

The Independent Voice of NJ CIC Owners

by the **CIHC**, Common Interest Homeowners Coalition

Summer 2021

This issue is dedicated to **Rutgers** Law Prof. Frank Askin.

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HOW to CONTACT the CIHC: Call Ellen Vastola (*Current President*) at 732-873-3446, 9 am til 9pm.

Editor: Ellen Vastola

CIHC Website:
www.c-ihc.org

(site updated july 2021)

*** NJ LEGISLATURE UPDATE! ***

A350 Prohibits conflict of interests by governing board members or management employees of homeowners' associations.

A2445 Prohibits condominium associations from assessing insurance deductibles to individual unit owners or groups of unit owners.

A2528 Requires certain common interest community associations to publish certain information; requires that homeowners' association contracts for management and maintenance include 24-hour emergency services.

S1009 Clarifies that conversions of housing cooperatives into condominiums are subject to notice provisions of "The Planned Real Estate Development Full Disclosure Act."

S1751 The "Owners' Rights and Obligations in Shared Ownership Communities Act."

S3769 Prohibits condominium associations from assessing insurance deductibles to individual unit owners or groups of unit owners.

The CIHC STRONGLY SUPPORTS the above proposed Legislation!

Summer 2021: Message from the **CIHC** President, *Ellen Vastola*:

HAPPY SUMMER! YEAH! We are seeing extremely high temps. Please take care and do not over extend yourself.

* * * * *

The C-IHC recently learned of the passing of a "good friend and ally" in the fight for Owner Rights in New Jersey.

Rutgers Law School Professor Frank Askin, Esq. passed away July 1, 2021 in his home in Florida.

All CIC Owners in New Jersey are in his debt for his work for all of us: the Twin Rivers case among others!

Prof. Askin will be sorely missed by all of us! Read on . . .

Let's join together as a powerful VOICE for DEMOCRACY in our CICs to make a difference!

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Quotes Corner!

x Remembering Prof. Askin . . . x

“A person’s true wealth is the good he or she does in the world.” ~*Mohammed*

“What you leave behind is not what is engraved in stone monuments, but what is woven into the lives of others.” ~*Thucydides*

“A great soul serves everyone all the time. A great soul never dies. It brings us together again and again.” ~*Maya Angelou*

“We make a living by what we get, but we make a life by what we give.” ~*Winston Churchill*

The “**Independent Voice of NJ CIC Owners**” is calling for **ORIGINAL** newsletter articles, ideas, cartoons, or postings (to set up local/regional meetings, gatherings, protests, etc, to share experiences in person, etc).

The newsletter Editor reserves the right to use, edit or refuse a submission. Please send **your original submissions** to the Editor and put “**CIHC newsletter idea**” in the subject line; otherwise it will be deleted sight unseen.

This newsletter is for YOU.

CIHC “HOA HUMOR”



OH NO . . . this is how is used to be in NJ’s common interest communities. Thanks to Prof. Askin, we NJ CIC owners can speak out in our Communities. New Jersey has MORE speech protections than that from the United States Constitution!

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What is going on in New Jersey for **CIC/CIRA** owners **Summer 2021**:

Legislative UPDATE/ Bills to track!

NJ Assembly:

A350 Prohibits **conflict of interests** by governing board members or management employees of homeowners' associations. **YES!**

A1213 Revises time period at which unit owners assume control of homeowners' associations. **YES!**

A1695 Prohibits enforcement, for a period of 12 months, of homeowners' association bylaws prohibiting domesticated animals if owner is FEMA designated displaced individual following emergency declaration by President or Governor. **INTERESTING . . .**

A2445 Prohibits condominium associations from assessing insurance deductibles to individual unit owners or groups of unit owners. **YES!**

A2528 Requires certain common interest community associations to publish certain information; requires that homeowners' association contracts for management and maintenance include 24-hour emergency services. **YES!**

NJ Senate:

S1009 Clarifies that conversions of housing cooperatives into condominiums are subject to notice provisions of "The Planned Real Estate Development Full Disclosure Act." **YES!**

S1751 The "Owners' Rights and Obligations in Shared Ownership Communities Act." **YES!**

S3769 Prohibits condominium associations from assessing insurance deductibles to individual unit owners or groups of unit owners. **YES!**

*Ahhhh, we still need State mandated, State approved Board member **training** WITH enforcement!*

To track Bills, go to: <http://www.njleg.state.nj.us/bills/bills0001.asp>

****CHECK OUT THE "NEW LOOK" OF OUR WEBSITE!****

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Board member Training #11: Capital IMPROVEMENTS!

