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ASSOCIATIONS INSTITUTE

Volume XIX, Issue 3 - Fall 2020  
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CAI-Wisconsin Chapter

# Community LEADER

*News for the New American Neighborhood*

***In this issue***  
***Condo Seller's Beware***  
***Winter Is Coming***  
***Budget Season***  
***And Much More...***

# KAREN SKORIC, C.P.A.

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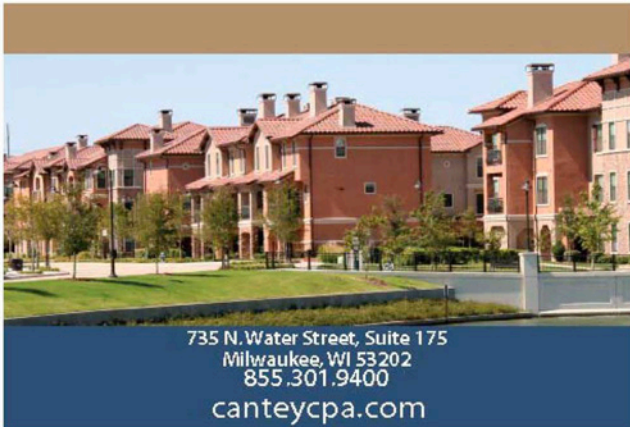
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*News for the New American Neighborhood*



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# Leadership Directory

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Todd Sarauer, CMCA, AMS, PCAM  
Hunt Management Incorporated, AAMC  
10520 N. Baehr Road, Suite Q  
Mequon, WI 53092  
Phone: (262) 238-1480  
todd@huntmanagement.com

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Lisa Komppa, AMS, CPM®, PCAM  
Professional Property Consultants, LLC  
PO Box 923  
Menomonee Falls, WI 53052  
Phone: (262) 257-9250  
lisa@ppc-wi.com

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Sara Moker, CMCA, AMS, PCAM  
Elite Properties, Inc.  
3415 N 127th St., Suite 300  
Brookfield, WI 53005  
Phone: (262) 373-1777  
selark@eliteprop.org

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Dan Miske, CCAL  
Husch Blackwell, LLP  
555 E. Wells Street, Ste. 1900  
Milwaukee, WI 53202  
Phone: (414) 978-5418  
Daniel.Miske@huschblackwell.com

### Director

Chad Emrath, CMCA, AMS, CPO  
Ogden & Company  
1665 N. Water St.  
Milwaukee, WI 53202  
(414) 270-4173  
chad@ogdenre.com

### Director

Tom Holton  
Holton Brothers, Inc.  
1257 Terminal Rd.  
Grafton, WI 53024  
(262) 377-7887  
tom@holtonbrothers.com

### Director

Erica Joyce  
Mid State Insurance  
7105 W Mequon Road  
Mequon, WI 53092  
Phone: (262) 643-4674  
ericaj@midstateis.com

### Director

Michael Leach, CMCA, PCAM  
Prospect Management Company  
224 N. 76th St.  
Milwaukee, WI 53213  
Phone: (414) 540-0004  
mleach@pmmcwi.com

### Director

Dan Merritt  
Glen of Brookfield Home Owners Association  
15340 Huff Way  
Brookfield, WI 53005  
Phone: (262) 309-5665  
dmerritt33us@yahoo.com

### Director

Ryan Maloney  
Robertson Ryan & Associates  
20975 Swenson Drive, Suite 175  
Waukesha, WI 53186  
Phone: (414) 221-0346  
rmaloney@robertsonryan.com

### Director

Dwight Morgan  
Beerline River Homes  
1963 N Riverwalk Way  
Milwaukee, WI 53202  
dwight\_morgan@msn.com

### Director

Matt Martin  
Reserve Advisors, Inc.  
735 N. Water Street, Suite 175  
Milwaukee, WI 53202  
Phone: (414) 272-2002  
mmartin@reserveadvisors.com

### Local Contact/Staff

Chris Ruditys  
Wisconsin Association Management  
11801 W. Silver Spring Dr., Ste. 200  
Milwaukee, WI 53225  
Phone: (414)778-0640 Ext. 1  
info@cai-wi.org

