



Problems With Your Board?

FROM BASIC COMMUNICATIONS TO ALTERNATE DISPUTE RESOLUTION, COMMUNITY ORGANIZING, RALLYING THE PRESS, LEGISLATION, STATE OVERSIGHT, LITIGATION, AND MORE, WE OFFER SOME GUIDANCE



LEGISLATIVE UPDATE

THE LATEST FROM TRENTON

Legislation could be *the* most important tool for solving your problems. We're tracking the most important bills currently making their way through New Jersey's legislature, and in every issue we update them here for you.

See this issue's report on page 7.

OWNER'S CORNER

RADBURN: THERE'S POWER IN NUMBERS

Most Radburn owners could not run for their own board. So, they banded together, ultimately persuading the legislature to unanimously pass a bill for full membership and free elections in all New Jersey common-interest communities.

Read the story on page 8.

FEATURE STORY

THE INSIDER'S GUIDE TO COMPLAINING

C-IHC President Ed Hannaman oversaw operations at the DCA's Bureau of Homeowner Protection for 26 years. Now he pulls no punches in providing his invaluable insight on the right and wrong ways to complain about your issue!

Read all about it on page 4.

ALSO INSIDE

President's Message | A Thank You to Past-President Ellen Vastola | Meet the New Board
The Homeowner's Strategy Guide

President's Message



This is the first C-IHC newsletter under a new president and board in many years! (Please see the tribute on page 5 to our immediate past-president, Ellen Vastola.)

We promise to continue C-IHC's role of advocacy for owner rights while listening to problems so that we can provide information and guidance to all of those living in New Jersey's planned communities. Our website, found at www.c-ihc.org provides plenty of useful general information and resources for owners.

We realize there are many difficulties navigating problems in association living, and we seek to be part of the solution. C-IHC uses the many issues related by owners to formulate corrective actions, which typically will require legislative action. In that regard, owners can help themselves by contacting their state legislators and alerting them to problems.

C-IHC can help further by providing owners with guidance on solutions. Whenever owners have complained to me that legislative action would take too long – that they need a solution *now* – I would point out that if they had demanded legislative action 25 years ago, we wouldn't have the problem now and, if we do not do it now, we will have the exact same problems 25 years from now! There is a saying that the best time to plant a tree was 30 years ago; the second-best time is now! Since we can't go back in time, the same holds true for legislative action. That is why one of my constant refrains was (and continues to be) for owners to inform their legislators of problems. The first step in solving a problem is getting it noticed and understood.

I addressed problems for over 26 years at the state through the Association Regulation Unit (which I started) in the Bureau of Homeowner Protection. In that time, I listened to tens of thousands of homeowner complaints and answered both basic and complex questions. I felt the upset of owners abused by boards and their hired help, and used what resources the law provided to assist them. In addition, I often provided general guidance. (Too often, however, the solution required private legal action.)

In most situations, I advised owners never to act alone on matters of general concern. Banding together with other owners can often help resolve an issue. This is much more relevant now that the law provides for fair elections. My experience during those years convinced me that the current laws remain woefully inadequate to protect owners. Together, I believe we can remedy that.

I trust that our newsletter articles on various topics will be useful to you and any owners having problems with their associations. I especially hope it inspires you to join us and get to the "next level" of addressing and eliminating the underlying issues causing such problems! Thus, our C-IHC newsletter will feature articles addressing general concerns, state jurisdiction, inadequacies in the law and proposals for changes. In this issue I will start by addressing a most fundamental matter: how to (and not to) complain. Our newsletter will also periodically feature an "Owner's Corner" that allows you the opportunity to succinctly explain your current problems that may be helpful to others; especially those arising under the election law. We will offer our guidance or comments as necessary..

I thank all of you who support us and especially appreciate those who contribute to our cause!

-Ed Hannaman President, C-IHC

A Homeowner's Strategy Guide First Steps When You Have A Problem

by Michael Roney, Vice-President, C-IHC



Do you have a problem with your association? It seems that nearly everybody does, and that's why we are here. C-IHC is an educational/advocacy nonprofit dedicated to helping owners understand their rights and options when faced with unfair association practices. We also strive to inform owners about the many flaws in existing law and to realize that only by joining together can we create lasting change for all homeowners, now and in the future. We advocate for owners, but cannot legally represent individual owners on specific cases. We do try to offer helpful advice and point homeowners in the right direction for positive outcome to their issues.

