



**KEOUGH**  
MOODY

February  
2018  
Newsletter

Brrr...it's cold outside! As I draft this newsletter, I am looking outside my office window admiring the white snow outside and I hope that winter comes to an end soon. I also hope that your association has not been severely impacted by the cold. Recently, Dawn, Gabby and I attended CAI's 2018 Community Association Law Seminar. We attended this seminar to learn more about the trends in community association law around the country-and it gave us a reason to leave the cold weather in Chicago and enjoy the warm days in Palm Springs, California! We thought we would share with you some of that which we learned.



Thank you for taking the time to read this newsletter. As usual, if at any time, you want us to address any specific topics in our newsletter or office seminars or if you just have questions, please call me at (630)369-2700 x 211. Stay warm!

Chuck Keough

## WHAT IS HAPPENING IN COMMUNITY ASSOCIATION LAW AROUND THE COUNTRY

While at the CAI Community Association Law Seminar, we were reminded that a lot of what associations are experiencing in Illinois, is happening around the country. For example, did you know that there are difficult people in almost every association and not just those in Illinois? Like in Illinois, Judges are not keen on adjudicating these matters. Therefore, before bringing the matter to the court's attention, it is recommended that the association take all steps possible to resolve the matter. The association should utilize all local government resources. In addition, every attempt should be made to get a family member involved and to help the Owner. Only when all options fail should the association seek the assistance of the Court.

Housings for Older Persons exist throughout the country. It is imperative that the governing documents for such associations not only contain the required language, but that the Board also adopt the proper policies and procedures to ensure that at least 80% of the occupants within the association are over 55 years old. We were reminded of the consequences to associations when these steps are not taken.

Gabby presented with several other female attorneys within the industry to address Equality in the Workplace. Her panel addressed issues that we continue to hear every day in the news. In addition, they addressed the need for work balance and how to manage the expectations of clients, with technology and family.

A common theme of this year's CAI Law Seminar was the importance of legal counsel in

helping to avoid potential problems for an association. In the seminar regarding legislative trends, the speakers discussed how bad law often results from a situation or court decision involving a bad set of facts. In Illinois, we saw a court decision, *Palm v. 2800 Lake Shore Drive Condominium Association*, significantly impact how association's conducted business. The ruling in that case stemmed from a bad set of facts, namely, a condominium association board not conducting business in an open meeting. There is hope that if boards and managers seek legal counsel before situations become contentious, legal counsel may help guide and direct the board, so that an issue does not get so out of hand that it results in litigation or prompts bad law. This theme was also echoed in the seminar, which provided a case study of an association which was forced to file bankruptcy as a result of numerous judgments entered against it. The attorney for that association indicated that the bankruptcy could have been avoided had that association sought, and listened to, the advice of counsel.

Several of the presentations addressed violations of the Fair Housing Act and allegations of discrimination against associations, management companies and individual board members. Just like in Illinois, jurisdictions everywhere are experiencing an increase in the number of requests for accommodations to address disability issues. Requests for emotional support animals continue to be on the rise in community associations. (In fact, days before we left for the seminar, it was reported in the news that a woman wanted to travel on an airplane with her peacock, her emotional support animal).

While in Illinois, although we have not seen a significant number of issues related to transgender people, it is an issue in other states. It can become an issue for the association with locker rooms or saunas. It also can raise Fair Housing issues if a member is diagnosed with gender dysphoria, which may be considered a disability. Hence, an association may be asked to make accommodations for the member with this disability. We learned that for those associations with single stall bathrooms, in the common elements, it is best to post gender neutral signs.

Throughout the seminar, we were reminded of how an association and individual board members can be named in claims related to discrimination. We were also reminded of the need for board members not to impose their personal beliefs upon the association and perhaps expose it to liability. It is important to ensure that all Board members understand the implication of their actions and the importance of treating all members in the same manner. Adopting an anti-discrimination policy is a very helpful way to educate board members. It may also be a strong piece of evidence to show the policies of the association, should the actions of the Board come into question. Such policies can be used by the board to defend a claim of discrimination. If your Board would like to discuss adopting such a policy, please contact Gabby at [grc@kmlegal.com](mailto:grc@kmlegal.com) or (630)369-2700 x 209.

## **KEOUGH & MOODY POST-JUDGMENT SEMINAR**

Is your association doing all that it can to collect past due common expenses, especially as it relates to prior owners? Please join us on Wednesday, March 14, 2018 from 3:00-5:00 p.m. at the Naperville Country Club, located at 25W570 Chicago Avenue, Naperville, IL, for a seminar discussing personal judgment collection. At that time, you will learn the manners through which a personal judgment can be collected as well as when it makes sense to pursue this remedy. In addition, we will hold a question and answer session at which time you can ask any questions that you may have relative to collection of assessments. This seminar will provide two hours of continuing education credits.

If you cannot attend the seminar but have questions about what remedies may be available to your association, please contact Dawn Moody at [d1m@kmlegal.com](mailto:d1m@kmlegal.com) or (630)369-2700 x 207.

**Chicago**  
312-899-9989  
[info@kmlegal.com](mailto:info@kmlegal.com)

**Naperville**  
630-369-2700  
[www.kmlegal.com](http://www.kmlegal.com)

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