

## Community Associations Institute Public Policies Summary

Following is a summary of the policy positions of the Community Associations Institute. A manual containing the official policy statements with supporting background information is available. Please visit the CAI Bookstore to download a free copy or to purchase a bound copy of the Public Policies of Community Associations Institute.

### **AESTHETICS AS AN ECONOMIC ISSUE**

CAI opposes any and all attempts at the federal, state and local levels to enact laws or regulations that ignore or negate the economic importance of aesthetic controls.

### **ALTERNATIVE DISPUTE RESOLUTION MECHANISMS**

CAI recognizes the need for and supports the use of alternative dispute resolution mechanisms to resolve disputes arising in community associations in appropriate cases.

### **ASSESSMENT COLLECTION FROM OWNERS IN BANKRUPTCY**

CAI supports an amendment to the United States Bankruptcy Code to provide for the payment of post-petition common expense assessments by debtors solely on the basis of an ownership interest in property in any type of community association. Additionally, CAI supports clarification so that community association assessments are not considered executory contracts.

### **ASSESSMENT INCREASE LIMITATIONS**

CAI supports the elimination of any requirement that community association documents prohibit the increase of assessments by the board of directors above a fixed percentage without approval of a vote of owners.

### **COMMUNITY ASSOCIATION BUDGETS AND RESERVES**

CAI believes it is imperative for all community associations to adopt and use a financial planning and budget process which accurately reflects projected annual operating costs and long-term capital or major expenses ("reserves") and results in a balanced budget. CAI believes that the developer and developer-controlled board should prepare and disclose the initial budget to assure accurate estimation of projected operating costs and reserves. CAI also supports full and open disclosure to owners and the opportunity for participation by owners in the development of the budget. Further, CAI opposes laws which would mandate how community associations fund and maintain reserves.

### **COMMUNITY ASSOCIATION MANAGER CREDENTIALING**

CAI encourages the national certification of community association managers. In states that propose mandatory regulation of community association managers, CAI will support a regulatory system that incorporates adequate protections for homeowners, mandatory education and testing on fundamental management knowledge, standards of conduct and appropriate insurance requirements. CAI opposes the licensing of community association managers as real estate brokers, agents or property managers.

### **COMMUNITY ASSOCIATION MEMBERS' & AND RESIDENTS' BILL OF RIGHTS**

CAI supports a balance of the rights of an individual owner in a community association with the need for effective management of the affairs of the association for the benefit of all the owners. Reasonable association procedures which empower the board of directors and staff of the community association to perform their obligations efficiently must take into account the rights of an individual owner to privacy, enjoyment of his or her home and full participation in the community association.

### **COMMUNITY ASSOCIATION TAXATION**

CAI supports the elimination of the residential requirements of Code Section 528; the gross revenue of 60% test of Code Section 528; the 90% expenditure test of Code Section 528; the flat 30% tax rate of Code Section 528 and replacement with an average marginal tax rate, paid by individual taxpayers.

### **DISPLAY OF THE AMERICAN FLAG**

CAI strongly supports the elimination of community association restrictions that prohibit the display of a reasonably sized, removable American flag from a resident's exclusive use or limited common element areas, so long as the flag is displayed in accordance with the Federal Flag Code, 36 U.S.C. Sections 171-178, as amended. CAI further believes that community associations — not a state law — are best suited to determine the appropriate size, placement and installation of a flagpole.

### **EFFECTIVE COLLECTION OF COMMUNITY ASSOCIATION ASSESSMENTS**

CAI supports effective, fair and reasonable collection methods, including lien rights and due process protections, and opposes government limitations on their efforts. CAI also supports reasonable procedures to accommodate unit owners experiencing temporary financial difficulties.

### **ELECTRIC UTILITY DEREGULATION**

CAI supports electric utility deregulation provided it benefits community associations and their residents through enhanced choice, reduced costs and higher quality of service. CAI does not support electric utility deregulation initiatives that would limit the ability of community associations and their residents to receive quality electric service at a fair price.

### **ENVIRONMENTAL QUALITY**

CAI strongly supports protection of the health and well-being of all individuals residing or working in common-interest communities by increasing sensitivity to environmental quality; and environmental quality in common-interest communities and remediation of environmental pollution, including harmful substances contained in building materials and landfills.