All that being said, there are several basic strategies you should keep in mind when dealing with unfair practices or even outright abuse by your association board and management.

1. Familiarize yourself with your association governing documents. Review your association bylaws, covenants and restrictions and rules. If you fully understand how your association works you will be more effective in your effort to achieve a positive outcome.

2. Talk to your board members about your issue. Communication is always good! Calling individual members is fine, and you also should attend board meetings. Ask to review their records related to your problem.

3. Consider some kind of settlement, including one possibly facilitated by Alternate Dispute Resolution (ADR). Under state law your association should have a policy for offering ADR. Ask them about it, and note that ADR requests must be made in writing, and should give the board a reasonable time to

schedule a meeting (at least two weeks). If there is no response, then you can contact New Jersey's Department of Community Affairs (DCA) for follow up. Also, because your ADR is between you and the association, at least one Board member must be there to make decisions for the association. This authority cannot be delegated solely to the property manager or the board attorney without a board member or a designated ADR committee) being present.

4. Join together with other neighbors who are being treated unfairly in a similar manner. There is power in numbers! Meet regularly, communicate with the rest of the community via newsletters, a website or perhaps a Facebook page, then regularly promote your issues to the community and the local press.

5. Contact your elected representatives, including your state Assemblyperson and Senator. (The state lists their [names and contact information](#).) Enlist them to work with the state to enforce your existing rights or sponsor legislation that will address your particular issue.

6. Consult with an attorney. You should be able to get a free consultation. However, be aware that actually using their services could require a significant expenditure. If you can get at least five other neighbors who share common issues related to association abuses, then you may be able to get pro bono representation from an organization such as [New Jersey Appleseed](#).

7. Be patient. The wheels of justice often move slowly and the entire process could take years. However, C-IHC will always be available to provide guidance for you. Together we can work to change all association practices so that situations such as yours do not continue to occur!

FEATURE STORY

The Insider's Guide to Complaining

by Ed Hannaman, C-IHC President

We all think we know how to complain because we do it often regarding various matters of everyday life. Productive association-related complaints, however, as with anything complex, require having certain legal and human nature knowledge, as well as the ability to act rationally and in a calm manner. Unfortunately, many association owners are often unaware of the basics of association living or the means to address concerns.

MEET C-IHC'S NEW BOARD

- **Ed Hannaman, Esq., President:** Ed started the Association Regulation Unit in the Bureau of Homeowner Protection in the Department of Community Affairs in NJ and oversaw its operations for 26 years. He published two articles on homeowner rights (one regularly referred to for guidance by the courts) and after his retirement is maintaining his pursuit of rights for owners in common interest communities through the C-IHC.
- **Michael Roney, Vice-President:** Michael is a publisher, communications consultant and long-time association homeowner who helped lead the group that guaranteed free and fair elections for association boards through what has become known as the Radburn Law.
- **Joyce Murray, Esq., Treasurer:** As a lead legislative attorney and committee aide at the Office of Legislative Services, Joyce drafted legislation, provided legal counsel to legislative members of the NJ Legislature, and staffed various committees and task forces for 26 years. Joyce retired from the State in 2011, and opened a private law practice. As a specialist in housing, she has often been at the center of homeowners-rights legislation and litigation.
- **Margaret Bar-Akiva:** Margaret is a founding member of C-IHC and served as its initial President. A plaintiff in the seminal Twin Rivers case, she worked for the NJ DMAHS and over her career, served as its legislative liaison and administered several programs in the Office of Program Integrity, responsible for saving and recovering funds for the State.

All can be reached via email: info@c-ihc.org!

I've encountered many people who believe that they have exhausted their internal options when the property manager does not take actions they deem necessary, so then they complain to the state (more about that later). This is especially true regarding maintenance issues. Since the property manager is hired by and under the control of the association governing board, that means that the board is the first place you should go when dissatisfied with that person or company.

