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# CONDOMEDIA

APRIL 2025

Energy and Technol
SMART APPROACHES
FOR COMMUNITY

BUILDING COMMUNITY

LIVING

UPDATES FROM CAI'S 2025 COMMUNITY ASSOCIATION LAW SEMINAR IN SAN ANTONIO

SMART
BUILDING
SYSTEMS
WHO OWNS AND
MANAGES DATA

The Official Publication of NEW ENGLAND CHAPTER

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Smart Building **Systems** Who owns and manages data?



### **Smart Technology**

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[By Christopher R. Lanni, CPP, CMCA, AMS]



### Taking Time to Listen

A conversation with Adam Williams, CMCA, AMS, President, Paradigm Partners Inc.

### **TECH CHALLENGE AND OPPORTUNITY**

have heard it said that "technology is anything that wasn't around when you were born," but it seems to me that sentiment doesn't quite capture how significant changes in technology can be in a relatively short period of time.

Since the pandemic, we've all learned a good deal about adapting to new situations and evolving with the times and circumstances. Over the past few years, we've seen new platforms and products, a battery of new federal and state laws, and of course, ever-altering trends in community association practices. It can be daunting to stay abreast of these changes. Fortunately, CAI is always a great resource for those who may find themselves overwhelmed by the intersection of technology, change, and their community needs.

In this springtime issue, we'll discuss some relevant building security and technology considerations as well as energy issues, both of which represent critical and immediate concerns for many communities. We'll also see how legislatures around the region and beyond are acting in response to the growing demand for electric vehicles and various commitments to environmental sustainability. Statutory and other governance updates aim to facilitate the transition to renewable energy sources and reduce the carbon footprint of residential communities.

As board members and managers, it is a good time to take stock of your community's policies for managing these technological changes and challenges.

Sincerely,

Scott Eriksen, Esq., CCAL 2025 CAI-NE Chapter President



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#### **PUBLICATION MANAGEMENT**

CAI New England / Condo Media Inc.

888 Worcester St., Ste. 20 Wellesley, MA 02482 PHONE: (781) 237-9020 FAX: (781) 237-9028 www.caine.org

EDITORIAL: Claudette Carini ccarini@caine.org

SALES AND MARKETING: Jake Nelson

inelson@caine.org

ADVERTISING COORDINATOR: Adina Geller ageller@caine.org

#### **CREATIVE SERVICES**

McNeill Media Group

PO Box 880 Newtown, PA 18940 (215) 321-9662

www.mcneill-group.com PRESIDENT: Edward J. McNeill **CREATIVE DIRECTOR:** Shane Hickey

MANAGING EDITOR: Christine Killion ASSOCIATE ART DIRECTOR: Jackie Cunnane

GRAPHIC DESIGNER: Eileen Keough-Caracappa

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\*Chapter Partners as of 2/1/2025



### **TECH TALK**

hen the first Condo Media issue to focus on technology/carbon emissions/energy savings was published a few years ago, the content was cutting edge but at that time limited in its application, regulation, and use. We've come a long way in a short time, and much has changed.

Around the country, technology is having a major impact on condominium association

boards, managers, and communities. While these trends have presented immeasurable opportunities, they have also created challenges for boards and their managers that require thoughtful consideration, ongoing review, and in some instances, immediate attention.



This issue is a window to a future being transformed by innovation. From building materials and energy ordinances that are reducing carbon footprint to AI technology that supports building operations and addresses the problem of staffing shortages, the advantages are clear. However, concerns around data, privacy, and security, as well as cost to implement new environmental mandates and navigate amended statutes, can be challenging for associations and their managers.

The future is now, and we will continue to have conversations and debate around how the industry can and will change. We hope you will be part of that conversation as we adapt to a "Brave New World."

Sincerely,

Claudette Carini

Chapter Executive Director



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Heather M. Gamache (617) 934-4660 hgamache@mbmllc.com



David M. Rogers (781) 817-4606 drogers@mbmllc.com



Katherine G. Brady (617)-934-4755 Kbrady@mbmllc.com

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### CAI News



### **CAI Around New England**

First Stop: Warwick, Rhode Island - April 8

Continuing with the long-standing practice of bringing in-person programming to all New England Chapter states, the first stop on the 2025 calendar will be Warwick, Rhode Island.

This morning breakfast session will bring community association managers and board members together for updates on trending industry issues in the state and beyond. Vendors on hand can assist with association questions and services from maintenance and reserve studies to management and governance.

Presenters will discuss recent amendments to the RI condominium statute that impact all condominiums in the state and answer questions around compliance. Industry professionals will provide information around the ongoing insurance challenges facing communities around the country and offer best practices in preparing for and managing rising premium costs and insurance coverage limitations.

FOR MORE INFORMATION ABOUT THE RI CONDO FORUM, VISIT CAINE.ORG.



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### Calendar of Events

### APRIL

**Enforcing Restrictions that Could** Limit Speech: Condominium Rule Making and the First Amendment 1:00 p.m. - 2:00 p.m. Webinar

Analyze the application of the First Amendment to community associations regarding restrictions that limit the placement of signs, placards, messages, or other materials that may constitute speech on the common areas, limited common areas, and unit interiors.

### M-320: High-Rise Maintenance and Management\* Live Virtual Class

Learn how to address the unique challenges of multi-story communities. This course provides an in-depth understanding of the unique management needs of a high-rise building. You'll experience learning through virtual building visits and walkthroughs of a central plant, roof, and recreational facilities. See major systems in operation, and discuss maintenance operations and procedures



### Rhode Island Condo Forum 8:00 a.m. - Noon Warwick, RI

Join Rhode Island condominium professionals, and learn about recent RI condo statute updates, ongoing insurance challenges for communities, and more.

### **Community Conversations Live** 2:00 p.m. - 3:15 p.m. Webinar

CAI National, in conjunction with chapters across the country, host these popular quarterly live webinars FREE to all CAI members. The webinars address the most up-to-date topics confronting association volunteer boards and professional managers. For more information on the live webinar topic for April, visit caionline.org.



Lunch & Learn Noon - 1:00 p.m. Live Virtual Meeting

Open and FREE to CAI New England Chapter members and Condo Media subscribers. join us for this one-hour conversation with Dillon Brown, Esq., around this month's question on page 16 about BERDO 2.0 deadlines and compliance.



Low-Cost Ways to Limit Security-Related Liability: Six Things Every Association Should Be Doing 1:00 p.m. - 2:00 p.m. Webinar

Security is a constantly evolving area for communities and one that board members seem to rarely consider until it is too late. While security solutions don't usually revolve around low-cost options, there are things that associations can consider with no or little cost that will improve security.

M-100: The Essentials of

**Community Association** 

Management Live Virtual Class

This comprehensive community association management course provides a practical overview for new managers, an essential review for veteran managers, and an advanced course for board members. Successful completion of the M-100 can be the first step toward earning the CMCA credential, awarded by CAMICB.

The above calendar is subject to change. Contact the chapter office or caine.org to confirm programs, dates, times, and locations. \*All PMDP programs are approved for continuing education for CMCA. AMS recertification requires at least one PMDP 200 Series course every three years. To register for PMDP programs, go to caionline.org.



### **Chapter** GROW

New and Renewing Members

With more than 1,800 members in chapter states around New England, CAI-NE remains the fifth-largest chapter in the country. The chapter welcomes and thanks this month's new members and renewing members.

### ASSOCIATIONS/ HOMEOWNERS

- 81 South Williams Street Association Libertyville, IL
- >> Allandale Condominium Trust Chestnut Hill, MA
- >> Allen Pond Condominium Association Rutland, VT
- >> Appletree South Community Association Inc. Burlington, VI
- >> Applewood Condominium Trust Leominster, MA
- >> The Arbors at Bellows Farm Acton, MA
- >>> Barrett Farm Condominium North Billerica, MA
- >> Boatwright's Loop District Landowners Association Plymouth, MA
- >> Briarcliff Condominium Association Ayer, MA
- >> Brooksmont **Condominium Trust** Holliston, MA
- >> Carlisle Place Condominium Association South Portland Maine, ME
- >> The Cascades Condominium Association, Inc. Winooski, VT
- >> City's Edge Condominium Association South Burlington, VT
- Claire Pointe Owners Association, Inc. Burlington, VT
- >> College & Battery Condominium Association Burlington, VT
- >> Depot Square Condominium Association Southwick, MA
- >> The Fairways Condominium Newton, MA
- >> Finney Crossing Residential Master Association Williston, VT
- >> Gloucester Mill Community Association Gloucester, MA
- >> Hawthorne Place Boston, MA
- ›› Highcrest at Meadow Walk **Condominium Trust** Sudbury, MA
- >> Hildreth Hills Condominium Westford, MA

