

CAI'S 32<sup>ND</sup> ANNUAL COMMUNITY ASSOCIATION LAW SEMINAR - 2011  
SEMINAR PROGRAMMING SCHEDULE

THURSDAY, JANUARY 13, 2011

**Thursday Optional Half-Day Registration** 12–2 p.m.  
*4503 – 4505 Foyer Level 4*

**Brave New World: Technology, Social Media and Community Association Law:  
Community Association Lawyers and Technology: An Industry Survey** 1–2:15 p.m.  
*Clifford J. Treese, CPCU, ARM, CIRMS and William F. Hession, CMCA, AMS, PCAM*  
*4503 – 4505 Level 4*

CCAL has surveyed community association law practitioners to gauge how they are using technology in their practices. This session reviews the survey results and provides insight into how attorneys and firms are interacting with clients and third-party vendors and enhancing their profitability. Gain a better understanding of the wide range of products and services available to you, examine the evolving role of social media, compare your IT business practices with similar firms and share your most helpful technology tips with colleagues.

**Brave New World: Technology, Social Media and Community Association Law:  
Leveraging Technology in a Community Association Law Firm to Increase Productivity  
and Client Satisfaction** 2:15–3:30 p.m.  
*Michael E. Chapnick, Esq.*  
*4503 – 4505 Level 4*

This session offers a practical discussion of how hardware, software and web-based and mobile technologies are being used in small to mid-sized community association law firms to streamline procedures and improve client service. The discussion includes implementing a paperless office, client information web portals and document automation and management.

**Break** 3:30–3:45 p.m.

**Brave New World: Technology, Social Media and Community Association Law:  
It's Not a Listserv World Anymore: Marketing in the Social Media Age** 3:45–5 p.m.  
*J. Roger Wood, Esq.; Amy H. Bray, Esq.; Robert M. DeNichilo, Esq. and Melissa M. Garcia, Esq.*  
*4503 – 4505 Level 4*

Marketing is a competitive world, and those in need of legal services surf, tweet and post in search of an attorney. Today, a lawyer's website may be the first and only chance to make a good impression. This session briefly explores ethical and professional obligations in these technological times, from client confidentiality to dealing with third parties. The session also features a panel discussion and Q&A with tweeters and posters in the HOA/condo practice area. Learn first-hand about new tools to better market legal services and how to avoid professional and ethical pitfalls

**Law Seminar Early Registration** 5 – 7 p.m.  
*4503 – 4505 Foyer Level 4*

FRIDAY, JANUARY 14, 2011

**Registration and Bookstore** 7 a.m. – 5:30 p.m.  
*Palazzo Ballroom B – D Foyer Level 5*

**Continental Breakfast** 7 – 8 a.m.  
*Palazzo Ballroom E – F Level 5*

**Welcome** 8 – 8:15 a.m.  
*Palazzo Ballroom A – D Level 5*

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**Opening General Session** 8:15 – 9:30 a.m.  
**Case Law Update—Part I**

*George E. Nowack Jr., Esq.\* and Wilbert Washington II, Esq.\**  
*Palazzo Ballroom A – D Level 5*

Join George Nowack and Wil Washington as they kick off the seminar with an overview of significant cases that shaped community association law in 2010. In addition to reviewing individual cases and their compelling fact patterns, this session examines emerging trends in association jurisprudence.

**Legislative Update—Part I** 9:30 – 10 a.m.

*J. David Ramsey, Esq.\**  
*Palazzo Ballroom A – D Level 5*

Just as case law shapes the boundaries of community association law, so do the numerous statutes and acts passed by state legislatures. In 2010, more than 7,000 pieces of legislation were introduced that had the potential to impact the legal infrastructure of community associations. This overview examines important state developments, emerging trends and some extreme examples of the ever-evolving statutory framework shaping associations.

