

Legislative Update

Courtesy CAI-NJ.



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This issue of *Community Trends*® is devoted to the writings of members of the Legislative Action Committee. When I asked for volunteer authors, a universal question came back: “Do I have to write about pending legislation?” (Of course, this led me to wonder if working on bills month-after-month was taking an intellectual or spiritual toll on LAC members). My response was “no”, and the articles included in this issue reflect the depth and breadth of our members’ thoughts and their unique perspectives. Each article shares the experience and insight of each author and, importantly, reflects an awareness of the constantly changing issues that CAI members and the readers of *Community Trends*® face.

Each article includes an introduction of the author to you. The readers of *Community Trends*® often know LAC members only from perusing the committee membership list appearing at the front of each issue. I asked each author to include with her or his article a headshot and bio so you may relate the face and background of the writer to the discussion in the article. Hopefully, your paths will cross.

I start by saying that the discussion in this issue goes back a quarter of a century (no, we are not recycling articles). For those of you who have been in the community association industry for a while, it’s hard to believe that the Municipal Services Act (“MSA”) became law over 25 years ago. Even those who have lived or worked in a private community for only a short time are likely aware that the law needs clarification or fortification. In his article about the MSA, Michael

Pesce, PCAM, identifies five (5) of the revisions which the LAC believes is necessary. LAC intends to pursue amendments to the MSA so that homes in private communities may receive services (or reimbursement) to the full extent of other homes in the same municipality in accordance with the law. If your personal experiences have raised additional concerns about the interpretation or enforcement of the MSA, we would like to hear from you so we may address them in our efforts to revise the law.

Our articles take you from a critique of a 25-year-old law to the other end of the timeline — recently proposed legislation to respond to the problems which abandoned homes, and those under foreclosure, create for a community. If you have followed the “Legislative Updates” in *Community Trends*® or attended our programs this year, you know that these bills are intended to alleviate the burden placed upon communities by these homes. An unfortunate statistic is that New Jersey has the nation’s fourth highest foreclosure rate, with a filing on one in every 594 housing units. Thomas C. Martin, Esq. discusses the “zombie foreclosures” that can and do drag on for years, depriving the association of the fees owed by the owners being foreclosed upon. Tom updates you on Assembly Bill A3793 (Senate Bill S3545) which has been proposed to expedite foreclosures in the State.

We turn to an article by Paul Leodori, Esq. on the New Jersey Nonprofit Corporation Act. Your initial reaction might be that the Act is just another law (among many) buried in the statute books that doesn’t warrant the

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attention or reliance of other laws governing common interest communities, such as the New Jersey Condominium Act. But anyone who has read the law, which is relatively brief, will be surprised by the power and authority that the Act gives to associations and their boards. The Act’s provisions often afford welcome relief to associations (and their legal counsel) where the governing documents of the community association offer no authority to resolve dilemmas.

As we head towards December, Carol Koransky, CPA, MBA discusses the audit process and the conundrum it poses to associations. For boards and their managing agents already with full schedules and workloads, the audit process is an additional time-sensitive obligation which requires organizing the books and records of the association, and joining efforts with the association’s auditor. Carol gives an accountant’s perspective of the audit process and how the auditor can both navigate the association through the process, and help the association use the audit requirement to enhance its financial condition.

The theme of timeliness in our articles takes on different significance as Steven Mlenak, Esq. writes on the relatively new, and often troublesome, issues associations face involving service or emotional support animals. Associations with “no pets” policies question how and why boards can be compelled to allow assistance animals to reside in the units of residents. Steve looks into the statutory background, which compels associations to allow exceptions to its pet policies to permit residents with physical

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or mental disabilities to keep assistance animals, and provides guidance in properly complying with the law.

Finally, in *Qian v. Toll Brothers Inc.* decided on August 12, 2015, the New Jersey Supreme Court held that associations are not immune from liability for failing to adequately clear snow and ice from the sidewalks within the community. Ronald L. Perl, Esq. and Jonathan H. Katz, Esq. provide a discussion of this recent decision, which includes an analysis of pre-existing case law, and its significance relative to community association operations.

I hope you enjoy this month's issue of *Community Trends*®, and share the enthusiasm of my fellow LAC members in bringing this issue to you. Always feel free to bring to our attention your thoughts on pending or future legislation or ways that LAC may better serve you and the community associations in which you live or serve. ■

Christine F. Li is a partner in the law firm of Greenbaum, Rowe, Smith and Davis LLP in Woodbridge, New Jersey. She is a member of the firm's Real Estate Department, and chair of the firm's Community Association Practice Group and of its Planned Real Estate Practice Group. Chris is a member of the National College of Community Association Lawyers, and a Fellow of the American College of Real Estate Lawyers. She is a member and former chair of the Board of Counselors of the New Jersey State Bar Association, Real Property, Trust and Estate Law Section. She is a co-author of New Jersey Condominium & Community Association Law (Smith, Estis & Li), last published in 2015.



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