- >> Jamaica Pond Estate Condominium Jamaica Plain MA
- King Philip Manor Condominium Trust Taunton, MA
- >> Longbrook Estates Condominium Association Agawam, MA
- >> Murray Hill Townhouse Association Area 1 Montpelier, VT
- >> Nouvelle At **Natick Condominium** Natick MA
- >> Oak Hill Common Condominium **Homeowners Association** Pawtucket, RI
- >> Overlook Point **Condominium Association** Portsmouth, RI
- >> Quarry Owners Association Milford, NH
- >> Ridgefield **Condominium Trust** Berlin, MA
- >> Royal Oaks II Auburn, ME
- >> Silver Lake Estates Condominium Association Hollis, NH
- Six Edgerly Place Condominium Boston, MA
- >> South Natick Hills **Condominium Trust** Natick, MA
- >> Summer Hill Condominium Trust Marshfield, MA
- >> Summer Hill Estates Belchertown, MA
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- >> Towne Estates **Condominium Association** Beverly, MA
- >> Village Glen East Condominium Association, Inc. Matthews, NC
- >> The Village at Stone Ridge Westford, MA
- >> Villages at Brookside Condominium Bourne, MA

- >> Waldenwoods **Condominium Association** Milford, MA
- >> Westlake Residential Condominium Association, Inc. Burlinaton, VI
- >> Wethersfield Commons Condominium Association Warwick, RI
- >> Wickford Cove Condominium Association North Kingstown, RI
- >> Wildwood Village II Condominium Association Laconia NH
- >> Woodcrest Condominium Association Wilhraham MA
- >> Woodlands Village at Hickory Hills Lake Lunenburg, MA
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### PMDP, CMCA, **CAMICB, CAI**

Demystifying the Path to Manager Education and Certification

**Professional manager education** and credentialing programs have never been more important in the community association industry. From managing people to managing buildings, experience and knowledge can make a difference for association managers and board members managing and governing communities.

CAI education and credentialing are fraught with acronyms and requirements that can be confusing for managers seeking a path to professional development. Misinformation and misunderstanding can frequently be a roadblock for busy managers.

Often-asked questions around manager credentialing and programming include:

### WHAT IS THE DIFFERENCE BETWEEN CAI AND CAMICB?

Community Associations Institute (CAI) is a non-profit organization established in 1973 and awards the AMS (Association Management Specialist) and PCAM (Professional Community Association Manager) designations. Learn more at caionline.org.

Community Association Managers International Certification Board (CAMICB) was established by CAI in 1995. CAMICB grants the Certified Manager of Community Associations (CMCA) certification. Learn more at camicb.org.

### WHAT ARE THE STEPS TO EARN THE CMCA CERTIFICATION GRANTED BY CAMICB?

Step One: Three options:

- Option 1: Education: Complete and pass a prerequisite course on community association management. (The M-100 course offered by CAI has been approved to fulfill the prerequisite requirement.)
- Option 2: Experience: Managers with at least five years of experience may receive a one-time waiver of the prerequisite course.
- Option 3: License or Credential: Hold an active Arizona CAAM, California CCAM, Florida CAM, Illinois CAM, or Nevada CAM.

**Step Two:** Complete and submit the CMCA application.

Step Three: Pass the CMCA exam - a 2.5-hour, 120 multiple-choice question exam.

### WHAT ARE THE STEPS TO EARN THE AMS AND PCAM DESIGNATIONS **AWARDED BY CAI?**

**Step One:** Meet the years of experience requirement.

Step Two: Complete required number of M-200 level courses (M-201 - M-206).

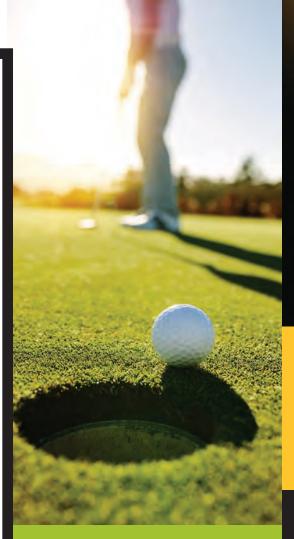
**Step Three:** Pass the CMCA exam administered by CAMICB. Step Four: Complete and submit application and fee.

### WHAT IS PMDP?

The Professional Management Development Program (PMDP) is a series of education programs developed by CAI for managers and includes: M-100; M-201 - M-206; M-300 - M390; and M-400. Visit caionline.org for detailed information about each program.

### DO I HAVE TO TAKE PMDP PROGRAMS IN ORDER, OR CAN I TAKE AN M-300 OR M-400 COURSE BEFORE TAKING AN M-200 OR M-100 PROGRAM?

PMDP programs can be taken in any order; there is no prerequisite requirement for taking PMDP programs.



# ANNUAL CAI-NE GOLF TOURNAMENT

May 19 l **Andover** Country Club

The chapter will host the popular Golf Tournament on May 19. The tournament with industry colleagues and peers with hundreds attending the post tournament dinner/charity fundraiser. Proceeds from the dinner/ fundraiser will benefit

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### Housing Projections

Another Year of Modest Growth for Condo and Homeowners Associations

The 2025 housing market is expected to see improvements in inventory, home sales, and prices, alongside more stable mortgage rates. However, experts caution that domestic and international factors may introduce volatility. Despite this, the community association housing market is projected to remain a preferred choice for buyers, whether seeking a new or existing home.

### **KEY TRENDS TO WATCH**

According to a report published by the Foundation for Community Association Research, an affiliate of Community Associations Institute (CAI), key housing trends to watch in 2025 include:

### RISING INVENTORY:

Housing experts predict a robust 11.7% growth in housing inventory, driven by new construction and more homeowners listing their properties.

### HOME SALES RECOVERY:

After a challenging period that saw home sales hit a 15-year low, experts anticipate a rebound in 2025.

### MODERATE PRICE INCREASES:

Home prices are expected to grow at a slower pace, with annual increases likely around 2%.

### STABLE MORTGAGE RATES:

Mortgage rates are projected to stabilize, with experts forecasting a potential decline to 6% in 2025.

### INCREASED HOUSING STARTS:

Construction activity is set to approach the historical average of 1.5 million units annually, though inventory levels will likely remain below prepandemic norms.

### **GROWTH IN COMMUNITY ASSOCIATIONS**

According to projections by the Foundation, the number of new condominium communities and homeowners associations is expected to increase by 3,000 to 4,000 in 2025. Community associations – encompassing homeowners associations, condominiums, and housing cooperatives – currently house 77.1 million Americans and account for 33% of the U.S. housing stock.

FOR MORE INFORMATION, VISIT THE FOUNDATION WEBSITE AT FOUNDATION.CAIONLINE.ORG.

NEWS DESK

# Webinar Series Continues

Industry Trends and Updates Spotlighted

The chapter unveiled this popular series in February.

Upcoming programs in the series will include:

WEDNESDAY, APRIL 2 | 1 P.M. - 2 P.M. Enforcing Restrictions that Could Limit Speech

WEDNESDAY, APRIL 23 | 1 P.M. - 2 P.M. Low-Cost Ways to Limit Security-Related Liability

WEDNESDAY, MAY 28 | 1 P.M. - 2 P.M. Managing Difficult Conversations with Boards and Owners

WEDNESDAY, JUNE 25 | 1 P.M. - 2 P.M.
Developing a Maintenance Calendar for Roofs, Roads, and Landscape

Register for each webinar separately or the five-part series, which includes recordings of all five programs. The entire series has been approved for five hours of continuing education credit for managers.

FOR MORE INFORMATION AND TO REGISTER, VISIT **CAINE.ORG.** PROGRAMS SUBJECT TO CHANGE.





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# Carbon Reduction

BERDO 2025 Compliance Deadline is Now for Boston Condominiums



I understand that under BERDO 2.0 (Building Emissions Reduction and Disclosure Ordinance), Boston condo associations will need to comply with the city's strict emissions schedule in 2025. What is the compliance deadline, and what are the penalties for noncompliance? Who is responsible for ensuring compliance, and what are our options to comply?



THIS ANSWER WAS
PROVIDED BY

Dillon G.
Brown, Esq.

THE LAW FIRM
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EMMER & BROOKS, P.C.

Boston's Building Emissions Reduction and Disclosure Ordinance (BERDO) requires condominiums with 15 or more units to: (i) report their building's annual energy usage; and (ii) drastically reduce their building's carbon output in accordance with a strict emissions reduction schedule, which varies depending upon the building's use.

### **COMPLIANCE DEADLINES**

Since 2022, condominiums subject to BERDO must report their buildings' annual energy (e.g., electricity, natural gas, oil, propane, steam, etc.) and water usage to the Environment Department by May 15 of each year. Thereafter, boards and/or property management must have the association's data verified by a third-party professional (typically an energy consultant) during select verification years.

With respect to carbon reduction, compliance deadlines depend upon: (i) the size of the building; and (ii) whether or not the building is considered residential or non-residential.

In the residential context, condominiums with 35 or more units must start reducing their buildings' carbon emissions by the year 2025 (i.e., this year). Whereas residential condominiums with at least 15 but less than 34 units do not need to comply with the city's emissions reduction schedule until 2030.