**Refreshment Break** 10 – 10:15 a.m.

*Palazzo Ballroom E – F Level 5*

**Insurance Masters Program Presented by CIRMS & CCAL Members:** 10:15 a.m – 11:15 p.m.

**Renovation, Repair, Risks and Insurance**

*Greg Deimling, CPCU, ARM, AMIM; Donald Malecki, CPCU and Chris Manougian. Moderated by Clifford J. Treese, CPCU, ARM, CIRMS*  
*Palazzo Ballroom H Level 5*

If reserve studies and annual budgets are the funding predictions necessary to achieve a well-maintained community association, then the orderly distribution of that funding depends on renovation and repair contracts that will protect the association if things don't go as intended. This session covers the key elements of contractual risk transfer and explains the role of insurance funding for that transfer.

**Concurrent Sessions:** 10:15 – 11:15 a.m.

**Hollywood in the Courtroom: Using Affordable Animations and Simulations to Win Cases**

*Samuel J. McNulty, Esq.\*; Marshall Frost, P.E, P.P., R.S. and Brian Brill*  
*Palazzo Ballroom I Level 5*

In the age of the iPad, Myth Busters and Ken Burns PBS specials, jurors expect to be shown complex cases with animations and simulations. Join an experienced animator, engineer and trial attorney to see the latest in demonstrative evidence techniques and to discuss their uses in the trial and mediation of complex construction defect cases.

**FHA Condominium Update: One Year Later**

*Stephen M. Marcus, Esq.\*; George E. Nowack Jr., Esq.\* and Loura K. Sanchez, Esq.\**  
*Palazzo Ballroom K Level 5*

This session reviews FHA condominium requirements a year after the elimination of spot loan approvals. In addition to examining mortgagee letters 2009-46B and 2009-46A, the session reviews other recent requirements and discusses the effects of new requirements on the approval process.

**Your Home is Our Castle: A Principled Approach to Surviving Design Review**

*Brian P. McLean, Esq. and Terrence A. Leahy, Esq.*  
*Palazzo Ballroom J Level 5*

Homeownership has transformed over several generations from "your home is your castle" to "your home is our castle." This transformation arises from the emergence and growth of common-interest communities, with associations being given greater regulatory control over common areas and owner behavior. Learn about architectural and judicial review of association decisions, and be better equipped to shape outcomes in matters where both sides are willing to defend their castle "to the death."

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**Refreshment Break**

11:15 – 11:30 a.m.

*Palazzo Ballroom E-F Level 5*

**Insurance Masters Program Presented by CIRMS & CCAL Members: 11:30 a.m. – 12:30 p.m.**  
**Sociable Up to a Point: Understanding, Creating and Ensuring a Social Media and Cyber Risk Policy for Your Firm and Your Clients**

*Richard Betterley; Jason E. Fisher, Esq. and Robert Sides, AMS, PCAM. Moderated by Robin C. Manougian, CIRMS*

*Palazzo Ballroom H Level 5*

Social media now connects hundreds of millions of people, companies, government agencies and others, and it is evolving so rapidly that it is difficult to assess the benefits and risks. Employers and associations face potential legal issues, work performance concerns and recruitment and retention problems that may arise from social media—and these problems may not all be insurable. This session examines the social media arena and its implications for insurers.

**Concurrent Sessions:**

11:30 a.m. – 12:30 p.m.

**My Neighbor Must Be a Sociopath: Mediating Multi-Party HOA Disputes with Difficult Personalities**

*Karin S. Hobbs, Esq.; Hon. William B. Bohling and Lincoln W. Hobbs, Esq.\**

*Palazzo Ballroom I Level 5*

How can you resolve complex disputes with clients who seem evil, irrational or possibly unstable? The dispute begins with a minor complaint and escalates to include contractors, developers and the HOA board. You are hired to represent a party, and you find yourself in endless depositions. This session provides strategies you can use during the dispute and how to counsel your clients to act toward their neighbor. It also covers the mediator's role in large cases involving difficult clients.

**The Community Association Law Firm of the Future**

*Laura K. Sanchez, Esq.\* and Scott B. Carpenter, Esq.\**

*Palazzo Ballroom J Level 5*

In the ever-changing world of community associations, our practices must also change. This session discusses how the future will be different based on lessons learned from newcomers and old-timers. Topics include generational issues, staffing levels, client servicing, technology and competition. Through a lively discussion, the session explores the challenges we are likely to face in the next few years, necessary shifts in philosophy and solutions for making our practices even more successful.

