

# Community Trends®



## LEGISLATIVE UPDATE

**CHRISTINE F. LI, ESQ., CCAL**  
PARTNER, GREENBAUM, ROWE, SMITH & DAVIS LLP.  
LEGISLATIVE ACTION COMMITTEE CHAIR

The Legislative Action Committee made establishing priorities for 2016 its priority at the Retreat conducted by CAI-NJ in December, 2015. With so many issues competing for the attention and resources of the LAC and its lobbyist, MBI GluckShaw, staying focused is often difficult. In light of the multiple priorities, some of which the LAC has carried from last year, coupled with the hurdles that come with a process involving different interest groups, and governmental officials and representatives, the LAC begins the year by pursuing, or continuing to pursue, three key goals.

### Municipal Services Reform

With the 25th anniversary of the Municipal Services Act having come and gone, the MSA is one the laws which directly impacts the day-to-day operation of communities with the potential for immediate financial consequences. The stated intention of the Act is simple — to ensure that the governing body of a municipality reimburses or provides services to condominiums and planned communities for the services specified in the Act. A condominium or planned real estate development to receive these benefits are defined as a “qualified private community” under the Act.

Through the years, the MSA has been seen to fall short on treating private communities in the same manner as homes on public streets, even under the terms of the existing law. The challenges of the MSA faced by private communities arise from the areas of service which are to be either performed or reimbursed by the municipality; the inevitable differences in

the manner in which private communities are managed and operated given the shared private facilities and usage of amenities within the communities; the methodology employed in calculating any reimbursement; and the timeline for the commencement of the municipality’s compliance under the MSA; and the parameters for the negotiation and execution of an agreement with the municipality.

Michael Pesce, PCAM, President of Community Management Corporation, will be serving as the Chair of a LAC Task Force which has been formed to identify areas

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of the MSA which needs clarification and, potentially, revision. Mike’s article in last year’s LAC issue of *Community Trends*® published in October, 2015 discussed MSA provisions in need of clarification. The entire LAC will make recommendations for evaluation by the Task Force. Mike’s article in the October, 2015 issue of *Community Trends*® is available at the CAI- website at [www.cainj.org](http://www.cainj.org). Go to *Community Trends*® tab, and click on “CT Archive” to reach the October LAC issue of *Community Trends*®.

## **Manager Certification**

LAC has taken seriously the promotion of manager licensing as a means of promoting standards, educational credentials, and ensuring that our communities engage the most qualified property managers. While several organizations, including CAI, offer several levels of certification and accreditation, there is no certification or licensing process under the regulations of this State. Manager licensing efforts stalled in New Jersey at the end of 2014 due to the expense which State officials anticipated to adopt and implement a licensing requirement, and to conduct the licensure process.

The LAC is continuing to pursue alternatives to licensure, such as certification, which would yield registration fees that will be less cost prohibitive than the projected fees for licensure. The goal of the LAC is arrive at a structure which would recognize community property managers who pursue credentials to enhance their professionalism while not unduly burdening individual managers and management companies with extensive registration procedures and filing fees.

LAC is ever mindful that any requirements affecting community property managers or, for that matter, any other professionals which serve our communities keep the goals they were intended to accomplish in the forefront. LAC will continue to evaluate the needs of its managers, and the best interests of the community associations throughout the State, as it charts its course this year, focusing on manager certification. No one can dispute that the education and experience with which professional managers lead our communities is vital. Trying to translate those credentials into a workable regulatory process will continue to be an initiative this year.

## **Election Reform**

When it comes to the governance of communities, perhaps one of the areas of association operations most likely to lead to disagreement is the conduct of elections. Even where a community has a well-drafted set of governing documents, times change and the law necessary to deal

with changes in circumstances is not always available. Governing documents are unlikely to deal with the use of electronic voting and, even if it is contemplated, we continue to work through the pitfalls of the use of the technology.

Assembly Bill No. 3069 was introduced on May 8, 2014 with the stated purpose of providing fair standards for elections and recall of officers for homeowners' associations. Its terms regulate the recall and removal of Board members from office, the mandatory conduct of elections at least every two years, the use of a committee of unit owners to oversee the election process, and anonymous ballots. Violations of the law are to be directed to the agency administering the Planned Real Estate Development Full Disclosure Act, which is currently the Planned Real Estate Development section of the Bureau of Homeowner Protection within the Department of Community Affairs.

The LAC opposes A-3069 in its present form and is looking to propose revisions. Last year, the LAC generated nine individual bills intended to address consistent problems in community association management and conduct. One of the bills the LAC prepared specifically governs community association election procedures. LAC will be working hard to bring its recommendations to the legislators who are simultaneously advancing bills in this area.

## **Legislative Update Programs**

During 2016, the LAC will be conducting Legislative Update programs at four different locations. We will be holding programs at Horizons at Woods Landing in Mays Landing (as our South Jersey site); Renaissance at Raritan Valley in Somerset, and Greenbriar Woodlands in Toms River (as our Central Jersey sites); and at a location in Hudson County (as our "Gold Coast" site). We will have a contingent of LAC members and Tim Martin of MBI Gluck Shaw, CAI's lobbyist, at each location ready to take your questions and hear your concerns. We hope you will be able to join us.

As always, please feel free to address any issues you may have to any member of the LAC or to me at [cli@greenbaumlaw.com](mailto:cli@greenbaumlaw.com). ■