### PENALTIES FOR NONCOMPLIANCE Residential condominiums with at least 35 units:

- Failure to report energy data = \$300 per day
- Failure to accurately report energy data = \$1,000 - \$5,000
- Failure to meet emissions reduction schedule = \$1,000 per day

### Residential condominiums with at least 15 but less than 34 units:

- Failure to report energy data = \$150 per day
- Failure to accurately report energy data = \$1,000 - \$5,000
- Failure to meet emissions reduction schedule = \$300 per day



### WHO IS RESPONSIBLE FOR COMPLIANCE?

Data reporting, third-party verification, and emissions reduction requirements are the responsibility of the "building owner," which BERDO defines to include "the association or organization of unit owners responsible for overall management in the case of a condominium." While boards may designate these duties to property management, the association (as the building owner) remains subject to penalties and liability for noncompliance. More importantly, neither unit owners nor their tenants are responsible for compliance with BERDO. Rather, the City of Boston measures carbon reduction based on the results generated from the entire building (or group buildings) and not from the individual units.

### **COMPLIANCE OPTIONS**

Energy-efficient building upgrades. BERDO requires reduction in the carbon emitted from both the units and the shared common area. Achieving the necessary results will likely require energy-efficient upgrades to the building's components and systems (e.g., electrical, HVAC, appliances, and insulation - energy consultants can assist with identifying the same). To do so, boards must answer: (i) Is the project part of the unit or common area? (ii) Does the project constitute a repair or improvement? (iii) Who is responsible for the work? While all condominium documents are drafted differently, owners are typically responsible for repairs made to individual units, and the board performs the work to the common elements. Unless the project constitutes an improvement, boards may undertake building upgrades without unit owner consent.

### • Amend governing documents.

Because owners are responsible for energy-efficient unit upgrades, associations need an enforcement mechanism in place to ensure compliance with BERDO. Thus, boards should propose an amendment to the governing condominium documents specifically requiring

owners to make the modifications needed to reduce the building's carbon output.

• Renewable energy. Associations may purchase rights to renewable energy, enter into power purchase agreements, and/or make alternative compliance payments to be invested into the development of decarbonization projects, all of which will be credited towards the condominium's emissions reduction.

FOR MORE INFORMATION, YOU CAN FIND THE FOLLOWING RESOURCES ON THE CITY OF BOSTON WEBSITE.

**BERDO Condo Handbook:** 

A Guide for Condominium
Associations, Property Managers, and Condominium Unit Owners to Comply with BERDO https://docs.google.com/document/d/1BjFjhz9DGuslquB54GtSr7mTy0VIDXmg/edit

BERDO Compliance for Condo Associations Webinar Recording: https://drive.google.com/file/d/ 1gl77acXXRM8QcxKsX4k1Lrqf N7H8Pc9F/view



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### How This Co-op Saved \$100K In Energy Costs

### The Situation

This building is a 168-unit, 20-story co-op built in 1963. It has a 2-pipe fan coil HVAC system to provide cooling in the summer and heating in the winter.

At the start of this project, the building had already completed LED lighting and facade upgrades. They were still looking for other cost-effective energy efficiency opportunities. The board focused on their HVAC system due to the high operating costs.

### The Solution

Parity integrated with their existing HVAC controls and installed additional non-proprietary hardware to enable their system to receive data from the building.

The real-time information Parity's software collects flows into their Machine Learning algorithms. This allows them to perform automated remote control adjustments to the building's HVAC system.

Plus, Parity's Pi dashboard alerts building staff if an issue arises. It also comes with a dashboard for 24/7 monitoring of HVAC system performance.

The HVAC systems Parity remotely controls and optimizes in this co-op are the cooling tower, chiller, make-up air units, and various pumps, fans, and motors.

### The Results

- -\$29,764 contracted guaranteed savings
- -\$104,003 year 1 actual savings
- -1.96 years projected payback period
- -8 month actual payback period
- -156 tons of CO2 reduced

That's 249% over the guaranteed savings!



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"Parity makes my job easier. I can go on Pi to see what the temperatures are. One winter I noticed my DHW dropped during 1-3am by 15 degrees... it was a leak in the valve gasket. It didn't affect anyone. Parity let me be proactive."

-Anthony (Resident Manager)



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# UPDATES FROM CAI'S 2025 COMMUNITY ASSOCIATION LAW SEMINAR IN SAN ANTONIO BY SCOTT J. ERIKSEN, ESQ., CCAL

On Wednesday, Jan. 29, I left snow-dusted Massachusetts for the sun of San Antonio, Texas, and the College of Community Association Lawyer's 2025 National Law Seminar. Over the three-day seminar, I spoke with and heard from some of the most experienced community association practitioners in the country.

### AS I HAVE WRITTEN MANYTIMES IN THE PAST,

the seminar is always an enlightening event for me. It is educational and reaffirming to hear how my peers from other jurisdictions deal with similar issues at their communities. The lectures and discussions, in or outside the classroom, are an excellent way to stay current on important trends in community association law. This year's seminar covered a range of interesting topics, and what follows are a few of the noteworthy highlights from the program.

### **GUEST SPEAKER JUSTIN BROOKS**

One highlight of each Law Seminar that I have attended has been the keynote speaker, and this year was no exception. Justin Brooks (brother of MEEB's Richard Brooks) is a criminal defense lawyer, professor, and the founding director of the California Innocence Project. For decades, he and his team have dedicated themselves to freeing innocent people from prison. Justin's presentation was unique, engaging, and thought-provoking. He discussed his book – provocatively entitled, "You Might Go to Prison, Even Though You're Innocent" – and highlighted some shocking and tragic circumstances of wrongful imprisonments that he has worked to address over the years.

This presentation was incredibly moving; it was devastating to hear about so many people who have lost years (even decades) of their lives to wrongful imprisonment. As an attorney who

has made every effort to stay as far away from the criminal side of our field as possible, I still gleaned a number of useful takeaways from Justin's speech. We should all rethink our personal biases (as they can have serious and negative impacts on others – including the communities we represent) and engage with fellow community members in a respectful, thoughtful, and civil way to ensure optimal outcomes.

### THE RISE OF INCIVILITY AND A RETURN TO RESPECT

Which brings me to the next portion of this recap. It was interesting to see that multiple discussions (both organized and impromptu) at this year's seminar were dedicated, in one form or another, to something probably all of us can agree is a disturbing and challenging trend: A rise in incivility in community association life (or life in general).

I will devote much of the rest of this article to this topic as it is, I believe, a critical issue for many readers. Presenters suggested that the "COVID-19 pandemic turned the industry

upside down" and many reported to have personally witnessed a "precipitous decline in civility since" with no improvement on the immediate horizon. While the cause may be unknowable, this condition is problematic not only in terms of the impact it has on community members' mental and physical well-being, but it is increasingly making it difficult to engage the very volunteers upon which nearly all community associations rely to administer their operations. After all, who would want to serve on a board only to become the target of hostility?

Personally, I share many of the lecturers' concerns based on my own experiences over the past few years. It does seem that there is a growing level of disharmony, distrust, and ill-will, which impacts many of the communities that we represent. Fortunately, there are strategies to employ to counter this troubling trend:

- Recognize "why": It's natural, when dealing with criticism, to react defensively. I constantly find myself having to adjust my mindset in the face of even well-meaning feedback. However, community leaders on the receiving end of challenging, critical, or even negative messages from residents should consider the "why" behind the "what" that is being said or sent to them. Many presenters discussed the personal nature of community association problems they impact people's very lives and finances and thus may be among the most important issues that residents are facing at any given moment. This context is critical but often overlooked. It is easy to understand why a major assessment, for example, would generate anger, frustration, and disappointment even if it relates to necessary repairs or a similarly unavoidable expense. By focusing on the "why" behind even negative messages, community leaders may be better positioned to deliver effective responses to dispel or limit disharmony.
- "Us" not "us and them": Community associations are, fundamentally, a collection of individuals who share a common investment and common interests. This commonality should

be a central focus but is often lost to real or perceived differences in priorities. This, we see, is sometimes the root of toxic communications at communities where residents feel - rightfully or not - dismissed, unheard, or unengaged in the community's operations and activities. It is incumbent upon community leaders to engage residents in a way that is fair, open, and transparent whenever possible. While not every decision will be made by the community as a whole (that is why associations have boards after all), sharing information and soliciting resident input where appropriate can build stronger senses of community and let all residents know (regardless of whether they serve on the board or not) that they have a stake in the community processes.

Untangling the web: The internet is a powerful thing. It can be, as we all know, both a wonderful educational and communication tool. It can also reflect much of the worst of human nature. Many community leaders across the country lament the use of the internet as a "gripe" platform or a means to attack boards, management, vendors, or others. Viewed in a positive light, internet posts regarding community operations often reflect legitimate resident concerns and constructive criticism, which is important to promote progress. On the other hand, presenters discussed how social media posts often border on harassment against individuals serving on the board or management. While boards are expected to tolerate appropriate and courteous criticism from time to time, no one should be subject to abuse or intimidation. It may sometimes feel like an uphill battle, but to try to foster positive feedback and communication, communities may wish to adopt communication policies or codes of conduct. These documents can help memorialize specific and reasonable "rules" designed to ensure that two-way communications are respectful and productive.

Ultimately, the one thing that everyone agreed on is that there is no "silver bullet" solution when it comes to incivility. Only by

concerted, specific, and often considerable effort on the part of the volunteers who serve their communities is it possible to move closer to harmony. As an optimist, I believe that by implementing some of the strategies noted above, and by no small measure of patience and grace, boards can build (or rebuild) the sense of "community" at their community associations.

