

Community Association Law Day - Lynnwood



Benefiting WSCAI's Legislative Action Committee

Saturday, April 27, 2019 – 8 a.m. - 3:30 p.m. - Lynnwood Conv Center - 3711 - 196th St SW
8 a.m. Registration / Exhibit Hall / Continental Breakfast / Silent Auction Opens

Program Sponsor: Columbia Bank

Continental Breakfast Sponsored by:

Allana, Buick & Bers, Inc., OAC Services, Inc., PRIME & Riley Pasek Canty LLP

8:45 – 10:00 a.m. Concurrent Sessions (select one)

Why you need to read and understand every provision of every contract you sign

We regularly have clients wanting to break off a relationship with a vendor, where the association (or their manager) signed a contract without reading or negotiating any of the contract provisions. Frequently the ability to terminate the contract is very limited. Other clients will come in complaining because what they thought they were buying is not what they received (usually construction and service contracts). We will discuss types of contracts and what to look for so that you and the vendor have common expectations, and so you can exit a relationship when you need to. Appropriate for all community types.

Types of contracts to discuss:

- Management contracts
- Cable TV contracts
- Consulting contracts
- Elevator Maintenance contracts
- Service contracts (landscaping or cleaning)
- Construction or repair contracts.

Biggest issues to watch for:

- Automatic renewal of contract terms
- Long contract terms (5 or more years)
- Release of all liability claims against a professional
- Termination provisions – Notice, fees and performance
- Contracting for services that you may not need or want.
- Requiring prepayment for services
- Insurance requirements for client and vendor
- Dispute resolution provisions.
- Vague or no specifications about work to be performed.

Ken Harer, CCAL is Condominium Law Group's managing partner. Ken is an experienced attorney and has been working with community associations for over 20 years. He offers legal assistance with contracts, construction disputes, and warranties related to the Washington Condominium Act and general legal advice on interpretation, enforcement, and modification of governing documents. Ken is a frequent speaker at industry events and homeowner association seminars, and he contributes regularly to industry periodicals. Since 2008, his focus has been providing general legal advice to community associations.

Hot water heaters, toilets and other sad stories of water damage between units: who's responsible for the deductible and losses not covered by the master policy?

Warning: this will not be another "dry" lawyer presentation; it will be all about wetness – that is, water events occurring between units in condominiums, and who bears the responsibility for repair costs not covered by the association's master policy of insurance. This subject continues to bedevil boards, managers, unit owners and, yes, attorneys and insurance brokers alike. Nevertheless, attorney Tony Rafel and insurance broker Brett Nebeker will boldly wade into it and try to provide some clarity and guidance. What does it mean to say that the association's policy is primary? How do standard declaration provisions allocate uncovered losses between owners and the association? Must the declaration be amended to alter the "default" and if so, what language should be used? Are there losses that are not covered at all under the master policy and, if so, who pays in those cases? And are unit owners covered under their individual HO-6

policies if the master policy deductible is assessed against them? If your brain hurts every time these issues arise in your community, this may be the presentation for you!

Anthony L. (“Tony”) Rafel serves as President-elect of WSCAI’s Board of Directors. Tony has been practicing law in the Pacific Northwest for more than 35 years, focusing on community association law for the last 25 years. He is the Managing Partner of Rafel Law Group PLLC, with offices in Seattle and Portland, and practices actively in both states, handling construction defect and product defect, insurance recovery, covenant and rule enforcement, boundary and view disputes, and nuisance cases, among many others.

Brett Nebeker is a Partner at Rice Insurance where he heads up the Condo/HOA Practice Group. Service and education are Brett’s focus, he is always willing to take the time to work with clients large or small and help boards and homeowners understand coverage. Rice Insurance has made the Inc 5000 Fastest Growing Privately Held Companies over the last three years.

Wait, What, WUCIOA?

When the Washington Uniform Common Interest Ownership Act (“WUCIOA”) was enacted last year, a lot of people know that some “new law” went into effect, but appreciating the full effect of the change is going to take a good amount of time. The 135-page statute replaces both the Condo Act (RCW 64.34) and the HOA Act (RCW 64.38) **for all Common Interest Communities created after July of 2018**. And, as most people are starting to realize, some portions of WUCIOA actually apply to existing Condos or HOAs, including the budget and “opt in” sections. Join Barker Martin attorneys Marlyn Hawkins and Dean Martin to get a better understanding of what WUCIOA is, how it applies to pre-existing communities and considerations for “opting in,” as well as updates from the most recent legislative session.