This came up on a call and had me thinking. What is this? Is it the same as our “Capital Reserves” fund/budget line? In our CICs we MUST have “capital reserves” in order to REPLACE the big ticket structures (common elements) of our communities. So why, OR, do we need a “capital improvement” budget line?

I learned from working at Rutgers with the Facilities Maintenance Dept. that there is a difference. **Rutgers**, a part of the State government, sets aside budget money to replace existing infrastructure. This comes out of “Capital Reserves”. They had another budget line for capital improvements to IMPROVE (add) to the infrastructure/university property.

Here is what New Jersey has to say:

https://www.nj.gov/dca/divisions/dlgs/resources/rules_docs/5_30/njac_5304.pdf

Definitions:

From: <http://camcontracting.com/capital-improvements-vs-repairs-whats-the-difference/>

According to [Investopedia](#) **Capital Improvement** is:

“the addition of a permanent structural improvement or the restoration of some aspect of a property that will either enhance the property’s overall value or increases its [useful life](#). Although the scale of the capital improvement can vary, capital improvements can be made by both individual homeowners and large-scale property owners.”

To **repair** is to fix or mend something suffering from damage or a fault.

According to [Wikipedia](#) A **Capital Improvement Plan (Program)**, or **CIP** is “a short-range plan, usually four to ten years. It identifies capital projects and equipment purchases, provides a planning schedule and identifies options for financing the plan.”

With this information in mind . . . does YOUR CIC need this budget line added to the annual Budget? Do you and or your Boards have plans to UPGRADE your community? Do you want to avoid “special assessing” for a new shed or a new second tennis court? This is a way to budget for it in the future. Does YOUR multi-owner & multi-decade community need to include this? One cautionary note

**CHECK YOUR GOVERNING DOCS IF OR HOW YOU CAN
“IMPROVE” YOUR PROPERTY!**



Maverick is watching & asking!

“Baaaaa! I am always watching.”

Let’s join together as a powerful VOICE for DEMOCRACY in our CICs to make a difference!

The **CIHC** would like to acknowledge our **DONORS**
in 2020-21. **Thank you** for your support!

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Remembering Frank Askin, Esq.:

a good friend to the **CIHC** & New Jersey's owners in their common interest communities.



From: <https://law.rutgers.edu/news/obituary-professor-frank-askin-rlaw66-founder-constitutional-rights-clinic-longest-serving>

. . . “Frank Askin, **Rutgers** Law School professor for 50 years and longest-serving General Counsel of the ACLU, died July 1 at the age of 89 at a hospital in Fort Lauderdale, Florida. The cause of death was listed as cardiac arrest. At **Rutgers**, he was a Distinguished Professor of Law, Robert E. Knowlton Scholar, and Director of the Constitutional Litigation Clinic (now the Constitutional Rights Clinic). **The school will hold a memorial service for him this fall. . . .**

Professor Askin and his students successfully extended the free speech provisions of the New Jersey Constitution to protect homeowners in privately-run residential communities, making New Jersey the first state to provide such protection through litigation. . . .

Here is the link to an interview with Professor Askin.

<https://oralhistory.rutgers.edu/64-interviewees/text-html/1764-askin-frank-part-1>

Here is an excerpt from the interview:

. . . Not long after that, I basically stopped going to federal court and for the last twenty years, I really spent most of the time in the New Jersey courts, which I find much more welcoming to public interest, constitutional litigation.

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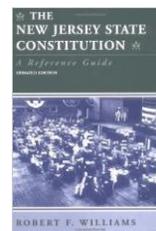
The state constitution is much more protective of individual rights than the federal constitution. Such as, for example, our shopping mall case.



When advocacy groups sued under the First Amendment for the right to engage in petitioning and leafleting at suburban shopping malls, the US Supreme Court said, "Oh, no. That's private property, private property. The federal constitution has nothing to do with that. They don't come under the First Amendment." Well, **New Jersey Supreme Court said, "Well, the state constitution is different, that certain entities who invite people to use their property have an obligation to permit them to exercise First Amendment rights or free speech rights under the state constitution.** The Supreme Court said, "**When the town square moves to the shopping malls, the rights people had in the town squares go with them.**" So that was one of the big cases we established in New Jersey for constitutional rights under the state constitution, much broader than under the federal constitution.