### **FAIR DEBT COLLECTION PRACTICES ACT**

CAI supports legislative, regulatory or judicial actions to establish that community association assessments are not "consumer debt" as defined by the Fair Debt Collection Practices Act or similar state statutes.

### **FAIR HOUSING**

CAI supports the right of all individuals to be free from illegal discrimination on the basis of race, creed, color, sex, national origin, familial status or handicap. CAI also supports the right of community associations to enforce their covenants, by-laws and rules provided they do not illegally discriminate against any protected class. CAI will progressively pursue fair and reasonable interpretations and administration of, or changes to, Fair Housing Acts and related legislation and regulations.

### **FAIRNESS IN FEDERAL DISASTER RELIEF**

Community Associations Institute (CAI) supports a legislative or regulatory change to the Robert T. Stafford Disaster Relief and Emergency Assistance Act so that community associations are eligible for federal assistance following a disaster, including but not limited to debris removal and cleanup.

### **FINANCING AVAILABILITY FOR COMMUNITY ASSOCIATION UNITS OR LOTS**

CAI urges the promotion by federal lending-related agencies and the secondary market to promote the availability of adequate financing programs for community association housing. CAI supports the development of consistent national legal and underwriting standards for community associations, and reciprocal approval of community associations by federal agencies and the

secondary mortgage market and urges federal lending-related agencies and the secondary market to promote the availability of financing for community association housing.

### **FLOOD INSURANCE**

CAI believes that flood insurance should be available to all community associations, either through primary carriers or through a federally supported program. Such coverage should be made available at rates that are appropriate to the risk without a coinsurance requirement and on a basis that recognizes the ownership structure of the community association involved. Such insurance coverage shall be provided in a manner that is fitting for the exposure faced by the association that distinguishes between the insurance responsibilities of the association and the individual residents and/or owners, and in accordance with the insurance responsibilities of the individual community associations, whether they are condominiums, cooperatives, homeowners associations, or PUDs.

CAI urges the insurance industry to be responsive to the flood insurance needs of community associations by providing the necessary coverage based on need, risk, and the practical considerations of community associations, both in general and as an optional alternative to government provided flood insurance under the National Flood Insurance Program (NFIP). At the same time CAI urges FEMA to review the terms, conditions, zone maps, and rating structure of the flood insurance coverage it provides community associations, under the NFIP, and revise them as necessary, to reflect the need, risk, financial and practical considerations of community associations.

### **GOVERNMENT REGULATION OF COMMUNITY ASSOCIATIONS**

CAI supports effective state legislation—when it is deemed necessary for consumer protection, conversion limitations, protections for ongoing operations or other additions to existing statutes or common law, to ensure that community association housing is developed and maintained consistently with legitimate public policy objectives and standards that protect individual consumers, balancing the legitimate rights of the development industry. Local legislation concerning the creation or governance of community associations is antithetical to a balanced, well-considered weighing of all issues and interests affecting community associations, encourages a patchwork of regulations within an individual state and is, therefore, better dealt with at the state level.

### **HOME-BASED BUSINESSES IN COMMUNITY ASSOCIATIONS**

CAI recognizes and supports the rights of residential common-interest communities to regulate the nature of commercial activities within their communities, including the option to choose whether or not individual residences can be used as home-based businesses. CAI encourages associations that regulate commercial activities to restrict only those activities that the associations have reasonably determined have an adverse effect on the community and to permit childcare facilities, home office use and other home-based businesses that do not have an adverse effect. CAI supports the amendment of covenants to allow home-based businesses that do not have an adverse impact on the community. CAI opposes legislation that would supersede any covenant restrictions on home-based commercial activities.

### **HOMEOWNER INVOLVEMENT IN COMMUNITY ASSOCIATIONS**

CAI believes in direct homeowner involvement and participation in community associations and should be encouraged throughout the developmental process and operational phases of community associations.

