


**Tools to Thrive in Community Living**

2018 Condo-HOA Conference & Expo  
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## COVER YOUR ASS(ETS)

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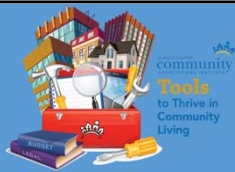



## The Association Insures It, So Why Should I?

- What Does the Association Insure?
  - Building Exterior
  - Structure
  - **Unit Walls, Ceilings**
  - If Original Construction
    - Unit Flooring
    - Cabinets
    - Countertops
    - Fixtures
    - Mechanical
- What Does the Association **NOT** Insure?
  - Possessions
  - Non-Original Construction (Improvements/Betterments)
    - Unit Flooring
    - Cabinets
    - Countertops
    - Fixtures
    - Mechanical

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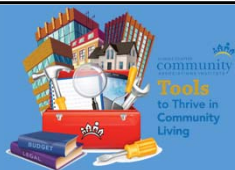





## Chaos Contributors

- Lenders
  - Only interested in Association's Certificate of Insurance
  - They Don't Actually Read it
- Real Estate Agents
  - "Maintenance Free Living"
  - "The Association Insures the Unit, So You Don't Have To"
- Owner Insurance Agents
  - "That's the Association's Responsibility"
  - "You weren't Negligent, so You (the owner) Are Not Responsible"
  - "If the Association Opt's Not to File a Claim Under Their Policy..."
- Previous Manager

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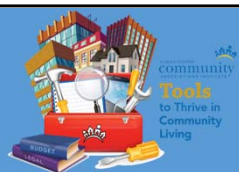


## Phantom Zone of Liability Where Owner is Left Exposed

- Association Insurance Doesn't Activate because...
  - Damages are  $\leq$  Policy Deductible
- Association Insurance Activates, but...
  - Deductible Billed Back to Owner(s) Benefitting from Claim
  - Owner Has Wrong Insurance (Contents Only)
- No Claim Because Only One Unit Benefits (Townhomes)

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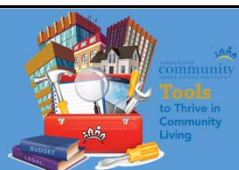




## Why Do Managers Need to Know This?

- Owners Are Going to Call You
- Provide Guidance & Expertise
- To Enforce the Governing Documents

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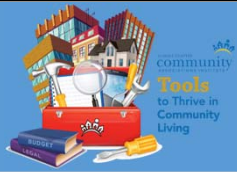


## What Do You Need to Know/Do?

- Read the Declaration ~~and~~ Bylaws
  - Every Declaration is Different
  - In Bylaws, But Not Declaration
  - “Completing Repairs” and “Repair Costs” Not The Same
- Track Owners Proof of Insurance
  - Townhomes
  - Condos
  - Additional Fee Potential
  - Assess Fines for Non Compliance (*offsets fees*)

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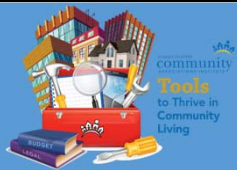




## Final Thoughts

- Read Your Declarations
- Ask the Attorney
- Encourage the Communication
- (Electronic) Paper Trail!

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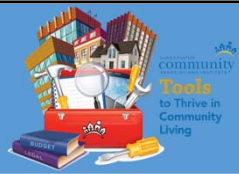


## Questions So Far?



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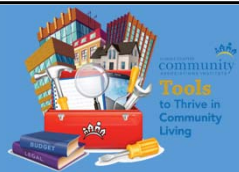




## When One Unit Leaks on Another

- Typically 3 parties involved (Association and the 2 owners)
- Difference Between Maintenance/Repair Obligation and Insurance
  - The party that has the maintenance/repair/replacement obligation may not necessarily have the insurance obligation.
  - Look to Declaration for Guidance.

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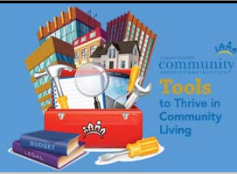


## When One Unit Leaks on Another

- Condominium unit to unit leak (Common Element Wall Between Units)
  - Association repairs
  - Insurance claim?
    - If yes → deductible handled per Section 12(c) of Condo Act. (Common Expense, or charged to owner that was responsible (after hearing), or charged to owner with damage)
    - If no → Can repair costs be charged back?
    - Look for charge back provision in Declaration if damage is small amount and no insurance claim is made.

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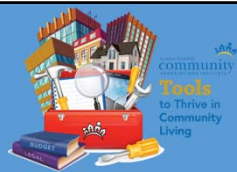




## When One Unit Leaks on Another

- Condominium unit to unit leak (Interior Unit Damage)
  - Interior damage to units should be handled between the 2 owners if leak originated in one unit.
  - Insurance Coverage
    - Who insures Betterments and Improvements?
    - Difference between property and liability insurance coverage.
    - Does Association require owners to maintain liability coverage under Section 12(h) of Condo Act?