### THE CTA "PING PONG" EXPERIENCE

Finally, I would be remiss if I did not mention, albeit briefly, the Corporate Transparency Act. As I am sure most readers of this publication are familiar with the act by now, and the obligation to report beneficial ownership information to FINCEN, I will not go into the details of the legal requirements here. I only wish to note that the frustration we have all felt over the past months, as we watched various challenges play out through different federal court circuits, is something that has impacted communities (and businesses) across the nation. Multiple presenters spoke about the "ping pong" status of the CTA obligations; the fast-paced changes based on different decisions issued by multiple courts over the past few months. Most recently, as of days before this article goes to print, the Treasury Department indicated that they do not intend to enforce penalties or fines against domestic entities for failing to file beneficial interest information (though the Act itself remains in effect).

In summary, I am pleased to say that, as always, CAI/CCAL did a wonderful job curating a variety of fresh and informative programs. The seminar is always timely, relevant, and beneficial to my practice (and the Vitamin D from the San Antonio sunshine was a welcome benefit, too).



SCOTT J. ERIKSEN, ESQ., CCAL, IS A
PARTNER IN THE LAW FIRM PERKINS &
ANCTIL, P.C. HE IS THE 2025 CAI NEW
ENGLAND CHAPTER PRESIDENT AND
FELLOW OF THE CAI COLLEGE OF

COMMUNITY ASSOCIATION LAWYERS (CCAL).



WHO OWNS AND MANAGES DATA?

BY BRIDGET ROSE, ESQ.

Our homes are becoming smarter - devices like smart thermostats and automated lights feel like luxurious upgrades from previously inconvenient, menial tasks, while others such as doorbell cameras, leak detectors, and HVAC monitoring systems can provide serious cost-savings and security benefits by notifying users of potential problems before it is too late. "Smart building technology" refers to devices and systems that use the internet to provide enhanced services and monitoring in residential spaces.

WHILE THESE TECHNOLOGIES provide significant benefits, devices and systems that use the internet to capture user data can create data privacy and security concerns as well. In condominium associations, the question of who owns and controls the data collected by smart building systems – condominium boards, management companies, or tech vendors – can lead to disputes, and legal clarity is often lacking.

#### **OUESTIONS AROUND DATA**

#### Who Owns Data Collected?

The question of who "owns" data generated by smart building technologies is different than the question of who "manages" this data. "Ownership" means having title to the data. Almost always, the service provider or technology vendor who created the device owns the data, because these tech vendors are the ones who aggregate, process, analyze, and use the data. To understand why the owner of the physical device is not the owner of the data it generates, it is helpful to think about how technology providers use personal data. Data is most valuable in the aggregate; there is little value in knowing one individual's preferences from a smart thermostat, but there is a lot of value in collecting and interpreting the data from the entire group of users of the same smart thermostat.

### Who Manages Data Collected?

"Management" of data, however, refers to possession or control; even if the maker of a smart device owns the data it generates, the purchaser of the device has access to their individual data for personal use. In some instances, based on the device, the vendor, and the privacy agreement, the purchaser might also have some control over how the service provider uses the data it owns, but the device owner is limited to possession and control.

In condominium associations, the question of managing the data generated by smart building technology is more complex because there are more stakeholders involved. In most circumstances, condominium boards and management companies are the entities in charge of managing, maintaining, and repairing any smart devices and systems. In determining who should manage the data generated by smart building systems in condominium associations, best practice is for data protection roles and responsibilities to be in line with the purposes for which the generated data is to be used within the condominium.

### Who Controls Data Generated?

Control over the data generated by smart building systems is specific to each condominium association based on the priorities for data management and roles of the actors in that community. For example, one of the most important purposes of data management is storing and protecting private information, which could be a responsibility within the scope of the condominium board's fiduciary duty; another of the most important purposes is optimizing data for maintenance and system efficiency, which could be a responsibility best suited for management companies as the primary actors in condominium maintenance and management.

The answer to "who should control this data" will depend on the priorities and needs of the condominium community, the nature of the data being generated, and the strengths and capabilities for managing that data.

#### **CONDOMINIUM ASSOCIATION CONSIDERATIONS**

- Purposes of smart building technology A condominium association's data management stakeholders should work together to determine what benefits are most important to the community, such as efficiency and cost savings, security and accessibility, operational management, and system alerts.
- Types of data being generated changes in weather, time of day, and resident needs (devices and systems such as smart thermostats, automated doors, and elevators); interactions with utilities and local power sources (such as water and electric systems); and maintenance and optimization data (from utility systems and sensors).
- Data storage Centralized storage capable of holding, processing, and managing the data generated from the property's smart building systems is essential to optimize data use and to ensure data privacy and security. Stakeholders involved in the condominium's data management and control should determine what type of data storage is best for the community and implement the preferred storage solution.
- Resident buy-in Providing information about the devices and systems generating data, who manages the data, how the data is being stored, and what protection measures are in place helps residents to feel secure that the benefits of smart building systems outweigh the risks of data generation.
- Duties of the condominium board Members of a condominium board owe fiduciary duties to the condominium trust or association, and smart building technologies that generate data might create obligations related to the storage and protection of private information. In condominiums with existing data-generating systems, the storage and protection of private information may be a duty that the board necessarily accepts; where condominium associations are considering implementing these technologies, the board should determine whether the storage and protection of private information is something that they want to undertake.
- Compliance with privacy laws With no comprehensive federal consumer data privacy law, compliance with data privacy laws related to smart building technology is governed by state consumer privacy laws. In New England, Connecticut and New Hampshire are currently the only states with comprehensive consumer data privacy laws. Rhode Island's Data Transparency and Privacy Protection Act will go into effect on Jan. 1, 2026. Maine and Vermont have both tried to enact legislation with greater protections for consumer privacy, but the laws were not enacted in either state. Massachusetts has regulations establishing standards for the security of private information, but no general consumer data privacy protection law.

### **Smart Building Systems**

One of the most important purposes

of data management is storing and

protecting private information.

### **RECOMMENDATIONS FOR DATA MANAGEMENT AND CONTROL**

The best approach to data management and control is for data protection responsibilities for any given smart system or device to correspond to the roles of the actors within the condominium association.

An important first step for a condominium association in determining who should manage and control smart buildinggenerated data is to review the condominium bylaws, rules and regulations, and contracts with management companies. These documents might be silent as to responsibility for data management, but they will provide context and guidance based on existing roles.

If existing contracts do not expressly cover smart buildinggenerated data, it is important to ensure that a condominium association's approach to data management and control, with assigned roles and responsibilities, are expressly written and agreed-upon.

Additional recommendations when considering data management and control:

- Outline the condominium association's specific needs and goals for smart building systems.
- For each device or system, know what data it collects, how and when it's collected, and what privacy implications this might have.
- Record existing privacy settings and data sharing practices for residents and other users.
- Outline procedures for addressing system malfunctions, security breaches, and allocation of associated costs.
- Consult with counsel to ensure that all privacy laws and regulations are being followed.

Whatever system of data protection, management, and control your condominium association has or chooses, it is important to take steps to ensure that you can prioritize data protection and safety while maximizing the benefits of smart building systems for the better of the community as a whole.



■ BRIDGET ROSE, ESQ., IS AN ASSOCIATE WITH THE LAW FIRM MORIARTY BIELAN & MALLOY LLC.

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### VENDOR SPOTLIGHT

# Great North Property Management, Inc.

In a business that relies on strong relationships, Great North's Merrimack team has built a rock-solid foundation [By Karen Hansen]

It's been said that "to win in the marketplace, you must first win in the workplace." In the everchanging and competitive property management landscape, Great North Property Management has been winning on both counts.

Founded in 1990, Great North manages more than 350 associations totaling over 25,000 residential and commercial units throughout New England. A family-owned company, it prides itself on the many longstanding relationships it has forged with its customers – a distinction that many attribute to Great North's focus on hiring, training, and retaining the best people. "From the beginning, we knew that our success depended on establishing positive relationships with our clients and community; and consistently delivering outstanding customer service," says Great North's Senior Vice President and Director of Corporate Operations Justin Gargiulo, CPM. "You can only do that if you have strong internal teams."

Among Great North's nine regional offices, one of the strongest teams is based in Merrimack, New Hampshire. It is the company's largest office both in terms of staffing (with nearly 30 team members) and number of properties managed (80). Merrimack's approach to team building has been so effective, it is being modeled across the entire company.

### **CONNECTED AND COMMITTED**

It's no secret that property management is a demanding field where burnout is commonplace. No one knows this better than Vice President of Property Management Tracey Madden, CMCA, AMS, who heads up the Merrimack office. "People aren't knocking down the doors to become property managers," she says. "It's pretty stressful, and there's a big-time commitment." Recognizing the challenges, Tracey makes it a priority to give managers the tools they need for success.

"For one thing," says Tracey, "We're very flexible with work schedules. It's not a nine-to-five job, so we understand that at times people will need to take care of personal matters during office hours." Director of Maintenance Ryan Girard adds, "Life happens. If your kid is sick and you can't come into the office, we always cover for each other and make it work." Senior Property Manager Carrie Branchi concurs. "There's a bond that you create with your coworkers, personally and at work. So when you need help, you know you will get it. Having that work-life balance really helps me as a manager."