### **INSURANCE TRUSTEE ENDORSEMENT REQUIREMENT**

CAI encourages the secondary mortgage market to implement the addition of an Insurance Trustee endorsement requirement for community association property insurance policies for new projects in order to provide protection to the assets of the community association in the event of a

major catastrophe, and opposes naming Freddie Mac or other secondary mortgage market entity as a loss payee on a community association insurance policy.

### **LIABILITY OF COMMUNITY ASSOCIATION VOLUNTEERS**

CAI supports legislative protections against unwarranted legal liability for volunteers serving as members of a community association board of directors or committee, to enable them to make responsible judgments without fear of personal loss interfering with the judgment or decision making process. CAI further supports indemnification of community association volunteers and the provision of directors and officer's insurance coverage as a common expense.

### **LIMITED LIEN PRIORITY FOR COMMUNITY ASSOCIATION ASSESSMENTS**

CAI supports a six-month priority lien over the first mortgage for regularly paid assessments and modification of any laws restricting lending institutions from making loans which are subject to the community association assessment lien priority.

### **LOCAL TAXATION AND PUBLIC SERVICES FOR COMMUNITY ASSOCIATIONS**

CAI believes that common interest communities should not be taxed for municipal services not provided. Separate assessment and taxation of common property is unjust double taxation. Homeowners should be allowed to deduct association assessments attributable to the performance of public functions.

### **PRIVATE PROPERTY PROTECTION**

CAI supports protections that enable property owners to challenge and resolve efforts to take common property. CAI opposes legislative, regulatory or judicial actions that would limit or restrict the ability and rights of community associations to maintain control over association common property.

### **QUALITY CONSTRUCTION AND RIGHTS OF ASSOCIATIONS AND BUILDERS IN THE EVENT OF DEFECTS**

CAI believes that builders and construction professionals should deliver a product made with quality workmanship and free from defects. CAI also recognizes that homeowners must be reasonable in their expectations of the quality of construction of their homes. CAI supports legislation and regulations concerning construction defects that adequately balance the rights and responsibilities of community associations, their boards and homeowners, and of builders and construction professionals.

### **REASONABLE OCCUPANCY STANDARDS**

CAI supports the right of community associations to establish reasonable occupancy standards. CAI opposes the implementation and enforcement of the Federal Fair Housing Act in a way that treats reasonable occupancy standards as discrimination on the basis of familial status. Under no circumstances should an occupancy standard of two persons per bedroom plus infants constitute discrimination under the Federal Fair Housing Amendments Act.

### **RENTERS IN COMMUNITY ASSOCIATIONS**

CAI supports a balanced approach to the treatment of tenants in community associations, while protecting traditional property rights, including reasonable regulation of transient occupancy, tenant compliance with association standards, and the integration of tenants into the community on an equal basis.

### **RULES DEVELOPMENT AND ENFORCEMENT**

CAI supports legally sound, fair and equitable rules development and enforcement procedures in community associations.

### **SUPPORT FOR THE UNIFORM ACTS**

CAI supports and recommends consideration and adoption of the one or more of the Uniform Community Association Acts by all states. In those states where it is not appropriate, practical or possible to adopt one or more of these uniform acts in their entirety, the Institute supports and recommends consideration of appropriate portions of these laws.

### **TELECOMMUNICATIONS**

CAI supports the growth of competition in the telecommunications and video programming marketplace among telephony, cable, satellite, television broadcast, wireless cable, and other providers so that community association residents will have access to advanced, innovative services. However, CAI opposes governmental regulation that would require community associations to permit telecommunications providers, video programming providers or individual association residents to install equipment or wiring on common property without prior association approval and control. CAI also opposes any federal or state initiatives that would limit a community association's ability to enter into telecommunications or video programming contracts.

### **TRANSITION OF COMMUNITY ASSOCIATION CONTROL FROM THE DEVELOPER TO HOMEOWNERS**

CAI recognizes that successful transition is the responsibility of the developer, through continuing training, education programs, and homeowner involvement in association governance.

### **VETERANS ADMINISTRATION GUARANTEEING LOANS SECURED BY SHARES OF STOCK IN A HOUSING COOPERATIVE**

CAI supports and urges that Congress amend 38 U.S.C. 1810, to allow the same veteran's benefits to a housing cooperative purchaser as it does to a purchaser of condominium housing.