Marlyn Hawkins is a Shareholder of Barker Martin, P.S. a full-service litigation and homeowner association general counsel law firm. A Puget Sound area native, Marlyn’s practice ranges from construction defect litigation, to pre-litigation workouts to representing communities as general counsel. Marlyn began her legal career as a King County Deputy Prosecuting Attorney in the criminal division, moving to civil litigation in 2000, and has represented community associations almost exclusively since 2002. Marlyn is a frequent speaker at community association, homeowner association and bar association seminars.

Throughout his legal career, **Dean Martin’s** practice has focused on construction defect litigation. In 1993, Dean started devoting substantially all of his practice to condominium and multi-family residential defect cases. That practice has included successfully prosecuting claims directly against developers, general contractors, subcontractors, architects, engineers and their respective insurance companies. Dean has always assisted his construction defect clients with their day to day general counsel issues. In recent years, this area of his practice has expanded greatly.

10:00 – 10:30 a.m. Exhibit Hall / Silent Auction Break

10:30 – 11:45 Concurrent Sessions (select one)

Beyond Water Leaks: How to Determine When Your Association is Obligated to File an Insurance Claim

One of the challenges of managing older condominiums is that they may need major repairs or renovations beyond the Association’s reserves. Not only is bringing a claim against the Association’s property insurance often a viable option to help defer the cost of major building envelope repairs, but bringing such a claim may be required by the Association’s governing documents. This session will make attendees aware of how older insurance policies may help cover the cost of building envelope repairs in certain circumstances; will help attendees recognize when an insurance claim should be considered; will help guide attendees through the insurance claim process; and will discuss recent, rapidly changing case law that strongly favors Associations.

Daniel Stein is a partner at Stein, Sudweeks & Stein specializing in insurance coverage and construction defect issues. He is also a contributor to WSCAI’s Community Associations Journal. Daniel earned his Bachelor of Arts at UCLA and his Juris Doctorate at USC Gould School of Law where he was a member of the Interdisciplinary Law Journal. Prior to joining Stein, Sudweeks & Stein, Daniel worked on complex class action lawsuits.

Schizophrenics, Tap-Dancers, and Short Term Renters, Oh My!: Welcome to your (problematic) neighborhood!

This presentation will cover the variety of problematic occupancies that association boards, unit owners, and managers continue to contend with in condominium and homeowners association communities. We continue to deal with the “tap-dancing” neighbors above us, the cigarette and/or marijuana smoking neighbors below us, the short term renters (think AirBnB) next door, the schizophrenics and the hoarders, the rude users of common area space, the hyper-

technical rule followers, and the investor-owned renters down the hall who are requesting a hardship exception to the existing rental cap. We will discuss the interpersonal and legal tools to help you understand and, hopefully, resolve all of these issues.

Michael D. Brandt is a former Director on WSCAI's Board and a former Co-Chair of WSCAI's Legislative Action Committee (LAC), where he continues his work on WSCAI's behalf. He has been an active member of the LAC for the last ten years, where he has worked on the WUCIOA legislation, reserve study legislation, manager licensing exemption legislation, and testified to the State Senate about solar energy legislation, among other things. Michael is the principal of Brandt Law Group, a Seattle law firm that provides legal services to condominium and homeowner associations, their officers, directors, and members, as well as to the owners of single-family residential properties and commercial properties. Michael has been practicing real estate law for 27 years in Seattle and lives in Snoqualmie, Washington, where he is a member of the Snoqualmie Ridge HOA.

Drafting rules that comply with your declaration. Adopting necessary rules to affect the purpose of your Declaration

Many declarations provide the association (through its Board) with substantial powers to adopt rules about pets, signs, architectural control, use of common areas, fines, and any number of other areas related to the community. Often associations fail to adopt rules, or adopted rules, to affect changes which they are not authorized to do. Suitable for all types of communities.

Rules most communities should have, but may not (varies with your declaration):

- Late fees and interest rates for unpaid assessments
- Fine schedule, which is distributed to all owners
- Lists of high-risk components, and how they must be maintained
- ACC regulations on fences, colors, landscaping, etc.
- Rules about signs, holiday decorations, etc.
- Procedures for due process at violation hearings.
- Pet rules regulating number, size, behavior, etc.
- Rule about minimum rent terms when declaration authorizes such rules
- Rules about use of cabanas and meeting rooms
 - Use by owners for their own business purposes
 - Alcohol use
- Requirements to provide leases and insurance policies (if in declaration)
- Obligations to register residents, pets, cars, etc. that reside in the home.