Now in more recent years, I spend a lot of time with my students litigating issues of free speech and **free elections in common interest communities--condominiums, homeowners associations, property owners associations.** This is an extension of our shopping mall case.

That while these are private properties, and these individual owners have no rights under the federal constitution, they do have constitutional rights in New Jersey. So, a lot of my litigation is now around those issues. I also do a lot of election law litigation, again, mostly under the state constitution."



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We Remember Prof. Askin:



Prof Askin & his wife, Marilyn

- Former Co-Dean Ron Chen, **Rutgers Newark Law School**, shared these memories, *"It was my honor to follow him in so many ways: we both were students (at different times) and then later professors (happily for me, often at the same time) here at the Law School. I was his colleague on the ACLU National Board for many years (where the ACLU President jokingly referred to us at Board meetings as "the Jersey Boys"), and I now hold the office that he held for decades, that of ACLU General Counsel. It was my privilege to work with him in the Constitutional Litigation Clinic on several difficult and impactful cases (Sussex Commons v. Rutgers University and Mazdabrook v. Khan come immediately to mind). He first taught me the benefits of relying on the New Jersey Constitution as the often preferred tool over the United States Constitution in expanding the reach of individual civil liberties, particularly speech. . . . But I confess that right now I personally cannot imagine holding any group of people in any higher awe and esteem as I do Rutgers Law's 'Greatest Generation,' with Frank Askin leading the charge."*
 - <https://law.rutgers.edu/news/obituary-professor-frank-askin-rlaw66-founder-constitutional-rights-clinic-longest-serving>
- Ellen Vastola, current President of the **CIHC** & a 30+ yr CIC owner: *I have 3 very strong memories of Professor Askin sharing his view on CIC issues. I usually share 2 of them with CIHC callers. The third was a novel opportunity for the **CIHC**. Here goes: (next page)*

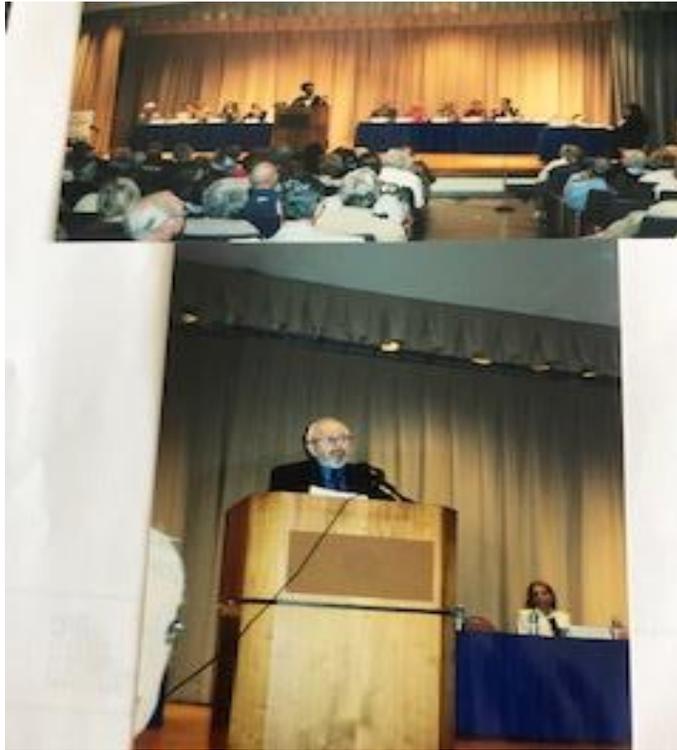
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- (1) *During a discussion, he put to me that . . . you are allowed to vote for the US President or your State Governor, etc even when you have NOT paid your taxes. (I agreed.) So why can't you vote in your CIC election if you are behind in, have not paid your maintenance fees? (I was speechless. Good Question.)*
 - (2) *He also shared with me his view of the 1st Amendment . . . that "free speech is protected . . . and **POLITICAL** free speech is **VERY** protected." (direct quote) Ahhhhhh . . . this applies to our CICs which are "quasi-governmental". Thank you Prof. for the Twin Rivers decision. (And thanks to the owners in Twin Rivers who fought for their right of free speech, etc. One of the owners is on our Board.)*
 - (3) *My third memory is of the phone call I received from him. Prof. Askin called to inform me, as President of the **CIHC**, of the **Rutgers** Newark Law School Pratt Grant. He suggested that I write a grant proposal. <wow, what an opportunity for the **CIHC**> He discussed the grant requirements and what he thought the focus of our proposal would address. In retrospect, I was and am honored that he thought to reach out with this idea. And YES, we were "under the gun" to make the deadline and . . . the **CIHC** was awarded grant money! We are using it for outreach (the annual Condo Expos) and other purposes.*
- *Haim & Margaret BarAkiva, **2 of the Founders of the CIHC**: Margaret and I were very saddened to learn of Prof. Askin's passing last week. He was, and always will be, inextricably linked to **C-IHC's** history of trying to improve the governance of HOA's. As you know, it was under his leadership at **Rutgers** that the Constitutional Litigation Clinic there represented us in the **NJ Supreme Court** to extend freedom of speech provisions to HOA's. Frank also was the longest serving General Counsel for the ACLU.*
 - *The first 2 photos are from our NJ Trenton conference in 2007. (next page)*