Tina Conley, Assistant Account Executive  
Wisconsin Association Management  
11801 W. Silver Spring Dr., Ste. 200  
Milwaukee, WI 53225  
Phone: (414)755-3353  
tina@wamllc.net

Leslie Wright, Director of Communications  
Wisconsin Association Management  
11801 W. Silver Spring Dr., Ste. 200  
Milwaukee, WI 53225  
Phone: (414)755-3355  
leslie@wamllc.net

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# CONDO SELLER'S BEWARE

## WISCONSIN'S WB-14 RESIDENTIAL CONDOMINIUM OFFER TO PURCHASE FORM IS A TRAP FOR THE UNINFORMED

By Daniel J. Miske, CCAL

Wisconsin real estate brokers just revised form WB-14. This form is the required standard form to be used by real estate brokers on behalf of their clients (normally the Seller of a Condo) as of September 1, 2020. Lines 158-160 are a trap for Sellers. WB-14 should NOT be signed in its standard form by Sellers. Ideally, you or your broker will cross out lines 158-160 or you will counter the offer with those lines either deleted or altered.

The above recommendation requires a little explanation. Real estate brokers are most commonly employed by and owe duties to the Seller in real estate transactions. In fact, it is almost always the Seller that pays the broker. Therefore, you would think that the new form would protect their client, the Seller. It DOES NOT. While the new form makes the brokers job easier, it transfers risk to the Seller for something that the Seller likely has little if any control over. Here are the details:

Lines 149-166 of WB-14 begins "Contingency for Additional Condominium Information". If that section is checked, which it likely always will be, it requires the Seller to deliver to Buyer at Seller's expense, within 10 days of acceptance, if they exist, the following:

1. Line 152 – Association financial statements "for the 2 two years."
2. Line 153 – Minutes of "the last 3 Unit owners' meetings."
3. Line 154 – Minutes of "Condominium board meetings during the 12 months prior to acceptance of this Offer."
4. Line 155 – "Information about contemplated or pending Condominium special assessments."
5. Line 156 -- The Association's "certificate of insurance."
6. Line 157 – "The balance of reserve accounts controlled by the Association."
7. Line 158 & 159 – "Any Common Element inspection reports ... held by the Association."
8. Line 160 – "Information regarding any pending litigation involving the Association."

At first blush this seems so reasonable: I

can hear your broker saying: "the Buyer just wants to know what risks he is buying into and exactly what areas of concern exist." What the Broker should be saying is that lines 158-160 are putting YOU, the Seller, at risk for suit if you don't provide every inspection report **ever** of the Association and perfectly explain the current status of any "pending litigation involving the Association." As a 30 year practicing litigation attorney, who understands condominiums and the law relative to condominiums very well, I don't think that I could ever perfectly explain pending litigation, since by its very nature the two or more sides in the suit see things very differently. Similarly, can you really guarantee that as a Seller you have provided **EVERY** inspection report in the Association's records?

In truth, this revised form WB-14 will be fertile ground for attorneys looking to file suit on behalf of disgruntled Buyers and against Sellers for misrepresentation or fraud. Very few Sellers of a condominium will be able to accurately provide all inspection reports or accurately provide information regarding any pending lawsuit. Assume the easiest of all cases, one pending foreclosure lawsuit for unpaid assessments, other than the information on CCAP (the Court website) where will you be getting this "information?" There are legal restrictions on the Association and its attorney that prevent either of them from disclosing certain details relative to the suit. Specifically, the Fair Debt Collection Practices Act ("FDCPA") and/or the Wisconsin Consumer Act will prohibit the Association or its attorney from disclosing the debtor or the amount of the debt. The fact that you can get a some of that information off of CCAP does not mean you have accurate information.