It is crucial to remember that your common interest community is in fact a representative democracy (technically it is a republic). Owners often mistakenly complain that the association did not consult them on a matter or did not solicit their approval for an action or did something which they disapprove of. Although it is true that certain actions (e.g., spending over a certain limit set forth in the governing documents or adding to common elements) require owner approval, it is important to remember that the owners *elect the board to oversee and manage association operations*. Therefore, it is pointless to complain about aboard action or policy to anyone other than to the board. Remember also that if you're unhappy with the way things have been going you can vote board members out (as in our larger democracy) when the next election occurs. state law requires free open and fair nominations and elections for all New Jersey planned communities!

"If we do not maintain justice, justice will not maintain us." – Francis Bacon

(Complaining, continued from previous page)

Read the Governing Documents

Before complaining, do your homework! Begin by reading the association governing documents (i.e., the declaration of covenants and restrictions, master deed or cooperative agreement, bylaws and association rules). Also review the guidelines about association jurisdiction on the Department of Community Affairs (DCA) website. (See the link at www.c-ihc.org/resources.)

Going to the State: Don't Start at the Top

In the broader world, especially in a commercial marketplace, it is often useful to “start at the top” when complaining. People think this gains them some clout, and maybe in the corporate world complaining to the CEO might actually get results. However, I can tell you that when it comes to planned community issues it's exactly the opposite. Starting with the governor's office, a state senator, or commissioner (other than simply asking where to direct your complaint) guarantees that your issue will wind its way through the bureaucracy and serve to annoy the person who is tasked with assisting you. It adds useless layers of bureaucracy that wastes time and interferes with work.

The New Jersey Department of Community Affairs (DCA) Association Regulation Unit (ARU) exists to help protect owners, with a

jurisdiction limited to four areas: open meetings, financial access, the provision of alternative dispute resolution (ADR) and elections. Complaining to the ARU or anyone in the executive branch about such things as maintenance, that the board refuses to listen to owners, that it raised fees or imposed an unnecessary special assessment or made any number of arguably bad decisions, is pointless. Some owners filling out the state's complaint form noted that it didn't address their concerns, and so added their own categories. However, the reason the form didn't list those particular complaints was because it only addressed those over which the state has jurisdiction!

If you believe a certain state agency has jurisdiction, and someone there tells you it doesn't, the most effective response is to make a cogent argument back to it – not just about what you want, but citing the law. If that doesn't get things moving, *then* you can write directly to the bureau chief, who will look into it and respond.

The Overworked Bureaucracy

Keep this in mind: People think of the state as an enormous entity with many thousands of employees. That is true, but only a precious few staff the ARU (for years it was just me). The ARU was, is now and, without legislative intervention always will be an understaffed operation with an overwhelming number of complaints being handled by one or two

Kudos and Thanks to Ellen Vastola

The members of the C-IHC Board, on behalf of all those who interacted with her, want to extend our sincere gratitude to our immediate past-President, Ellen Vastola, for her longstanding service to the organization. Ellen served steadfastly for more than 12 years at the helm of C-IHC. Volunteer Board service is one of the toughest (and usually thankless) volunteer roles one can perform.

Ellen kept C-IHC going during the tough times (including during COVID). As the C-IHC president and main contact, she interacted with thousands of owners in fulfilling the mission of our organization to assist and educate owners living in a CICs about their rights and the resources available to them. Through her efforts, C-IHC obtained a grant to further the cause of owner rights. Ellen was a consistently dedicated advocate of transparency and fairness in association operations. We appreciate all Ellen did for C-IHC and wish her all the best in her future endeavors. Bravo, Ellen!