**Tales from the Dark Side of Declarant Transition**

*Edmund Allcock, Esq.; David Graf, Esq.\* and Robert M. Diamond, Esq.*

*Palazzo Ballroom K Level 5*

This session explores problems association boards inherit when the developer turns over control of the association to "civilian rule" (homeowners). It offers analysis and solutions to transition problems such as construction defects, permit issues, rights abuses, non-payment of assessments, unreasonable document provisions, contract and lease problems, suits against an association with no or inadequate insurance and bankruptcy of the developer.

**Wayne Hyatt Lecture Series and Luncheon:**

12:30 – 1:45 p.m.

**It's the Economy, Stupid. Or is it the Stupid Economy?**

*Todd Buchholz, Economist and Author*

*Palazzo Ballroom A – D Level 5*

A weak economy, trillion dollar federal deficits, expiring tax cuts, failing banks and nervous investors don't hold much promise for a quick turnaround to current economic woes. While economic turbulence is nothing new, it can and does have an affect on how we plan for our businesses. Economist, author and former White House advisor Todd Buchholz shares his insights and experience in dealing with changing political priorities and outcomes. Learn strategies for dealing with economic uncertainty and how to position your firm to weather the storm ahead.

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Concurrent Sessions:

2 – 3:30 p.m.

**Mighty Morphing Mortgage Markets: Understanding the Impact of the Federal Overhaul of the Mortgage Finance System**

*Clifford J. Treese, CPCU, ARM, CIRMS; C. Scott Canady and J. David Ramsey, Esq.\* and Moderated by Andrew S. Fortin, Esq.*

*Palazzo Ballroom K Level 5*

In fall 2010, the Obama administration and Congress launched a coordinated effort to rebuild the federal mortgage finance system, which was left in ruins by the great housing bust. As this process moves forward, the entire financing system, including Fannie Mae, Freddie Mac and FHA, is on the table for major restructuring, elimination or replacement. In addition, the sweeping banking reform bill passed in the summer of 2010 empowered a patchwork of federal agencies to create new federal mortgage qualifying regulations. As the future of mortgage financing in community associations continues to evolve, find out where the debate stands and gain insights into where it is going.

**Alternative Dispute Resolution for the 21st Century**

*E. Richard Kennedy, Esq.\* and Jeffrey Van Grack, Esq.\**

*Palazzo Ballroom J Level 5*

This session provides a full overview of the strategies, benefits, mindset and preparation for mediation, as well as day-to-day approaches for keeping mediation moving forward within a community and using the spirit of mediation to prevent future claims and loss. Ethics and confidentiality are discussed as important parts of the mediation process and as factors affecting settlement security. In addition, the session will review case law involving alternative dispute resolution.

**Refreshment Break**

3:30 – 3:45 p.m.

*Palazzo Ballroom E – F Level 5*

**Panel of Pundits**

3:45 – 5:30 p.m.

*Laura K. Sanchez, Esq.\*; Samuel J. McNulty, Esq.\*; Joseph E. Adams, Esq.\*; Mary M. Howell, Esq.\* and Stephen M. Marcus, Esq.\* Moderated by George E. Nowack Jr., Esq.\**

*Palazzo Ballroom A – D Level 5*

This interactive session gives community association attorneys of all experience levels the chance to get answers to their pressing legal concerns. Attendees have the opportunity to ask an expert panel of attorneys about issues that have arisen or may arise in their areas of practice. This is an excellent opportunity to receive feedback on tomorrow's issues today. Submission of written questions is encouraged.

**Law Seminar Reception Hosted by CCAL**

5:30 – 6:30 p.m.

*Palazzo Ballroom E – F Level 5*

Join your colleagues for great food and drinks and an opportunity to socialize with the premier experts in the community association industry.

**SATURDAY, JANUARY 15, 2011**

**Registration and Bookstore**

7 a.m. – 5:30 p.m.

*Palazzo Ballroom B – D Foyer Level 5*

**Continental Breakfast**

7 – 8 a.m.