Before I leave this rant though ask yourself what you would do if you were the Seller. For example, what exactly is an "inspection report?" It is not defined. Does it include every the property manager's notes each time she or he walks the property? What about bids where the contractor inspected the property? What if that contract has not yet been awarded -- does disclosing the bid inspection also

disclose the bid amount? If there is a lawsuit pending at the Association level, what "information" is the Association required to disclose? Attorney client information? Information prohibited from disclosure by the FDCPA or Wis. Consumer Act? What if the information is not 100% accurate, because you don't know all of the facts relating to the suit? Who do you think will get sued? That's right, the Seller. What will your broker, to whom you paid thousands dollars to at closing, say? I would imagine something like: "We just relayed the information the Association provided, and we had no duty or way of knowing if the Seller's information was accurate." But, of course, they will skip the part that they created the form that created the duty for the Seller. They will also forget that they likely recommended that the Seller sign this WB-14 Offer form on the basis that it is "the standard form."

**RECOMMENDATION** – based on the statements above, here is what I recommend:

1. If you are the **Seller**, Strike lines 158-160 on the form before you sign it;
2. If you are the **Broker**, do your clients a favor and strike these lines ahead of time;
3. If you are the **Buyer**, these lines benefit you, but I believe that they put the Seller at an unreasonable and unfair risk and I am not sure ending up in a lawsuit benefits you either; and
4. If you are the **Association**, contact your attorney so that when you are asked for this information, which you will be based on the disclosures you must provide under Sections 703.20 and 703.33 Wis. Stat., you can provide a standard response to these two questions that limits the exposure of your Association to liability and does not disclose confidential information. If done properly, you likely only need to pay the attorney once for this standard response that protects the Association and will likely help protect the Seller who didn't know or understand what he or she was agreeing to.

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**Daniel J. Miske, Partner, CCAL**  
daniel.miske@huschblackwell.com  
414.978.5311



**Lydia J. Chartre, Partner, CCAL**  
lydia.chartre@huschblackwell.com  
414.978.5418 | 608.234.6082

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# ARE YOU READY?

## WINTER IS COMING! IS YOUR ASSOCIATION READY?

By Carissa Pezewski, CMCA, AMS



There were 700 days in March, 600 days in April, 500 days in May, and just like that, June, July, and August slipped away. Summer came and went before there was time to complete projects, update landscaping, or just enjoy a reprieve from the winter weather. Fall is here and that means getting the winterization tasks and schedule ready for the associations. This may also include sending out reminders to unit owners on how to prepare their property for the Wisconsin winter before they head for warmer weather. Taking the time to get prepared now will save the stress, headache, and panic wondering if a heater is on, how low the forecasted temperatures may get, if a pipe might freeze, and all the other fun the winter season brings.

Snow removal is one of the most important contracts for an association in Wisconsin. The snow is unpredictable and each year the decision of per push or seasonal contract can be stressful for boards and managers. Review the snow contracts in place for each property and program the contact for each vendor into your phone so it is available if there is an issue with removal and/or salting. Set the expectations for communication with each snow vendor before the season starts. If the association provides additional salt

buckets for homeowners, have them placed prior to November 1. Winter is inevitable in Wisconsin; but it seems as if no one is ever prepared for the first snowfall, especially if it happens as early as Halloween.

Associations should review heaters in riser rooms, entry ways, common hallways, basements, and utility rooms and turn on if necessary. If the association has baseboard heaters, make sure they are turned on by November 1, if not sooner. If they are not working, get them replaced ASAP; that little baseboard heater can make a world of difference if it is by a fire sprinkler line. If the building has common furnaces, schedule an HVAC vendor to check them all now, before the cold weather hits, and eliminate high rates for emergency repairs. Create a schedule for yearly battery replacement in each common thermostat and quarterly furnace filter changes.

Most lawn irrigation systems should be winterized. There are some lawn irrigation vendors that will send out a postcard as a reminder to schedule the winterization. Do not sit and wait for a postcard to arrive. Be proactive and contact the association's vendor in advance and get on the schedule.

The water spigots can be an item that is easily forgotten but can cause a lot of damage if not properly winterized. Each association can be different as to who is responsible for the winterization. If it is the association, this should be on the calendar and access arranged into units where the shutoff is located. If a homeowner is responsible, send out the notice to them early and then send reminders. Unit owners may not understand that the water line to the spigot can freeze, break, and potentially cause water damage if not properly winterized.