**GREAT NORTH'S** Merrimack, New Hampshire, team is the company's largest, both in terms of staff size and number of properties served.

That cooperation helps customers, too: There are two backups for every property manager, and information is freely shared. So even if a manager goes on vacation, the customer service experience is seamless. While the team appreciates the family-like vibe of the office, they do not take it for granted. Property Manager James Conner is well aware that "It sounds really trite to say 'oh, we're a family.' But that really is how it is. We have respect for each other. We lean on each other. And we help each other. It's really that simple."

### LEARNING FROM EVERYONE, EVERYWHERE

All staff are encouraged to pursue continuing education through certification classes and seminars (such as those offered by CAI), and Great North provides tuition reimbursement. But Merrimack's commitment to learning goes well beyond academics. For instance, there are regular in-house trainings by industry professionals and vendors. Several times a year, a legal team comes in to explain changes in recent statutes. There have been insurance presentations, and even a session on how roofing works.

Mentorship is critical to the learning process. When a new person comes on board, they are paired with a senior team member. According to Tracey, "You can only learn so much from a training manual. But when you're out in the field with a seasoned pro as your guide, that's when you really learn the ropes." Tracey herself mentored James Conner, the newest property manager at Team Merrimack. For his first year she accompanied James to board meetings of the property he managed, Oak Brook Condominiums. "The boards appreciate that we can bring that extra level of support."

Sometimes, the mentors learn from their mentees. When new associates gave feedback suggesting a flip in their training protocol, Merrimack leadership listened. So now, rather than begin training at the corporate office, newcomers first get to know the associations they'll be serving. Having that real-life context made their corporate and software training more relevant. "It's important that as a company, we're willing to look at what works and what doesn't work," says Tracey, "and make changes as we grow."

### **ENGAGING CUSTOMERS, IMPROVING SERVICE**

To understand what works and what doesn't, Team Merrimack and the corporate office regularly reach out to the boards they serve. They share that feedback with teammates, brainstorm ideas, then take actions to improve service – always keeping clients in the loop. "I think that should be the goal of any management company, but you need the staff to get that done," says Tracey. "In Merrimack, we're fortunate to be in a position to provide that for our clients."





Above: GREAT NORTH strongly encourages its associates to pursue many forms of professional education, with tuition reimbursement. Four months after joining the Merrimack team, staff member Jenny Clark-Vasquez proudly completed her M-100 certification through CAI. Team Merrimack's long-serving Maintenance Department knows their properties inside and out, having maintained many of them for more than 20 years.

Client Mark Shelgosh spoke for the entire board at Green Leaf Estates when he commended Property Manager Robyn Cote. "She goes above and beyond to ensure that every resident feels valued and heard. Her ability to model exceptional customer service and community engagement inspires us all."

### **CONTINUITY THAT BUILDS CONFIDENCE**

Merrimack team members laughingly describe the property management industry as "organized chaos." So, they are all very proud of the fact that since opening seven years ago, the Merrimack office has enjoyed a very low staff turnover. Some of them attribute this enviable stability to the steady hand of Tracey's leadership. But they all agree that the comfort and confidence of having team members who feel like family is what makes them want to stay.

Director of Maintenance Ryan Girard joined Great North in 2018 as one of seven Merrimack maintenance technicians. Today, his team has doubled in size and only one person has left – to retire. You could say Ryan's tenure spans more than 20 years, since that's how long he and his team have been maintaining some current Great North properties. "That longevity is extremely valuable. We know everything about these buildings, where all the shutoffs are, where the board members live, and more," he says. "It would take years for another company to gain that institutional knowledge. Our clients appreciate the continuity and stability we provide."

Client Dave Lockwood knows firsthand how that legacy benefitted the Village Green Condominiums. "I believe my greatest accomplishment was convincing the board to conduct a search for a new management company... The selection of Great North could not have been more transformative for Village Green. We quickly went from chaos to restoring owners' confidence."

To learn more about Great North's property management services, visit www.greatnorth.net, or call Team Merrimack at (603) 891-1800.

### **Smart Technology**

Improving Building Security [By Christopher R. Lanni, CPP, CMCA, AMS]

MANY PROPERTIES continue to closely watch AI develop as they search for creative ways to support operations, gain efficiencies, and achieve cost savings. One area of opportunity which you may overlook is your property's security initiative. Al is being used by many security hardware systems to solve some long-standing challenges and create interactive tools which provide tremendous benefits to properties of all shapes, sizes, and locations. These enhanced tools are changing how properties monitor activity and control access to their grounds and common areas.

### **VIDEO CAMERA TECHNOLOGY**

Video camera and access control systems are often viewed as "passive" tools in that they require a human to sit in front of them and closely watch for activities which may warrant action. Many properties have opted to forgo these systems because they have no staffing available to monitor them. Those properties that do utilize these systems know it is very difficult for one person to watch multiple screens for long periods of time without interruption and effectively observe events that require action.

Manufacturers of these systems have been looking to AI more and more in recent years to make their products more user-friendly, efficient, and effective, and they have made great strides. Video cameras that can understand what they are seeing, determine if it is a condition that requires action, and notify specific staff in real-time are becoming "smarter" and more affordable every day.

### **AI SECURITY SOLUTIONS**

Some specific examples of how the use of AI can assist a property as it relates to security include:

- A camera with analytics placed at a garage entrance can understand if a vehicle enters the garage as the overhead door rolls up or if a person walks into the garage on foot while the garage door is open. That observation could then trigger an alert at a lobby desk or management office, a warning light or audible alarm at the garage door, or notify a staff member via text or email notification, allowing for a timely response.
- A camera with analytics placed in a stairwell on the ground floor can understand the direction of travel of pedestrians. If the perimeter door is designated an egress only, and someone enters the door from the outside, alerts and notifications can be automatically triggered.

- A camera with analytics placed at a loading dock can detect the loitering of a designated number of people for a designated amount of time during specified hours of the day. The system can then make notifications to staff and could even play a prerecorded message announcing that the area is private property and that the local police are being notified. If the party does not leave the area, escalated actions can be pre-programmed to be taken by the system.
- An entrance vehicle gate equipped with license plate recognition technology could grant access to vehicles registered with the management office or even pre-registered as an authorized "one-time" guest by a resident. It could also prohibit access by a vehicle that has been identified as a risk or banned from the property as well as alert the management office or lobby desk to the unauthorized access attempted by the vehicle.
- A perimeter door connected to an electronic access control system which did not close due to a mechanical failure or was forced open from the outside can notify staff as well as sound a local alarm or warning light, drawing attention to the issue.

As these examples show, security-related technology supported by AI can be a real game changer for a property's security initiative and can be useful in addressing a number of common challenges and "problem areas."

Many manufacturers of this equipment are already including basic analytical features in their product lines. How this evolving technology can best assist your property will require a review and examination of your unique location and needs. Staffing levels, budget, physical characteristics, risks on site and in the immediate surrounding area, and operational needs will all impact how this innovative technology can best be utilized at your property.

A visit to a local property that is already using AI in this way or a conversation with a reputable and knowledgeable security hardware installer or consultant would put you well on your way to learning more about the opportunities this developing technology offers.



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# Taking Time to Listen

A CONVERSATION WITH ADAM WILLIAMS, CMCA, AMS,

President, Paradigm Partners Inc.



#### **HOW DID YOU GET INTO PROPERTY MANAGEMENT?**

I grew up in it! Paradigm is a family business that my father started in 1999, and I've been here for 18 years. I worked here during summers as a kid. After I graduated college, I planned to stick around for one more summer, but it ended up sticking. Back then, it was a relatively small management company with maybe 10 properties. It was new and exciting for me. Today we manage just under 50 properties. It's a good business; every day there's something new going on. It's been challenging at times, but a fun ride!

### **PARADIGM PROVIDES MANY DIFFERENT PROPERTY MANAGEMENT SERVICES. IS THERE ONE PARTICULAR** AREA THAT YOU'VE PERSONALLY HELPED DEVELOP?

I'm president now and run the business. My father, Dick, is semiretired, but he is still involved; he has a construction supervisor license, so we get into a lot of capital repair projects. But as we started to grow, I moved a bit out of maintenance and started focusing on association management. I started attending meetings and getting credentials so I would know what I was talking about! I'd go to meetings and observe, and watch and really listen. People want to know that they're heard. I think that was the key to my success - learning to read the room and really hear what people need. One of the biggest things in this business is being responsive. I pride myself on the fact that if you need to get me on the phone, you can get me.



### WHAT'S THE BEST THING ABOUT YOUR JOB?

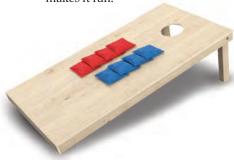
For me, helping put together projects and solving problems is the fun part of the business. It's a challenge I enjoy because there's always something new, always a new leak to chase, always a project that needs attention. And it's not just about solving a physical problem: Sometimes I'm like a therapist, calming people down and talking them off a ledge! Working directly with the public as I do can be difficult at times, but also rewarding. I also like working with so many different professionals - engineers, architects, plumbers, you name it. If you take the time to listen, you can pick up pieces of knowledge from everyone, about all sorts of different things.