*Palazzo Ballroom E – F Level 5*

CAI'S 32<sup>ND</sup> ANNUAL COMMUNITY ASSOCIATION LAW SEMINAR - 2011  
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**Opening General Session** 8– 9:30 a.m.  
**Case Law Update—Part II**

*George E. Nowack, Jr., Esq.\* and Wilbert Washington, II, Esq.\**  
*Palazzo Ballroom A – D Level 5*

Join George Nowack and Wil Washington as they kick off the seminar with an overview of significant cases that shaped community association law in 2010. In addition to reviewing individual cases and their compelling fact patterns, this session examines emerging trends in association jurisprudence.

**Legislative Update—Part II** 9:30 – 10 a.m.

*J. David Ramsey, Esq.\**  
*Palazzo Ballroom A – D Level 5*

Just as case law shapes the boundaries of community association law, so do the numerous statutes and acts passed by state legislatures. In 2010, more than 7,000 pieces of legislation were introduced that had the potential to impact the legal infrastructure of community associations. This overview examines important state developments, emerging trends and some extreme examples of the ever-evolving statutory framework shaping associations.

**Refreshment Break** 10 – 10:15 a.m.  
*Palazzo Ballroom E – F Level 5*

**Concurrent Sessions:** 10:15 – 11:15 a.m.

**Ground Zero: Strategies for Coping with the Collapse of the Real Estate Market**

*Joseph E. Adams, Esq.\* and J. Kevin Miller, Esq.*  
*Palazzo Ballroom J Level 5*

Community associations and their lawyers are facing serious challenges dealing with the collapse of the real estate market and its economic impact on communities. This session addresses cutting-edge litigation strategies to advance stalled mortgage foreclosure actions, non-litigation strategies, legislative responses to the economic crisis, judicial decisions in foreclosure and collection cases and unconventional collections methods. The presenters offer their perspectives from Florida, one of the most impacted markets in the nation.

**Legally Green: Reconciling Restrictive Covenants with Eco-Friendly Practices in the Community Association**

*Steven L. Sugarman, Esq.\* and Lynn Voorhees, R.C.S., R.S.*  
*Palazzo Ballroom I Level 5*

With increasing interest in eco-friendly practices, community associations are facing significant pressure to reconcile long-standing restrictive covenants and architectural controls with materials and devices that, in many instances, are directly antithetical to the association's governing documents. Moreover, many state legislatures are now looking to limit associations' authority to regulate alternative energy components. Learn about the types of energy solutions currently available and how to effectively address these solutions in the face of existing CC&Rs.

**Difficult Situations**

*Henry A. Goodman, Esq.\*; Ellen Hirsch de Haan, Esq. and Ellen Shapiro, Esq.\**  
*Palazzo Ballroom K Level 5*

What does a board do when a barking dog disturbs a homeowner's sleep, but the dog is required by a handicapped person? Or when a person with Tourette's Syndrome howls at the moon at 2:00 a.m.? How does a board handle a homeowner's claim that his health is affected by cigarette smoke from another unit or the enjoyment of his home is affected by a neighbor's cooking with a pungent spice? How should a board deal with a rogue board member? This session explores solutions to these and other difficult situations faced by community associations.

**Refreshment Break** 11:15 – 11:30 a.m.  
*Palazzo Ballroom E – F Level 5*

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**Insurance Masters Program Presented by CIRMS & CCAL Members:** 11:30 a.m – 12:30 p.m.  
**Community Association Insurance and Risk Management: Issues and Trends with  
Freddie Mac, Fannie Mae, Federal Housing Administration, National Flood Insurance Program and  
the California Earthquake Authority**

*Albert LeQuang; Ezzard J. Alves; Steven Wainland; Glenn Pomeroy and Kevin Davis, CIRMS. Moderated  
by Clifford J. Treese, CPCU, ARM, CIRMS*

*Palazzo Ballroom H Level 5*

Identifying and analyzing risks in housing development and operation are constantly evolving challenges, especially for federal and state agencies and sponsored enterprises responsible for fostering viable homeownership. With respect to community associations, this risk management effort can be particularly challenging because the agency may not have direct contact with the association itself, which may be the source of a perceived risk. This roundtable session brings together agency experts and program participants to achieve an understanding of how certain risks might be better managed and insured.