Attic inspections to check insulation is important for associations that have plumbing pipes or wet sprinkler lines in the attic. This should be scheduled

and completed prior to the cold weather setting in. The importance of attic insulation may not cross the mind of someone who has never experienced a broken sprinkler line in the attic because the insulation moved. The insulation should be checked annually to ensure the lines are properly covered as recommended by the association's fire sprinkler vendor.

If an association has residents that leave for extended periods of time during the winter months, it may be in the best interest of the association to send out reminder checklists of tasks that a unit owner should do before they leave for the season. One of the most important is ensuring there is an emergency contact that has a key if the unit is not on a master key system or the management company does not have a key. A simple list to provide may include: turning off the unit's water, checking the furnace filter and changing with a new one, switching the thermostat to heat, setting the heat no lower than the association-recommended temperature, changing the batteries in the thermostat, and if there is a storm door, leaving that unlocked unless it is keyed to the unit door. This is just a small list of items that can help prevent issues over the winter. Unit owners should be encouraged to have their unit checked frequently during their time away, especially during those bitter cold stretches of winter.

Winter is coming, there is no doubt about that. Even if the Farmer's Almanac says it will be a mild winter, it is important to get prepared, organized, and ready to take on winter 2020-21!

*Carissa Pezewski, CMCA, MPC Property Management: Carissa is a Senior Community Association Manager with MPC Property Management in Burlington, Wisconsin. Ms. Pezewski manages her own portfolio of condominium and homeowner associations additionally works with the transition of new accounts. Carissa may be reached at [carissa@mpcpm.com](mailto:carissa@mpcpm.com)*

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# INSURANCE & WINTER

## PROPERTY DEDUCTIBLES & YOUR ASSOCIATION

By Erica Joyce, AAI AIS Mid-State Insurance

The heavy rainfall, high winds and other intense storms can devastate any Association. And, because these storms have the potential to cause tens of billions of dollars in damage, insurance providers have started to implement Deductible changes. Some of these changes include per building deductibles or percentage deductibles. It's important to know the details of these deductibles and how they work so your Association is prepared in the event of a loss.

### What is a Deductible?

A deductible is the amount the Association could be responsible for in the event of an insured loss. In the event of an insured loss, the deductible is subtracted from the amount of the claim payment. Deductibles put accountability on Associations and share the responsibility of insured losses with the Insurance Company.

Trends we are seeing now include higher deductibles on larger building values. This can sometimes help reduce the premiums for the insurance policy.

A deductible is implemented through policy language which is regulated at the State level.

### How Deductibles Work

Deductibles are typically applied to Property Damage. In the event an Association has an insured loss worth \$100,000 with a \$10,000 deductible, the Association would receive a payment of \$90,000.

If the Association has a percentage deductible, in the event of an insured loss of \$100,000, the insurance company would pay minus a percentage of the total building value.

If the total building value was \$600,000 and the deductible was 1%, the claim payment would be \$94,000.

Per building deductibles come into play typically with Wind/Hail losses. But could be a standard for some Insurance Companies. In the event there was a hail storm insured loss with a \$5,000 per building deductible. Each damaged

building's claim payment would deduct \$5,000.

### Deductible Changes in Today's Market

A lot of factors are influencing the Insurance Companies reason for change in the deductible market such as underinsured property, increased cost of building materials, and reinsurance rates on the increase. Catastrophic losses have been increasing for Insurance Companies as well. To elevate the large losses, Insurance Companies are changing how they implement deductibles such as adding percentage deductibles and per building deductibles.

### What it Means for You

Legally you should be notified within 60 days to your current policies expiration of any policy changes which would include a change in the Property Deductible. This could also include a review of Property limits. If your Association or Property Manager receives one of these letters, feel free to reach out to our agency with any questions. As we receive these same letters, we are actively using our markets to provide other options for our Associations.

## AVOID COMMON WINTER SLIP-UPS

Winter months' present additional hazards that are typically not factors for Associations during warmer weather – specifically, slip and fall concerns. With snow and ice covered conditions, you run the risk of taking major falls, which can lead to serious injuries.