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- *The third is a meeting at our house to prepare for the Twin Rivers case. With Frank (L) is Steven Siegel (R) and 3 Rutgers law students (Ctr).*



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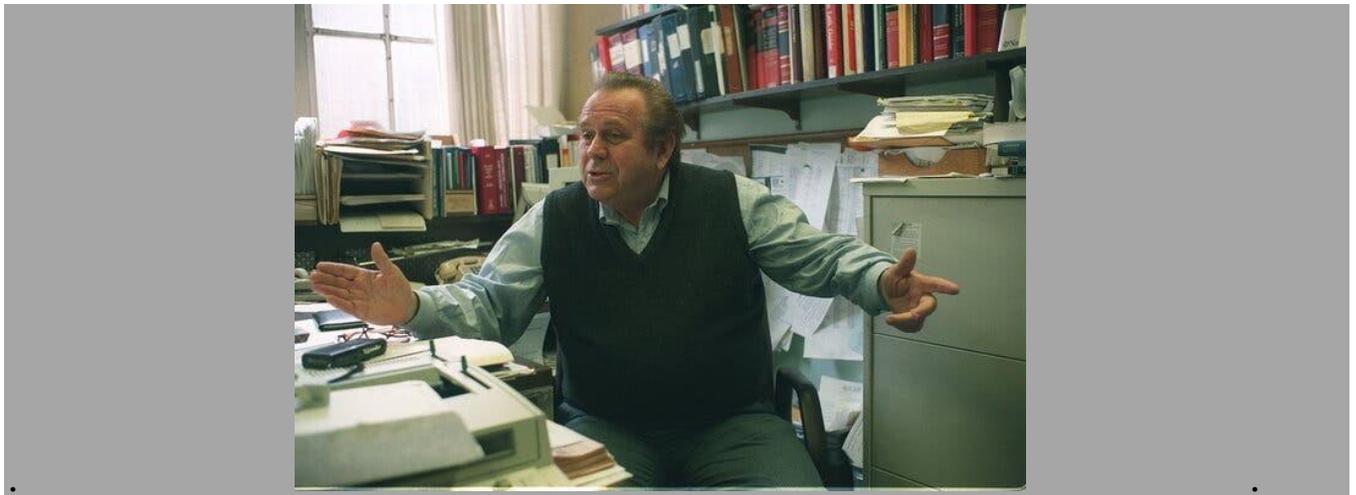
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- *Interview with Justice Ruth Bader Ginsberg:*
<https://law.rutgers.edu/sites/law/files/ginsburg-interview.pdf>
 - *Excerpt: OGILVY: 1963.* (?) And what were the clinics there at that time? Were **Frank Askin** I guess and Arthur Kinoy there? **JUSTICE GINSBURG:** (answer) Well, **Frank Askin** had not started the clinic yet. In fact, **Frank** was a student at **Rutgers**. He was in the very first Civil Procedure class I ever taught. So it was about five or six years later when Arthur Kinoy came to **Rutgers**, and **Frank** joined him in *starting a Constitutional Litigation Clinic*, which centered on the cases that Arthur was doing at the moment.”

AWARDS: <https://law.rutgers.edu/award-winning-clinical-leadership>

· 2017—Society of American Law Teachers (SALT), Great Teacher Award: Distinguished Professor of Law *Emeritus* and Director *Emeritus*, Constitutional Rights Clinic, **Frank Askin**.