**DESCRIBE YOUR** INVOLVEMENT WITH CAI-NE. **I STARTED GOING TO CAI SEMINARS EARLY ON IN MY CAREER AND TOOK ADVANTAGE OF THEIR** OTHER EDUCATIONAL **RESOURCES. I'VE BEEN ATTENDING THE AWARDS BANQUET** FOR ALL 17 YEARS I'VE BEEN A PART OF CAI. I WAS ALSO ON THE **CHAPTER BOARD OF DIRECTORS FOR A FEW** YEARS. IT'S FUN TO **MEET OTHER PEOPLE** IN THE INDUSTRY. YOU **CAN SHARE COMMON PAIN POINTS AND** STRUGGLES, BUT ALSO **SHARE A FEW LAUGHS ABOUT IT! ALL THE PEOPLE AT CAI HAVE** BEEN GREAT.

### YOU HAVE SERVED ON THE EMERGING LEADERS NETWORK (ELN) COMMITTEE FOR MORE THAN FIVE YEARS. WHAT DRAWS YOU TO THIS ROLE?

I think it's important to welcome new members a

welcome new members and introduce them to other people. This group organizes some really good social events. We recently did a January night out at Game On in Boston, and that was great. The cornhole event is really popular; we had a great turnout last year. You could say the ELN is all about networking, so that's obviously good for members, professionally. But besides that, it's a really laid-back group: The people are great, and that makes it fun.



### HOW HAS YOUR CAI-NE INVOLVEMENT BENEFITTED YOU?

For one thing, it's expanded my network of vendors. If there is a problem at a property, and the people who I usually work with are not available, being part of CAI has solidified my ability to find somebody else who is reliable. The CAI Annual Directory sits right at my desk, so if I ever need anything, I go right to the book! I've gotten my certifications partly through CAI. This really helps your clients know you are committed to the industry. I periodically participate in seminars and take at least one online course a year. You need to continue with educational components to maintain your certifications, and CAI offers these. I've found them to be educational and insightful.



WHAT DO YOU DO IN YOUR SPARE TIME?
BOTH MY DAUGHTERS PLAY HOCKEY,
SO SPORTS AND FAMILY ACTIVITIES TAKE UP
MOST OF OUR TIME. WE ALSO OWN A CAMPER,
SO MOST WEEKENDS, ESPECIALLY IN SUMMER,
WE ALL GO CAMPING. WE MOSTLY GO TO NEW
HAMPSHIRE AND MAINE, BUT WE HAVE DONE
MOST OF NEW ENGLAND, USUALLY SOMEPLACE
WITHIN A FIVE-HOUR DRIVE FROM HOME.
MY OLDEST IS 13 NOW, SO SHE'S NOT GOING TO
WANT TO HANG OUT WITH DAD ALL THE TIME FOR
MUCH LONGER. BUT SO FAR, IT'S BEEN GREAT!

### WHAT DO YOU SEE AS THE MOST IMPORTANT ISSUE FOR MASSACHUSETTS CONDOMINIUM AND HOMEOWNER ASSOCIATIONS?

**Insurance** is the biggest issue right now, and going along with this are capital improvements. There's an appetite out there to stop using the Band-Aid approach when it comes to maintenance. In other words, some communities are now biting the bullet and doing larger, more expensive projects because they have to. Often, this is because insurance inspections are getting more difficult. You'll renew a policy and now, the insurance company is requiring you to repave the parking lot, or install handrails, or replace all the electrical breakers. There really is no alternative, because if you go outside the regular insurance market and look into the surplus market, it's even more expensive. On top of everything, the cost of construction has gone up. This is a problem if your real property limit is based on the market value from five years ago rather than today's replacement cost.

### IF YOU COULD GIVE ONE PIECE OF ADVICE TO A CONDOMINIUM BOARD, WHAT WOULD IT BE?

**Honestly,** in today's world, it's important to try to be more reasonable with your neighbors. Listen more. Use reason more. Condominiums are a business. Obviously, they're our homes, and so a lot of emotions are involved. But you've got to look at it as a business. And as with any business, especially when money is involved, you can't make decisions based purely on emotions. You have to consider what is truly best for the entire community.





### MASSACHUSETTS



Rule of Reason Applies [By Thom Aylesworth, Esq.]

Mankind's harnessing of the sun's power dates back more than 1,500 years ago, when the Greeks and Romans used mirrors and magnifying glasses to focus the sun's rays for lighting torches and setting fires. Working solar cells have been around since the 1800s, but of course, much has changed since then. In 1954, Bell Labs produced the first working silicon solar cell that operated at 4% efficiency. meaning that 4% of the sunlight hitting the cell is converted to energy. Thirty years later, scientists developed the first solar cell that reached

20% efficiency, which is roughly the efficiency rate for modern residential solar panels installed in about five million U.S. homes. While it took decades for the number of residential solar installations to reach that number, the solar industry estimates an additional four million residential solar panel installations will occur by the year 2030. Solar is here to stay.

### PRODUCTION AND LAWS

Not surprisingly, California and Texas are the nation's leaders in solar power production. Massachusetts ranks twelfth, which shows a strong commitment to solar given its small size and darker climate as compared with western states. Massachusetts was an early promoter of solar energy. In 1985, the Massachusetts Legislature enacted a law designed to encourage solar power for homes and businesses. One part of the 1985 law, found in Massachusetts General Laws Chapter 184, Section 23C, provides that "any provision in an instrument relative to the ownership or use of real property which purports to forbid or unreasonably restrict the installation of a solar energy system...or the building of structures that facilitate the collection of solar energy shall be void."

Over the last forty years, the Massachusetts courts have had little opportunity to interpret the meaning of the 1985 law, including the Section 23C prohibition against forbidding or unreasonably restricting solar installations. Of particular interest to condominium communities is Section 23C's possible application to restrictions, whether expressed or implicit, in a condominium's governing documents and the authority of condominium boards to enforce such restrictions.

### **COURT INTERPRETATION**

An April 2024 decision from the Massachusetts Land Court now sheds some light on this issue. In Hunter v. Trustees of the Woods at Wilbraham Condominium Trust, a condominium unit owner wanted to install solar equipment on the roof above his unit. The problem was that the roof is common area, and predictably, the condominium board said "no." The unit owner filed suit in the Land Court, arguing that the condominium's master deed and declaration provisions that prohibited placing or attaching objects in the common area without board approval violated Section 23C and were invalid as applied to solar equipment. The board filed a motion to dismiss the lawsuit on the ground that Section 23C does not apply to condominium master deeds and declarations, which are created under the authority of a different statute, the Massachusetts Condominium Act, General Laws Chapter 183A.

The Land Court judge agreed with the unit owner that Section 23C applies to condominium master deeds and declarations because they qualify as "instrument[s] relative to the ownership or use of real property." The judge, however, sided with the condominium board and ruled that the master deed and declaration provisions giving the board discretion whether to allow items to be placed in the common area, which would include solar panels, was not

unreasonable. The judge concluded that "while the trustees could be found to have acted unreasonably, the standard that they are obligated to meet - the exercise of reasonable discretion – is not itself unreasonable. These provisions do not violate [Section] 23C, and are not void." Accordingly, the judge granted the board's motion to dismiss the lawsuit, but that did not end the matter. The judge gave the unit owner a chance to amend his complaint to challenge whether the board's decision to deny the solar panel installation on the common area roof was unreasonable and therefore void under Section 23C. The unit owner quickly filed an amended complaint and argued that the board's decision was unreasonable and therefore void, but several months later the case settled on undisclosed terms.

The Land Court decision, while not binding law in Massachusetts because it issued from a trial court, sends a strong message that any provision in a condominium's governing documents that prohibits or heavily restricts a unit owner's installation of solar equipment in common areas likely is invalid as a violation of Section 23C. The important remaining question not reached by the Land Court is whether a condominium board's denial of a unit owner's request to install solar equipment on common area, such as a roof, is an unreasonable exercise of discretion and therefore void under Section 23C. Because this issue involves a board's discretionary powers under a particular set of facts, the answer will likely be determined by the courts on a case-by-case basis.

### STATUTE AMENDMENT CLARITY AND INCONSISTENCY

In another important development, a recent amendment to the Massachusetts Condominium Act establishes that a condominium board's authority to install clean energy devices under Chapter 183A, Section 10, does not include the installation of solar equipment. Under the new amendment adopted on Nov. 10, 2024, if a condominium board wishes to install solar equipment, that installation

qualifies as an "improvement" requiring approval by at least fifty percent or more of unit owners under Chapter 183A, Section 18. The rules of cost apportionment under Section 18 would also be triggered, such that the expense of the solar installation will be assessed to all unit owners if 75% or more vote to approve, but the costs are assessed only to those voting to approve if the passing vote is between 50-75% of the unit owner interests.

The new Condominium Act amendment does not address the circumstance where a unit owner submits a request to a board for permission to install solar equipment in common area to service the owner's unit. This means there appear to be two inconsistent rules, one by the court that requires a condominium board to approve a unit owner's request for a solar installation if the request is reasonable, and a second rule under the new Condominium Act amendment that requires the board to obtain a unit owner vote if the trustees wish to have solar equipment installed. This inconsistency, however, can be resolved by looking at the finances. Where a unit owner seeks the board's permission to install solar equipment on common area, the unit owner must of course fund the project if it is approved. By contrast, where a condominium board wants to install solar equipment on common area, it is a common expense charged to all unit owners (or to just those who vote in favor if more than 50% but less than 75% of the ownership interest approves).