### Prevention

Education is essential in preventing winter weather-related injuries. Consider the following to prevent slip and fall injuries during the winter months:

- Wear the proper footwear that provides traction on snow and ice. Footwear should be made of anti-slip material; avoid plastic and leather-soled shoes or boots.
- Exercise caution when entering and exiting vehicles, and use the vehicle for balance and support.
- Try to walk only in designated areas that are safe for foot traffic. If you notice that a walkway is covered in ice, walk on the grass next to the sidewalk, which will have more traction.
- Avoid inclines that are typically difficult to walk up or down as they may be more treacherous in winter conditions.

- Take small steps to maintain your center of balance, walk slowly and never run. When possible, walk with your hands free to maintain your balance. And despite the cold temperatures, avoid putting your hands in your pockets. This will help you better maintain your balance and allow you to break a fall should you slip.

- Use handrails, walls or anything stationary to assist in steadying your feet.

- Look ahead to the path in front of you to avoid hazards.

- Test a potentially slippery area before stepping on it by tapping your foot on the surface first.

- Remove debris, water and ice from all working walkways.

- Steer clear of roof edges, floor openings and other drop-offs to avoid slipping hazards.

- Sand or salt surfaces covered by ice or snow to provide traction.

- Dry your shoes or boots on floor mats when entering a building.

- Report trip and fall hazards immediately to your Property Manager and/or Board Members.

- Seek shelter immediately in the event of severe weather conditions.

### If You Begin to Slip...

- Twist your body and roll backward to avoid falling forward and injuring your face.

- Try to relax your body when you start to feel your legs give way.

- If you are carrying a load, throw it off to the side so it does not land on you when you fall. This will also free your arms to help break your fall.

*Erica Joyce has been assisting Condo Associations with their insurance needs for over 10 years. For more information on the Condo Association insurance programs available, please contact Erica direct.*

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# BUDGETS

## BUDGET SEASON HAS ARRIVED

By Christy True, CMCA, AMS



This time of the year is when most associations projects are starting to come to an end and the Board of Directors and Property Managers start to look at getting ready for the next year, which means it is budget time.

Preparing a budget can be a difficult and challenging task for some board members. Board members are volunteers and may not have the experience and/or expertise for preparing budgets and have hired a property manager to assist them. The property manager will help guide and advise the board and help them prepare the annual budget, however the board of directors have a fiduciary responsibility to the association to approve the annual budget.

Preparing for a budget as a property manager is a year-round task. Throughout the year, you will notice items that come up either in a property inspection, a board meeting or a request from homeowners that may not be in the current budget and the board of directors would like to keep track of these items for the next year's budget – kind of a “wish list”. I like to start a file for these items and they could be small items, like updating property signage to larger projects of resurfacing the driveways. The file should also include items that are not done an annual basis, such as some associations do dryer vent cleaning every other year, some association have to have façade inspections done every 5 years, which will add expenses for those years.

As a property manager, when I start to prepare my associations budgets for the upcoming year, I look at the following:

- The Associations governing documents, to make sure that there are not restrictions

for any of the items proposed or how the funds are used.

- Current financial status for any variances in the current budget.
- Review the requested items from the board and unit owners.
- Look at current contracts to see if they have built in increases.
- Review proposals received throughout the year on items that the Board did not approve and wanted to wait.

- Review the Reserve Study for upcoming expenses.

I usually start my budgets with the “fixed” expenses, such as lawncare, snow removal, electricity, gas, water/sewer, etc. and adjust those according by reviewing the variances and contracts. I will then begin to look at all the other maintenance/repair expenses that were noted throughout the year. Lastly, I will review the reserve study.

Once I have all of the expenses entered into my budget worksheet, I look at the income side of the budget, to determine if the income will need to be adjusted. I will then review the history of the association's income, its reserves and savings. Upon reviewing all the expenses and income, I will then make a recommendation to the board of directors and send them my recommendations. Sometimes I will provide 2 or 3 different budget scenarios, such as including some of the extra wants of the homeowners, so they can see the difference in what the fees may need to be if all the “wish list” items were included. This gives the board options and will help them look at everything and help make decisions for current budget and any future budgets. Sometimes this is not an easy task, as all associations are different.

It is never easy as a property manager to recommend an increase in association fees and/or special assessments.