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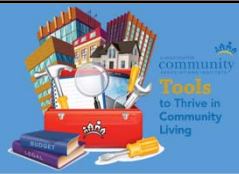


## When One Unit Leaks on Another

- Variable → What if the leak originates from a common element or other area Association maintains (i.e. Roof leak)?
- Difference Between Maintenance/Repair Obligation and Insurance
  - The party that has the maintenance/repair/replacement obligation may not necessarily have the insurance obligation.
  - Look to Declaration for Guidance.
- Questions for Association in this situation
  - What did Association have notice of?
  - When?
  - What did Association do to respond?
  - How quickly?

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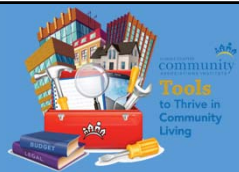




## Questions for Keith?



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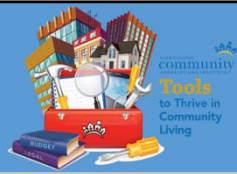


## Computer Crime (Fraud coverage for theft of funds)

- Anyone know who **must** carry Fidelity coverage per the ILCPA and CICA Act?
- What is the fidelity policy is intending to cover?
  - There are several components to the Fidelity coverage
    - Employee Theft
    - Forgery
    - Monies & Securities
    - The Property Manager
- Computer Crime (Computer fraud) is the number one growing claim on fidelity policies! So be sure you have this coverage included on your fidelity/crime policies!!!

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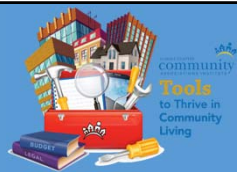




## Cyber Liability attacks (theft of information)

- According to the 2016 State of SMB Cybersecurity report, in the preceding 12 months, half of all small businesses in the U.S. experienced a breach!
- The U.S.'s National Cyber Security Alliance found that 60% of these small companies are unable to sustain their businesses over six months after a cyber attack.
- According to the Ponemon Institute, the average price for small businesses to clean up after their businesses have been hacked stands at \$690,000.
- Small and mid sized business are hit by 62% of all cyber attacks, that's about 4,000 per day, according to IBM.

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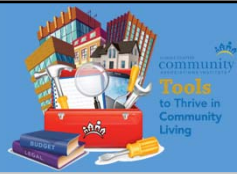
## Cyber Liability and Community Associations

- We have all seen major brands like Target and eBay have security breaches. Some who have been fined thousands of dollars for not notifying their customers.
- Who in the community association field can be a target?
- How does this apply to associations?
- Cyber Liability Insurance provides
  - Forensic investigation of the breach
  - Legal advice to determine your notification and regulatory obligations
  - Notification costs of communicating the breach
  - Credit monitoring
  - Public relations expenses
  - Business interruption

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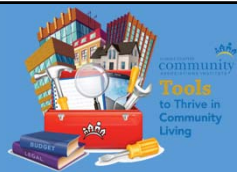




## Cyber Liability

- So what can you do besides pray and hope you're not next?
  - Create a business continuity and incident response plan
  - Keep security software current
  - Do not leave any devices in your vehicle (smash and grabs happen every day)
  - Update passwords regularly (usually the #1 breach)
  - When in doubt, delete it. If it looks suspicious, delete it!
  - Protect all devices that connect to the internet.
  - Plug & Scan
  - Obtain Cyber Insurance
  - Expand beyond IT
  - Encrypt your most sensitive files

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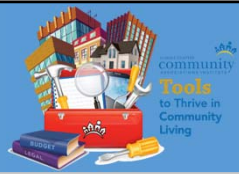


## Social Media

- Everyone is on social media, and community associations and property management companies are no different whether it be LinkedIn, Facebook, Instagram, Twitter and other platforms. We have all have some social media presence. So, how do you protect yourself?
  - Put a leash on social media with restrictions
  - Keep it *Vanilla*
  - Keep Association records the old fashioned way, don't use social media for record keeping
  - Curb the commentary
  - Keep it private
  - Whatever you do, make the Association look **good**... social media can affect property values

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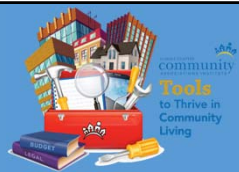




## Social Engineering

- What is social engineering? There are literally thousands of variations to social engineering attacks.
  - The prominent difference from Cyber to Social Engineering is the “con” is to manipulate you into giving up personal information or money.
  - How do you protect the association from this?
    - Make sure social engineering is include on your fidelity/crime policies

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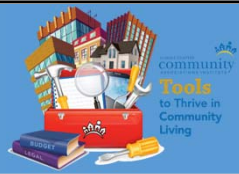


## Computer Fraud Coverage

- Legal Issues to Consider
  - What security measures did management/Board have in place? (i.e. electronic security programs, limiting who has access to info, etc.)
  - Management agreement indemnification provisions
    - Is this covered or waived?

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## Questions for Jennifer?

Or Keith...

Or Martin



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