letters and fines for noncompliance. In extreme circumstances, it also includes exercising the right to enter the property, cure the violation and charge the bank for the repairs.

• Aggressively pursue collections. The association decided to turn banks over to their collection attorney after 60 days of nonpayment. They also directed the collection attorney to foreclose if the bank failed to respond to letters.

• Pursue prior owners for unpaid assessments. The association decided to pursue owners who had lost homes to foreclosure for the unpaid assessments accrued during the time they owned the home.

Since taking a proactive approach to bank owned homes, the Association has seen banks begin paying assessments prior to selling the home. The association has not exercised its right to enter and cure the violations; however, the association is enjoying the extra income generated by the fines.

When dealing with foreclosures and bank-owned properties, don’t fear. Banks have the same obligations as any other owner. With a little coercion, they will take the association seriously. One day, they may even mow the lawn. In the mean time, they can pay the fines for ignoring it.
CASE STUDY

Staying on Top of Insurance Limitations

BY DON GOETTSCH
PRESIDENT
AAA RESTORATION EMERGENCY

A local roofing contractor submitted a bid and was awarded the job to remove and replace a roofing system on a four building multi-unit condominium. The homeowners association qualified each contractor bidding the project. After reviewing insurance certificates and licenses, they signed a contract and began work. The certificate of insurance showed limits of $1,000,000 per occurrence under general liability.

The roofing company performed the removal of the old roof and had plans to start re-roofing after the weekend. The jobsite was left with tarps draped over it in order to protect the dwelling. The weather had indicated a chance of high winds and thunderstorms were possible. On Saturday night, the storm did in fact hit with a very strong wind. The tarps immediately blew off, leaving the buildings completely exposed in a torrential rain and downpour. The rain soaked all the floors of the buildings.

Although this was a major problem because 30 families were left homeless due to the damage this storm caused, our company AAA Restoration was dispatched and on the jobsite within 45 minutes of our call. We began to mitigate the damage to the buildings and protect the occupants' personal contents. We worked with homeowners to notify their insurance carriers for contents damages.

Later in the week, the insurance company representing the roofer investigated the loss and discovered weather exclusion in the roofer's general liability policy that limited the payout to $50,000 per building. The insurance company informed the community manager that the roofer's policy has a special clause for situations like this and offered $100,000 settlement on over a million dollar loss.

How can a contractor show an insurance certificate of $1,000,000 coverage and in fact only have $100,000? This company had a manuscript/custom endorsement that limited each building to $50,000 in weather-related damage. In order to find this limitation it was necessary to read the policy cover to cover. These types of limitations are included to save the contractor money.

This particular roofer immediately filed bankruptcy. This left a large mess for the community management company, as well as the homeowners association and the owners. Do you really need more information than the certificate of insurance to properly protect your interest? Please be aware of the hidden dangers with insurance limitations and exclusions that would be to special situations like this such as the roofing clause, mold, lead, paint and asbestos.

Correction from Issue 4, 2011

Due to a printer error and editor oversight, last issue’s Case Study was not printed on p. 19. Instead, page 3 was duplicated in its place. You can view the entire, correctly laid-out issue on the Chapter website at www.uccai.com. For this reason, there are two Case Study articles included in this quarter’s issue. My sincere apologies to last issue’s author, Sam Bell, for the inconvenience - Mindy Knudsen, Editor.
Pool Entrance Laws from page 1

This doesn’t apply to guests of owners or those that rent units from the individual owner.

- **Hold a Competition:** If you were to hold a swim meet, water polo match or any other sort of competition that invites a team or group that is not a member of the HOA, then you are making your pool open to the public and your pool must comply with the new standards.
- If your community is receiving **Government Funds**, say for Fair Housing, your pool must comply with the new standards. I think this is pretty rare, but it occasionally happens.
- If your community acts like a **Condo-Hotel** and the HOA manages the temporary rental of units, then you are making your pool open to the public and your pool must comply with the new standards. The best examples of this would be in mountain settings. Many HOAs that are located near ski resorts or recreational areas operate in this way, so the same standard applies to them as to a hotel.