After the board has had time to review the budget, the property manager usually schedules time to meet with the board to discuss the proposed budget. During this time, the board will review the expenses and they may want to increase or decrease some of the expenses. They may want to put a project on hold or move forward with a different project. I feel it is important to have these meetings with the board, because you as a property manager are there to help the board and ultimately, they have to make the decisions. Once your association board has approved their budget, you will then need to work with the board monthly to try and keep on task and follow the budget.

*Christy True is Certified Manager of Communing Association and Association Management Specials with Hunt Management, Inc. She can be reached at [christy@huntmanagement.com](mailto:christy@huntmanagement.com)*

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# FIDUCIARY KNOW-HOW

The mere mention of fiduciary responsibility may scare some homeowners away from board service, but it shouldn't. Managing the association's finances is one of the board's most important duties, but it doesn't have to be complicated.

Fiduciary duty means protecting assets, budgeting responsibly, planning for the future, investing wisely and observing laws and regulations that affect association resources. Fiduciary duty requires the board to ensure that the assessments you pay are used properly to maintain the community and cover insurance, contracted services, utilities and other needed materials and services. The board is obligated to make ethical and legal decisions that best serve the entire association.

Board members fulfill their fiduciary duty by:

- **Establishing and adhering to a budget.** A good budget is developed through an objective, step-by-step process based on historical data and careful research.
- **Reviewing financial statements regularly.** The statements include a balance sheet, budget comparison report, income report, check registry and more.
- **Putting policies in place to reduce the risks of fraudulent activity.** These include, for example, requiring two signatures on checks, not signing blank checks and sending payment only when an invoice is received.

• **Hiring an accounting firm to perform an annual audit.** An auditor will look for missing check numbers, missing bank statements, duplicate payments, payments to unfamiliar vendors or suspicious journal entries.

• **Adopting an investment policy.** A good investment policy protects principal, liquidity and yield.

• **Conducting a reserve study and updating it regularly.** A reserve study identifies the expected remaining life of each major component, estimates the cost to replace it and the amount that should be saved on a monthly or annual basis.

## Congratulations!

The CAI Wisconsin Chapter has been selected to receive the Best Net Growth (20%) award for a medium chapter in the 2019 calendar year.

Although we can't come together in Hollywood, FL this year, we want to celebrate your accomplishments. We will be celebrating you on stage at the 2021 Annual Conference in Las Vegas. In the meantime, we are putting together some items for you to celebrate within your Chapter. More details will be coming soon. You will be receiving your award in the mail in the next month. We encourage you to use the digital badge attached to this email in your email signature, on your social media pages and on your website.

Thanks for participating in the Chapter Achievement and Excellence Awards program and congratulations on all the great programs offered by your chapter. We can't wait to celebrate you soon!

Stay safe & healthy!





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# ANNUAL MEETING

## ALL RESIDENTS WELCOME AT ANNUAL MEETING

The association's annual meeting is the best opportunity for you to learn about the year's events and get caught up on everything happening in your community. Here are a few typical agenda items and meeting activities you will not want to miss:

- Meet board and committee members and the manager.
- Learn about the association's mission statement.
- Get an update on all current and future scheduled projects.
- Review the proposed budget and hear the association treasurer explain how your assessments are being used and reserves are being invested.

Be an active community resident and attend the annual meeting. Introduce yourself to the board, the manager and your neighbors and find a wealth of information about your community!

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# CAI-WI NEW MEMBERS As of 9.25.2020

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**Whitnall Edge II Condominium Homeowners Association**  
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Franklin, WI 53132  
(414) 915-8512  
pcraigoverlook@aol.com

**Adrienne Fears**  
**Jade Gardens Owners Association**  
7869 N 60th St Unit F  
Milwaukee, WI 53223  
(414) 698-0024  
mrsfears1@yahoo.com

**Tom Harman**  
**American Security & Investigations**  
18 Westglen Lane  
Palm Coast, FL 32164  
(386) 585-0965  
tharman@americansecurityllc.com

**Aaron Kapellusch**  
**Perfection Property Restoration**  
333 Bishops Way Ste 154-D  
Brookfield, WI 53005  
(630) 497-1000  
AaronKapellusch@callperfection.com