**Concurrent Sessions:** 11:30 a.m. – 12:30 p.m.

**Insuring Your Association's Property: Steps to Take Before There's a Loss**

*J. David Ramsey, Esq.\*; Jennifer Loheac, Esq. and Vincent J. Hager, CIRMS*

*Palazzo Ballroom K Level 5*

Failing to understand association property insurance can result in significant coverage gaps that can have devastating consequences for homeowners and communities. This session presents a step-by-step analysis of how to best guide boards to informed decisions. Learn about the wide-ranging positions held by major CIC insurers and the agents who communicate the options. Understand the legal significance of board resolutions in clarifying insurance obligations in advance of purchasing insurance. Gain strategies for communicating effectively with communities about insurance coverage before there is a loss as well as organizing leadership in the event of loss.

**The Fair Debt Collections Practices Act: The Bona Fide Error Defense in the Wake of  
Jerman v. Carlisle**

*Rory K. Nugent, Esq.*

*Palazzo Ballroom I Level 5*

This session provides an overview of the recent U.S. Supreme Court decision interpreting the application of the bona fide error defense. Attorneys will learn how to establish the defense and how they may need to modify their practices. In addition, the session reviews recent case law to illustrate instances where the bona fide error defense was successfully established.

**15-Minute Masters**

*Jordan I. Shifrin, Esq.\*; A. Richard Vial, Esq.; Terry A. Kessler, Esq. and John Richards, Esq.\**

*Palazzo Ballroom J Level 5*

Tired of sitting through five hours of class to get the key points on hot topics? If so, the 15-Minute Masters session is for you. This fast-paced overview of key topics on a variety of community association law issues includes fair housing, teaching community association law, educating board members, photo liability issues and running the perfect meeting.

**Break and Boxed Lunches**

12:30 – 12:45 p.m.

*Palazzo Ballroom E – F Level 5*

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**Town Hall Session: The Collections Conundrum**

12:45 – 2:45 p.m.

*Marc D. Markel, Esq.\*; P. Thomas Murray, Esq.\*; Matt D. Ober, Esq.\* and Ellen Shapiro, Esq. Moderated by P. Michael Nagle, Esq.\**

*Palazzo Ballroom A – D Level 5*

Assessment collections continue to be an issue that bedevils community associations. Many associations either cannot afford to pay or do not want to pay attorneys to pursue delinquent owners. No longer content to pay attorney fees as they are incurred and hoping to recoup those fees from owners, associations do not want to have to pay to collect. As such, clients are increasingly demanding that lawyers have a stake in the collection of delinquent assessments. In this town hall session, panelists will discuss the methods by which they are compensated for their work, including contingency arrangements, hybrid fee structures and flat-fee work. Attendees will be encouraged to participate in the dialogue.

**Refreshment Break**

2:45 – 3 p.m.

*Palazzo Ballroom E – F Level 5*

**Concurrent Sessions:**

3 – 4:15 p.m.

**Touch and Concern Doctrine Superseded**

*Robert M. Diamond, Esq.\*; Ronald L. Perl, Esq.\* and Bruce C. Jenkins, Esq., R.S.*

*Palazzo Ballroom J Level 5*

"Touch and concern" and "dominant/servient" are terms that have historically determined the existence and enforceability of covenants. Section 3.2 of the Restatement of Property: Servitudes declares the touch and concern doctrine superseded. Is it? If so, what determines the existence and enforceability of covenants?

**The Sound and the Fury: Smoke and Hardwood Floor Issues in Condominiums**

*Ken Harer, Esq., R.S. and Theresa Torgesen, Esq.*

*Palazzo Ballroom K Level 5*

Clean indoor air acts around the country have restricted smoking in public places, but have not always covered condominiums. This session reviews the results of 2009 surveys of owner-occupants and interviews with community managers on secondhand smoke. The legal issues of implementing smoke-free policies in condos are also discussed. In addition, the session addresses noise complaints related to hardwood floors, which are increasingly popular with condo owners. It discusses related case law, how sound moves through buildings and construction standards to assist in resolving noise disputes