Not surprisingly, the solar industry is developing solar cells with a substantially greater efficiency rate than those now in operation in American homes, along with improved battery systems. As the costs of nonrenewable energy sources continue to rise, and the regulatory landscape in Massachusetts forces condominiums in some communities to transition to clean energy sources, solar power will no doubt play a huge role in meeting future energy needs.



■ THOM AYLESWORTH, ESQ., IS A
PARTNER WITH THE LAW FIRM MARCUS,
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# The Greying of Maine

Retirement Housing in the Pine Tree State [By Jack Carr, P.E., LEED-AP]

It is no surprise Maine has one of the oldest population demographics in the country. It is also no surprise that Maine ranks eighth among condo buyers aged 55 and older. This generation of boomers has been downsizing after retirement from the big single-family house and moving to condominium communities to be closer to friends and family, accounting for more than 25% of the condo buyers' market.

Lately, I have been seeing a higher percentage of seniors (55+) or retirement communities seeking reserve fund studies or other engineering services, resulting in my taking more interest in this sector of Maine's residential housing market. Of course, I am not the only one. This retiring wave of boomers has fascinated actuaries, economists, and housing planners for years.

### **INDUSTRY DISCUSSIONS**

Recently, I attended a Portland seminar focusing on the greying of Maine sponsored by the Maine Real Estate and Development Association (MEREDA). What attracted me to this presentation was that the panel of experts assembled was not just a gathering of academic or social science professionals, but rather, it comprised a mix of Maine's most successful condominium, retirement community, and assisted living facility developers.

This meant the audience would consist of principals and decision makers of Maine's real estate industry, including developers, property managers, lawyers, architects, engineers, bankers, and other leaders in housing our future population. I expected the meeting to not only be informative but also have a

lively question and answer session. I was not disappointed, and I wanted to share the issues discussed.

One of the speakers on the panel was a noted developer of both affordable and high-end condominium complexes, including retirement communities and assisted living facilities. His most recent project has 400 units in Maine's first active-seniors condominium community with a golf course and 230-acre nature preserve. He spoke about the evolving needs of Maine condominium unit owners over the years. He also discussed the changing market conditions and the attractiveness of Maine as a retirement destination.

### **CHANGING MARKET**

Though Florida, Arizona, and North Carolina are still sought-after by folks planning on retiring, these states are losing their cultural luster as they have become over-built and are showing higher risks due to climate change factors and rising insurance rates.

Boomers remember their idyllic summers on Maine's seacoast or on wooded trails near pristine lakes and ponds. They are coming back. Recent statistics suggest the current populations in Maine's major retirement communities contain up to 50% out-of-state retirees and 50% of people who have lived less than 30 years in Maine.

# BOOMER DEMANDS AND EXPECTATIONS

# • Active Lifestyle

But today's aging boomers are not their parents' retirees. Boomers have always been demanding and will not change in their golden years. They want their healthy and active lifestyle to continue. They expect not only complete maintenancefree living but the amenities they have come to expect such as cafes, pubs, pools, exercise facilities, conservations areas, trails, golf, etc. They do not often fully express the need for a continuum of care, but they strongly value it.

# 'Single-Family' Home Experience

Boomers do not want a cookiecutter condo unit. The past triplex and even duplex design layouts are less desirable with more interest in stand-alone cottages or at least the sense of a single-family home. They want larger living areas with finished basements and even second floors with the ability to customize with high-end finishes and all the bells and whistles they take for granted. Units are to have tall ceilings with many windows yet still be very energy efficient. Boomers may have contributed to our energy woes, but they want to make up for it now as they are turning more green than grey.

# Independence and Care

Speaking of the assisted living elements of condominium complexes or stand-alone facilities, members of the panel discussed their collective experiences over the last 25 years in the long-term care industry. It was recognized that the primary reluctance of boomers to occupy assisted living facilities was the

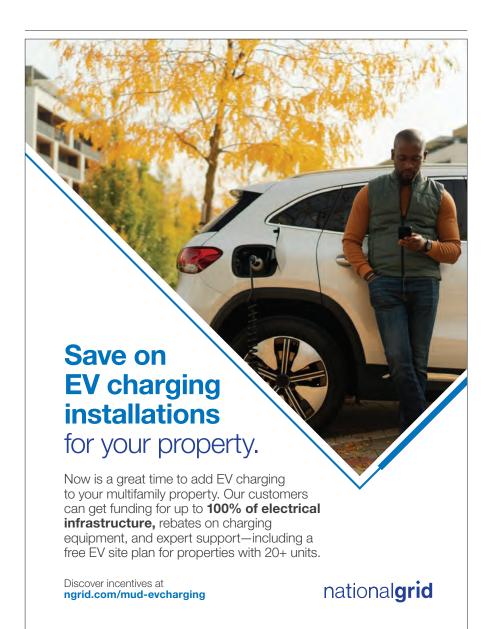
desire of seniors to remain in their own home as long as possible.

Future retirement condominium communities will recognize this need of seniors to be as independent as possible. The community must provide soft support services in the home to do this. Once boomers settle into a community, they will want to avoid any future moves. They will want their spouse's future care assured. They want to avoid a nursing home and are willing to assume the risks of their decisions.

Not all will be able to afford what they want. Future options will include higher-density independent living; multi-unit buildings designed to give a sense of single-family living and privacy. One thing to be expected is the boomers will get what they want. They always do.



■ JACK CARR, P.E., LEED-AP,
IS SENIOR VICE PRESIDENT AT
CRITERIUM-ENGINEERS IN FREEPORT,
MAINE, AND A MEMBER OF THE
CONDO MEDIA BOARD.







# **Expending Energy**

Do the Right Thing with Electric Rates [By Gary M. Daddario, Esq., CCAL]

This issue contains much discussion on the topic of energy. In this sense, it is a timely theme that coincides with recent activity in the New Hampshire Legislature. While I haven't ever heard much discussion of this issue, associations in New Hampshire are charged the commercial rate for their common area electricity. This is the case even when the association limits usage to residential purposes and even when commercial uses are prohibited. Since the commercial rate is approximately three times the residential rate, this issue has a significant impact on the finances of New Hampshire condominiums.

# RESIDENTIAL RATE FOR RESIDENTIAL CONDOMINIUMS

At the time of this writing, the current session of the New Hampshire Legislature is just heating up. Public hearings on the bills under consideration for this session are now being regularly scheduled. Three related bills warrant attention: HB 537, HB 539, and HB 680 are related bills that seek to secure the residential electric rate for residential-only condominiums, at least when it comes to the electricity used for residential septic pumps and wells.

As a result of the initial public hearing on the bills, held on Feb. 4, 2025, they are being sent to a subcommittee for further work, including consolidation of the three separate bills into one bill. In the past, folks interested in condominium legislation have been accustomed to such legislation being handled by the legislature's Condo Law Committee or by the Commerce Committee. Note that HB 537, HB 539, and HB 680 were originally placed with the Science, Technology & Energy Committee. The subcommittee formed for further work

on these bills is a subcommittee of Science, Technology & Energy.

# **CAI NHLAC POSITION**

In a prior session, the CAI New Hampshire Legislative Action Committee (NHLAC) spoke in favor of a similar bill. It was opposed by the State's Department of Energy and, ultimately, did not become law.

The three bills discussed herein are another attempt to secure more fairness in the electrical rates charged to New Hampshire condominiums. Prior arguments against such a bill were centered around the notion that condominiums are inherently commercial and that they are corporations. The NHLAC disagreed with these assertions. If a condominium is limited to residential use and commercial use is prohibited, it strains both logic and veracity to declare the same "commercial."

Condominiums are "corporations" solely pursuant to the filings of some such organizations. The corporate form, however, is simply an option for completing the legal paperwork required to establish the condominium. However, at the organizations for which the newly offered legislation is meant to apply, these "corporations" are not engaging in business/commerce, nor are any profits being made. In my experience, condominiums have no tax liability. The governing board of these organizations oversee the managerial tasks associated with the upkeep of the residential buildings and enforcement of their restrictions, which include, ironically, the prohibition against commercial use. Further, though not every person establishing a condominium is aware of all legal possibilities, the fact is that a New Hampshire condominium is not required to take the corporate form.

# NH DEPARTMENT OF ENERGY POSITION

Fortunately, at the Feb. 4, 2025, public hearing, the New Hampshire Department of Energy was neutral with respect to the bills. The department provided written testimony to the committee, but unlike their prior opposition, the present testimony related to their neutral position on the present bills. Similarly, Eversource (through their director of government affairs) stated that the major utility company was taking no position on the bills. If you would like to assist with securing residential electric rates for residential condominiums, please watch for NHLAC announcements about any future public hearings. In addition, please submit written support to your legislators, and, in particular, to those legislators serving on the Science, Technology & Energy Committee.