**Jami Nemeth**  
**Madison Property Management, Inc.**  
1202 Regent St.  
Madison, WI 53715  
(608) 251-8777  
jamin@madisonproperty.com

**Alan Rudrud**  
**Maple Wood Green Condominium Association**  
21 Maple Wood LN Unit 305  
Madison, WI 53704  
(608) 241-1139  
abrudrud@ameritch.net

**Kim Slotterback**  
**Pilgrim Glen**  
N69 W15402 Macallan Court  
Menomonee Falls, WI 53051  
(262)257-9250  
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# CAI-WI 2020 ANNUAL GOLF OUTING

Aloha. Use your imagination and take a small break from reality. "Sandy beaches, tropical music, and the warm breezes of Hawaii."

The 15th Annual CAI -WI golf outing required more than a bit of imagination, but golfers were genuinely excited to be outside in temperatures bordering on frigid, where sand traps were more abundant than sandy beaches and the tropical drinks might have tasted a bit like Hawaiian Punch. After re-scheduling due to COVID health concerns, the new date was announced with a small reduction in attendance from prior year's attendance levels. The outing featured a Hawaiian theme, favorite island foods, tasty tropical drinks, and social distancing. Considering that Wisconsin was in pandemic mode, the outing was a great success.

We appreciate that the majority of golfers and vendors were able to adjust their schedules and make the time for a bit of fun. The Golf Committee thanks everyone who attended. We hope those who attended had a safe day, were able to network and meet new CAI contacts. If you were lucky enough to have won a raffle prize, a golf skill event or the \$500.00 Grand prize it had to have been a hugely successful FUN day.

A special thanks for making this day memorable goes out to our many Individual Sponsorships and the Event sponsor. The Committee really appreciates that our business partners took the time and spent the funds during this difficult time to support the CAI-WI. The Fairways of Woodside in Sussex did a great job to accommodate the ever changing health requirements for a large group. The outdoor tent was a last minute addition allowing golfers more space to socialize safely.

With everyone's continued support the Golf Committee has already started planning for 2021. A date of June 21, 2021 has been selected. Our future golfing destination is still being determined. We welcome any feedback as to this past year's location.

See you next summer, with more FUN times to enjoy. In Wisconsin, golfing with friendly CAI – Members, sand traps, humid breezes, mosquitoes and cold beer - requires no imagination.

Aloha. Thanks so much.

Eric Swanson  
Golf Committee Chair

"Hawaiian Luau" 



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# ASSOCIATION FUNDAMENTALS

## COMMUNITY ASSOCIATION FUNDAMENTALS

Community Associations Institute (CAI), a national membership organization that represents the best interests of common-interest communities, developed 10 basic principles that answer three essential questions: What is the basic function of a community association? What are the essential obligations and expectations of homeowners? What are the core principles that should guide association leaders?

We're confident you'll recognize your community while reading these principles.

1. Associations ensure that the collective rights and interests of homeowners are respected and preserved.
2. Associations are the most local form of representative democracy, with leaders elected by their neighbors to govern in the best interest of all residents.
3. Associations provide services and amenities to residents, protect property values and meet the established expectations of homeowners.
4. Associations succeed when they cultivate a true sense of community, active homeowner involvement and a culture of building consensus.
5. Association homeowners have the right to elect their community leaders and to use the democratic process to determine the policies that will protect their investments.
6. Association homeowners choose where to live and accept a contractual responsibility to abide by established policies and meet their financial obligations to the association.
7. Association leaders protect the community's financial health by using established management practices and sound business principles.
8. Association leaders have a legal and ethical obligation to adhere to the association's governing documents and abide by all applicable laws.
9. Association leaders seek an effective balance between the preferences of individual residents and the collective rights of homeowners.
10. Association leaders and residents should be reasonable, flexible and open to the possibility—and benefits—of compromise.

Fundamentals can be downloaded at [www.caionline.org/governance/fundamentals.pdf](http://www.caionline.org/governance/fundamentals.pdf). For more information about Community Associations Institute, go to [www.caionline.org](http://www.caionline.org).



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