· 2017—AALS Clinical Section, William Pincus Award for Outstanding Service and Commitment to Clinical Education: Distinguished Professor of Law *Emeritus* and Director *Emeritus*, Constitutional Rights Clinic, **Frank Askin**.



Read the **NY Times** article: <https://www.nytimes.com/2021/07/16/us/frank-askin-dead.html> This is a “good read”.



REBEL says: “Baaaaa, Prof Askin had our backs! Thank you.”

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ANNOUNCING . . .

The *NEW* C-IHC WEBSITE!

The **C-IHC website has
been *revamped, refreshed*
and *updated!* Same
address: www.c-ihc.org**

<Many thanks to our volunteer webmaster! Kudos!>

**We hope it will be easier to
use and pleasing to the eye,
with some **NEW** options. *<check
it out & enjoy & share>***

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The CIHC spotlights Rutgers Law Prof. Frank Askin!

From: <https://law.rutgers.edu/directory/view/askin>

Frank Askin retired in 2016 after 50 years at Rutgers Law School, where he was a nationally-known Constitutional Law expert. He founded the Constitutional Rights Clinic and was the longest-serving general counsel for the ACLU. Upon his retirement, he was awarded the Rutgers Medal, and the clinical wing of the law school was renamed after him and his wife Marilyn. (see pic on page 7)

From: Wikipedia; https://en.wikipedia.org/wiki/Frank_Askin [YES! Prof Askin has a "wiki" page!]

Frank Askin was an [American jurist](#) and professor of law at [Rutgers School of Law - Newark](#). He was appointed to the Rutgers faculty upon his graduation from that school with highest honors in 1966. Admitted to the law school without an undergraduate degree, he was awarded a B.A. from City College of New York at the same time he received his J.D. from Rutgers.

In 1970, he established the Constitutional Litigation Clinic as part of the law school's curriculum. Under his guidance, the clinic litigated the first police surveillance cases in the nation; battled the FBI over the investigation and maintenance of files on two precocious New Jersey high schoolers who corresponded with "the wrong persons"; defended [affirmative action](#) programs up to the [United States Supreme Court](#); challenged the [New Jersey State Police](#) for stopping and searching "long-haired travelers" on the state's highways; argued for the right of the homeless to vote and to have access to public library facilities; and protected the right of grassroots advocacy groups to take their messages door-to-door and to privately owned shopping malls. He still is associated with the clinic. Professor Askin has been a member of the National Board of the [American Civil Liberties Union](#) since 1969 and has been one of the ACLU's four general counsels since 1976. In 1986, he was the (unsuccessful) Democratic candidate for Congress in [New Jersey's 11th District](#), covering parts of [Essex](#) and [Morris](#) Counties.

His memoir, *Defending Rights: A Life in Law and Politics*, was published in 1997.^[1] He is listed in *Woodward & White's Best Lawyers in America*.

DISCLAIMER: The CIHC newsletter is written by and for NON-attorneys. We do NOT and cannot practice law or give legal advice. We do provide information to aid NJ CIC owners when they have issues in their communities. We can and do support New Jersey's CIC owners and Boards for a democratic experience and enhanced quality of life, for all, in said communities.

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We welcome contributions from NJ residents who share in the goals/mission of the C-IHC. We need funds for: maintenance of our website, postal mailings, flyer production & distribution, expenses for contacting legislators and others, travel, periodic meetings, speakers, etc. IF you share our Mission and Goals, please contribute. **We are a registered NJ 501(c)3 - not for profit organization.**

Please print out this form & send your helpful Contribution to become a **CIHC Friend**:

Common-Interest Homeowners Coalition,
Post Office Box 1511, Hightstown, NJ 08520.

Contributing Categories: (check off the appropriate blank)

- **Premium Contributor:** \$100 or more _____
- **Sustaining Contributor :** \$30 or more _____
- **Regular Contributor:** \$20 _____
- **Interested person/friend:** \$ _____

THANK YOU!

Please **PRINT CLEARLY!** Enclosed is my check for \$ _____

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H-phone _____ W or C-phone _____

Email _____

Address _____

Town _____ Zip _____

Name of Assoc. _____

THANK YOU for your *(continued)* **SUPPORT!**

Your contact information will be held as **CONFIDENTIAL/ CIHC use ONLY.**