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# Hoarding Violations

Responsibility and Role of the Association [By Mary-Joy Howes, Esq., CCAL]

Unit owner Anita Moorestuff is a hoarder. Boxes, bins, and totes are piled up by every window, and there is a pungent odor present in the hallway by her unit. The adjoining units have reported seeing bugs in the hallway and sometimes even coming through the vents. The association board has taken the approach that what happens in Anita's unit is her personal business and there is nothing that can be done.

# **BOARD OBLIGATION**

The board in the preceding example is incorrect. The board has an obligation to address the situation in Anita's unit. The reason is because Anita is in violation of, among other things, her statutory duty to maintain her unit. The Rhode Island Condominium Act, 34-36.1-1.01 et seq. (the Act) at Section 3.07(a)

states that, "...the association is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of his or her unit..." Almost all Rhode Island condominium declarations have a mirror provision of this statutory duty. Additionally, most associations also have an anti-nuisance provision that prohibits owners from doing anything that unreasonably interferes with the use and enjoyment of the property by the other owners. Maintaining an unsanitary condition in one's unit that results in odors and bugs that interfere with adjacent units certainly qualifies as a nuisance.

# ADDRESSING THE PROBLEM

So, what is the board supposed to do? The first step in dealing with a hoarder is to send a notice stating that a violation is being alleged and make a demand for cleanup. Pursuant to the Act at Section 3.20, an owner is entitled to notice and opportunity to be heard prior to finding a violation and assessing any penalties and/or costs. Since hoarding is often associated with mental illness, the tone of the hearing should be considerate of this fact. Ideally, the owner will participate in the hearing process and agree to cure the violation and commit to a plan to clean out the unit, if they did not already do so upon receipt of the initial demand.

What happens when the owner does not cooperate? Sometimes owners will only cooperate once faced with daily fines and legal assessments. Other times, demands and fines solicit no response at all. In these cases, the association should first take steps to determine the extent of the situation by noticing an inspection of the unit pursuant to the association's access rights. Once the level of seriousness is determined, the board may decide to try to locate a family member or contact social services. In extreme situations, the association may need to go to court to get the owner to comply with a clean-up demand.

It is important for owners like Anita to be aware that they may not only be responsible for damage to their unit but also for damage to adjoining units. This is particularly the case in situations where hoarders have caused mold and insect issues.

Not every hoarding situation is the same, and this article is a very brief summary of what is often a very complicated issue. The takeaway is that hoarding is an association problem, and it must be addressed so as to mitigate associated health and safety risks as well as damage to the adjoining units and common areas.



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Scott Richards

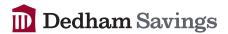
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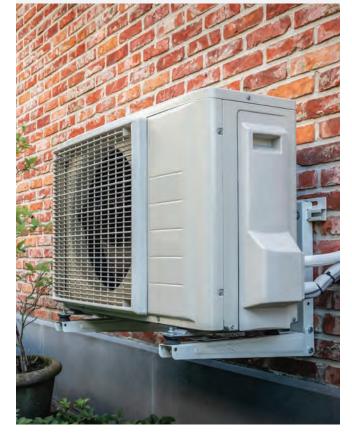
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# **Evolving** Technologies Options Help Reduce

Energy Costs [By Andrew Dudka]



Reducing energy consumption to save money is at the top of everyone's mind. In Vermont, our summers can often be stifling hot and humid while winters are bone chilling. And yet many of us rely on electric heat pumps to keep us comfortable year-round (or out-of-date and inefficient boilers and furnaces) as well as condensers and air handlers to keep us cool.

Data from the National Centers for Environmental Information of the National Oceanic and Atmospheric Administration over 128 years shows that Vermont temperatures are trending warmer. Luckily, technology is evolving as well.

The challenge, of course, is to create affordable and efficient heating and

cooling systems that can handle the extreme differences in temperature as the seasons change. So, what is new?

The latest trends in high-efficiency HVAC (heating, ventilation, and air conditioning) systems focus on reducing energy consumption, lowering carbon footprints, and improving indoor air quality. Here are some key advancements shaping the industry:

# **HEAT PUMPS WITH** ADVANCED TECHNOLOGY

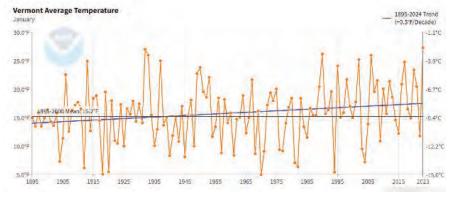
# Cold climate heat pumps

(CCHPs), also known as cold climate air source heat pumps (ccASHPs), are specifically designed to heat homes adequately in very cold weather, usually at or below 5 degrees Fahrenheit.

These pumps have better heating efficiency ratings - or heating seasonal performance factor (HSPF) – to maintain performance in cold temperatures. These pumps have advanced components such as variable speed compressors, optimized defrost cycles, and larger heat exchangers. These systems can be up to three times more efficient than current heating technologies, allowing for lower energy usage. They are designed to operate efficiently even in sub-zero temperatures, making them viable for northern regions.

# Variable refrigerant flow

(VRF) technology divides a building into zones customized for comfort and energy efficiency. These all-electric VRF systems provide heating and cooling by cycling refrigerant between an outdoor unit and each zone's ductless or ducted indoor unit(s). Up to 50 indoor units can connect to a single outdoor unit. Zones have individual set points based on usage, occupancy, typical solar loads, and user preferences, allowing precise temperature control and high efficiency by adjusting the refrigerant flow based on demand.



Credit: National Centers for Environmental Information of the National Oceanic and Atmospheric Administration (NOAA)

• Geothermal heat pumps leverage stable underground temperatures for heating and cooling, significantly cutting energy use. These systems work by having fluid circulated through pipes buried in the ground near a building. The fluid absorbs heat from the ground when it is cold outside, or releases heat into the ground when it's warm. The pump concentrates the heat and transfers it to the building. These systems are very energy efficient.

# 2 SMART HVAC SYSTEMS AND AI INTEGRATION

• IoT-connected thermostats (devices like Nest or Ecobee) connect with HVAC systems to optimize efficiency based on occupancy and external conditions. These smart devices integrate HVAC IoT sensors and IoT sensor networks to monitor and regulate temperature and humidity levels more effectively and customize settings based on room usage.

# 3 ENERGY RECOVERY VENTILATION AND DEMAND-CONTROLLED VENTILATION

- Energy recovery ventilation (ERV) systems are ideal for climates with extreme temperatures and high humidity. They work by using two fans to simultaneously pull fresh outdoor air in and exhaust stale indoor air out, while passing both air streams through a heat exchanger core that transfers heat and moisture between them, essentially "pre-conditioning" the incoming fresh air with the energy from the outgoing stale air, thus minimizing energy loss when ventilating a space.
- Demand-controlled ventilation (DCV) system sensors adjust ventilation rates based on occupancy levels, preventing unnecessary heating or cooling in unoccupied spaces. Sensors, like CO2 detectors, determine when to increase or decrease ventilation, ultimately aiming to save energy by only providing the necessary level of ventilation at any given time.

# HYBRID HVAC SYSTEMS AND ALTERNATIVE ENERGY INTEGRATION

- Solar-powered HVAC systems integrate with rooftop solar panels to reduce grid dependency. The system utilizes the sun's energy to put heat into the refrigerant. This process replaces a portion of the energy the compressor would normally put into the system from the electrical network in the building, thus reducing energy usage.
- Hybrid heat pumps combine gas furnaces with heat pumps for optimized energy use based on outdoor temperatures. Hybrid systems can be more energy efficient than traditional systems and can help reduce a home's impact on the environment. The system automatically switches between the heat pump and furnace based on the temperature. The furnace takes over in very cold weather to avoid running the heat pump inefficiently.

Combined with all of these technologies is the development of refrigerants known as low-GWP (global warming potential) such as R-32 and R-454B to replace the high-GWP options such as R-410A, one of the most common refrigerants used today.

The real message here is that you have options. When you call to have an HVAC system replaced, you should always explore many alternatives. Some of these alternatives have higher upfront costs, but over the long term can yield major energy savings and a smaller carbon footprint for your community. M



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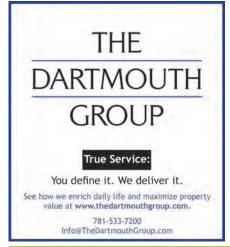
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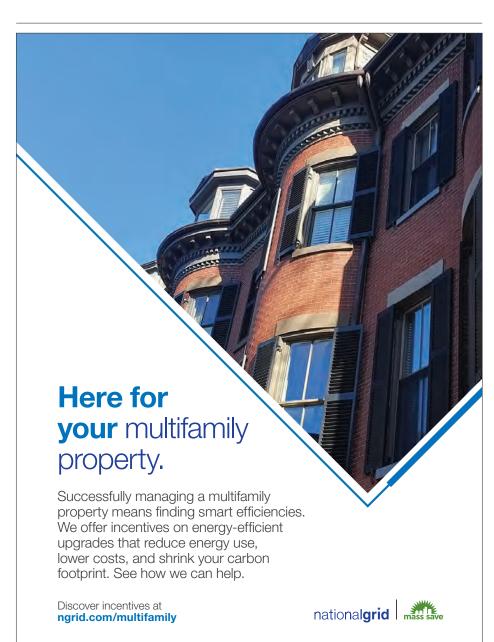


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