(Complaining, continued from previous page)

underpaid staffers. Added to this is that they all too often will be opposed by extremely well-paid, well-staffed law firms dedicated to “protecting” their boards, and whose billings soar when the state becomes involved. All the interaction does for the ARU staffers is increase their burden. Thus, when complaining to the ARU, you must be patient and help yourself by providing crucial basic information, (Think of the classic Dragnet statement, “Just the Facts.”) There is a good reason for that. I advise writing out your complaint, citing your legal support, and then reduce that down to the basics – one page at most should be sufficient to explain the situation. Also, accept the jurisdictional limits. The state is limited by the law. It cannot directly get your maintenance done, undo your lien, make your board listen to you or even keep its records in an orderly fashion

I fully understood that owners being abused by their boards, or confronting boards that refuse to abide by the law or governing documents, are often understandably aggravated. They want to tell the whole story (and I mean every ailment they’ve ever had, their spouses have had and all the terrible things the board has done to others over the years, etc.). Now, some of these things could possibly be relevant, but a review of the ARU guidelines will help you to provide the most necessary (and effective) facts directly related to their matter. And, crucially, if those facts are not favorable to your cause you need to disclose them upfront, because the association most certainly will.

Here’s another tip: Requiring staffers to listen to hours of complaints or read pages of gripes is not helpful, while leaving out crucial information could hurt your case further. Do *not* send your association documents or association correspondence to the ARU unless specifically requested (such as to document a request for records, etc.). And, with emails especially, identify those persons involved by title. The

ARU doesn’t know that Jane/Joe is the property manager or Bill/Gladys is on the board, etc.

What About Alternative Dispute Resolution (ADR)?

Owners sometimes fail to mention whether they have had an Alternative Dispute Resolution (ADR) procedure on their issue. Because the first step for the ARU, when jurisdiction exists, is to contact the association, you should always assume that the other side will present its case, so it’s better that the ARU hears it first from *you*, the owner! That is why any negative information must come up front. If, for instance, you failed to attend an ADR procedure or there was a “disturbance” in the office while you were looking at financial records, etc., you need to mention and explain that, and do it succinctly.

The Limits of Legislators

Legislators always want to appear useful to their constituents. They don’t want to take a chance on ignoring something that an executive agency might handle. Thus, when we lacked jurisdiction over a complaint issue and the law could provide a solution, I would inform people to contact their legislators. However, I would also inform them that they need to specifically tell their legislators *not* to simply follow their typical practice and send the complaint to the DCA Commissioner (or to any other state agency), which would simply direct it to DCA as soon as it saw the word “association.” All that does is waste staffers’ time crafting a careful response that will be redrafted while it goes up and down the chain before being sent out. The Commissioner looks good to the legislator, who can then inform the constituent (weeks later) that the agency is not empowered by law to provide assistance. Worst of all, it lets the legislator off the hook with the belief that they’ve done something. Legislators must be told directly that they are the ones who need to take legislative action to address the concern. This is precisely where C-IHC can assist owners in suggesting ideas about exactly what action should be taken.

(Complaining, continued from previous page)

When bringing issues to the attention of your legislators, remember that their response will be limited by the fact that while numerous state laws exist to protect you, there are, unfortunately, still many gaps in legal protections to prevent association abuses.

It's All About Preparation

Overall, you'll get better results from your complaint if you are prepared with all of the facts at hand, keeping these realities in mind! An

owner who prepares before complaining by understanding their association documents, the state's jurisdiction, to whom to complain and what to provide, will be much easier to assist. Plus, knowing what to expect once a complaint is filed and avoiding unrealistic expectations is an advantage.



New Jersey Legislature: Legislation to Watch in 2023

Compiled by Joyce Murray, C-IHC Treasurer

Legend: A = Bill in the Assembly S = Bill in the Senate

Y = C-IHC supports; Q = C-IHC supports with amendments; O = C-IHC opposes

A607 Y Sponsor Sean Kean
Prohibits conflict of interests by governing board members or management employees of homeowners' associations. Last Session Bill Number: **A350**

A1102 Q Sponsors Chaparro, Annette Mukherji, Raj McKnight, Angela V.
Revises time period at which unit owners assume control of homeowners' associations.
Last Session Bill Number: **A1213**

A1126 Y Sponsor DePhillips, Christopher P.
Requires personnel at gated communities and multi-unit complexes to allow service of process.
Last Session Bill Number: **A106**