Rules some communities adopt that they may not have the power to:

- Prohibition on short term rentals
- Prohibition on rental of units, or a cap on the number
- Limits on number of people residing in a unit
- Prohibitions on all political yard signs
- Prohibitions on emotional support animals
- Rules against adult family homes
- Rules against solar panels and satellite dish antenna
- Rules prohibiting certain kinds of businesses.
- Fees for change of occupancy, review of records, etc.

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11:45 a.m. – 1:00 p.m. Networking Lunch & Legislative Update in Exhibit Hall

Sponsored by: Yalnes, Inc.

Legislative Update by LAC Co-Chairs Greg Coxey, Esq & Patrick Rooney, CMCA, AMS, PCAM

1:00 – 2:30 p.m. – Panel: Mock Board Meeting

Why do some board members act the way they do from time to time? What do you do when the board meeting gets hot? Why are we meeting if we can't even make a decision? How do we deal with difficult board members that have colorful personalities? You've probably had one if not all of these thoughts. Regardless of how you feel about board meetings, they are crucial to the governance of your community association. If board meetings are not run effectively, chances are your association won't function well either. This interactive session will include a Mock Board Meeting touching on the basic roles, duties and responsibilities of the board, as well as some tips and best practices for board members and managers on how to run a meeting. Come and learn about the different personalities of board members (such as The Dictator, The Narcissist, and The Martyr), as well as how to diffuse hot situations and effectively run a board meeting.

2:30 – 3:30 p.m. Reception Sponsored by: PRIME & Superior Cleaning & Restoration

Silent Auction Closes between 3-3:15 p.m. (precise time will be announced at event)



Lynnwood Law Day Registration Form Saturday, April 27, 2019

Association or Firm Name _____

1st Attendee: _____ Email: _____

We would like to donate to the Silent Auction. Item: _____

Please the sessions that you plan to attend during each time slot (1 per time slot, a total of 2 sessions).

| | | | |
|--------------------|---|--|---------------------------------|
| 8:45 – 10:00 a.m. | <input type="checkbox"/> Contract | <input type="checkbox"/> Who's Responsible? | <input type="checkbox"/> WUCIOA |
| 10:30 – 11:45 p.m. | <input type="checkbox"/> Leaks & Claims | <input type="checkbox"/> Problematic Neighbors | <input type="checkbox"/> Rules |

2nd Attendee: _____ Email: _____

Please the sessions that you plan to attend during each time slot (1 per time slot, a total of 2 sessions).

| | | | |
|--------------------|---|--|---------------------------------|
| 8:45 – 10:00 a.m. | <input type="checkbox"/> Contract | <input type="checkbox"/> Who's Responsible? | <input type="checkbox"/> WUCIOA |
| 10:30 – 11:45 p.m. | <input type="checkbox"/> Leaks & Claims | <input type="checkbox"/> Problematic Neighbors | <input type="checkbox"/> Rules |

3rd Attendee: _____ Email: _____

Please the sessions that you plan to attend during each time slot (1 per time slot, a total of 2 sessions).

| | | | |
|--------------------|---|--|---------------------------------|
| 8:45 – 10:00 a.m. | <input type="checkbox"/> Contract | <input type="checkbox"/> Who's Responsible? | <input type="checkbox"/> WUCIOA |
| 10:30 – 11:45 p.m. | <input type="checkbox"/> Leaks & Claims | <input type="checkbox"/> Problematic Neighbors | <input type="checkbox"/> Rules |

| | Thru 4/5 | Thru 4/19 | Thru 4/25 | At the door |
|--------------------------------------|----------|-----------|-----------|-------------|
| Member Registration – per person | \$65 | \$75 | \$85 | \$95 |
| Non-Member Registration – per person | \$89 | \$99 | \$109 | \$119 |

Fees: Registration includes continental breakfast, seminars, lunch, trade show and reception.

Co./Assn. _____

Address: _____ City/State/Zip: _____

Phone: _____ Email: _____

Enclosed is a check for \$ _____ or charge the amount to my Visa MasterCard AmEx

Card #: _____ Exp. Date: _____ CVV #: _____

Name on the Card: _____ Signature: _____

Billing address if different than above: _____

Mail Registration Form & Payment To: WSCAI – 19101 36th Ave W, Ste 205 Lynnwood, WA 98036

For More Information: (425) 778-6378 or info@wscai.org. Cancellations received after April 5, 2019 will not be refunded but substitutions are welcome. Do NOT provide my contact information to the sponsors of this event. Check here if you would like a certificate of attendance for this seminar.