A2129 Q Sponsor Munoz, Nancy F.
Requires certain common interest community associations to publish certain information; requires that homeowners' association contracts for management and maintenance include 24-hour emergency services.
Last Session Bill Number: **A2528**

A2778 Y Freiman, Roy
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.
Last Session Bill Number: **A1695**

S1096 Y Vitale, Joseph F.
Provides that cooperative sober living residences are inherently beneficial uses.
Last Session Bill Number: **S1117**

S1387 Y Turner, Shirley
The "Owners' Rights and Obligations in Shared Ownership Communities Act."
Last Session Bill Number: **S1751**

S1545 Y Greenstein, Linda
Prohibits condominium associations from assessing insurance deductibles to individual unit owners or groups of unit owners.
Last Session Bill Number: **A2445 S3769**

A5239 Q Danielsen, Joe
Provides standards for election and recall of officers for associations of planned real estate developments and restricts certain expenditures.

OWNER'S CORNER

Radburn: Power in Numbers

by Michael Roney, Vice-President, C-IHC

There was big trouble in [Radburn](#). In 2004 our board had just sold 10 acres of parkland to a high-density developer without telling residents. How could they do that?! That's when most of us realized that in our community of 700 families – established in 1929 in Bergen County as one of the first planned communities in the United States – around 97% of homeowners were not considered members and essentially had no rights. Only the board could choose who would run for election. There was no financial transparency. Meetings were not open to residents.

This situation *had* to be illegal, we thought. We organized a citizens group and began sending newsletters to the community. Our group grew. We alerted the local press, which ran stories about us. Over two years we begged the board to reform, and even drafted a change to the bylaws, but they stonewalled us.

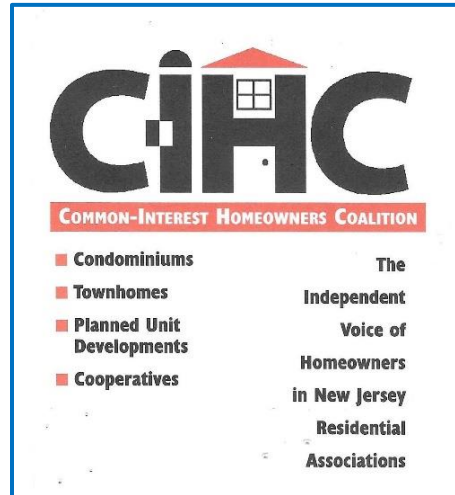
Eventually we had no choice but to sue our association. We partnered with [New Jersey Appleseed](#) and [Rutgers Community Law Clinic](#), filing a lawsuit challenging the legality of the arrangement under the state law that governed common-interest associations, the Planned Real Estate Development Full Disclosure Act (PREDFDA). Over the course of years the case wound its way through the courts while our board raised our assessments to pay for its own defense! They used the official community newsletter to accuse us by name of wanting to destroy Radburn! We had to be strong and hang tough.

Ultimately, New Jersey's Superior Court Appellate Division ruled that while our situation certainly was unfair, the law wasn't specific enough to require that all homeowners in a New Jersey Community be members. The court recommended that we would need to amend the law.

Taking another collective breath, we persevered. We lobbied legislators around the state. We hired the top lobbying firm in Trenton to help us. We attended hearings. Ultimately, our own state senator, Bob Gordon, realized something had to be done and joined our cause, co-sponsoring a bill to fix the situation. In the summer of 2017 our bill unanimously passed both houses of the legislature, and [became law on July 13, 2017](#) when Governor Chris Christie signed it. The "Radburn Law" not only provided a remedy for *our* problem, but also further protected the rights of homeowners across the state. It felt good.

This achievement wasn't easy. It required the dedication of many talented people in our community, the courage to stick to what we believed was right, and plenty of patience. It's good to remember that if you keep the faith and work hard good things will happen.

Do you have an owner's story that you'd like us to publish? Send it to info@c-ihc.org!



**Find more resources and support us through our website at www.c-ihc.org.
Join the conversation on our [Facebook page](#).**

Copyright © 2023 Common-Interest Homeowners Coalition. P.O. Box 162, Kingston, NJ 08528. (609) 807-1768