



The Special Assessment January 2025 Edition

Latest Developments with the Corporate Transparency Act

The rapidly changing requirements for filing Beneficial Owner Information (“BOI”) reports under the federal Corporate Transparency Act (“CTA”) continue. Over the past couple of months, community associations have been on



a whirlwind of a ride trying to keep track of whether or when to comply with the CTA. As of the publishing date of this article, the most recent update is as follows: on January 24, 2025, the U.S. Financial Crimes Enforcement Network (“FinCEN”) published a notice on its website (<https://www.fincen.gov/boi>) confirming that compliance with the CTA remains voluntary for now due to pending litigation.

As you may recall, in the case of *Texas Top Cop Shop, Inc. v. Garland*, on December 23, 2024, a panel of the U.S. Court of Appeals for the Fifth Circuit issued an Order that reinstated the CTA’s reporting requirement after being initially paused on a nationwide basis by the U.S. District Court for the Eastern District of Texas. Then on December 26, 2024, the full U.S. Court of Appeals for the Fifth Circuit issued a new Order, reinstating the nationwide preliminary injunction, thus again pausing the reporting requirement. On January 23, 2025, a three-judge panel of the U.S. Supreme Court ended the nationwide injunction that had been entered in the *Texas Top Cop Shop* case. Despite this ruling, however, FinCEN took the position on January 24, 2025, that a preliminary nationwide injunction entered in a separate Texas federal case (*Smith vs. US Department of the Treasury*) continues to be in effect and that the BOI filing deadline under the CTA remains paused.

Again, as of January 28, 2025, community associations deemed to be “reporting companies” under the CTA, for now, are not obligated to file BOI reports while the nationwide preliminary injunction remains in place in the *Smith* case.

Reporting companies, however, remain free to voluntarily file BOI reports with FinCEN. It is likely that additional court rulings will continue to impact the enforcement of the CTA, so we will continue to keep our clients informed. Updates can be found on our website in the [CWMEB Journal](#). We also suggest monitoring the [FinCEN website](#) for further developments as to a new deadline.

In the meantime, to best serve our clients, as well as due to FinCEN's failure to grant community associations an exemption, our law firm has partnered with a Corporate Transparency Act reporting vendor named FincenFetch to establish a secure, ready-made solution as a service to our clients to file their Beneficial Ownership Information Reports with FinCEN. Here are the details:

- **BOI Filing Requirement.** As noted in our [prior posts and newsletters](#), the CTA requires that many organizations in the United States file reports regarding their "Beneficial Owners" to the Department of Treasury's FinCEN website. This includes most community associations.
- **Deadline and BOI Requirements.** As noted above, the reporting deadline has been paused, at least for now. Prior to that order, however, the deadline for filing BOI Reports (for organizations created prior to January 1, 2024, that are subject to the CTA) had been extended to January 13, 2025, pending further order of the court. While the deadline is not in effect as of this date, if the filing requirement is reinstated at some point, keep in mind that there is also an ongoing reporting requirement for updates to be filed within 30 days of any change, such as when a director joins or leaves the board or there is any other change in the reported information. For community associations, the BOI reports include information regarding the association's beneficial owners (such as each officer and director's name, address, date of birth, and the image of a government issued ID). It is critical that associations comply with the filing requirement if it is reinstated, as there are civil and criminal penalties for failing to do so.
- **Affiliation with FincenFetch.** While a law firm is not required for associations to report BOI information, some boards have indicated that they have had trouble completing and uploading these reports, and other clients have expressed a preference to be able to file the reports in coordination with their legal counsel. Therefore, CWMEB reached an arrangement with FincenFetch, an industry-leading vendor that assists organizations in collecting BOI information and uploading the reports to the FinCEN website. FincenFetch uses state-of-the-art, secure servers to store and transmit the BOI information from directors and upload it to FinCEN through an easy-to-use interface. FincenFetch also sends out periodic email reminders for associations and directors to update information (such as when officers or directors change or IDs expire) to assist with ongoing compliance.
 - **Opting In to Access FincenFetch Through CWMEB.** If your community association would like to use Chadwick-Washington's FincenFetch portal to file its BOI reports and comply with the CTA requirements, here are the details:
 - **How to Do It.** Simply have an authorized association officer or manager send an email to CTA@chadwickwashington.com with the name of your association and basic contact information. After this, an email will be sent back to the requesting contact person with a unique, secure link to complete the process. The report will be completed online, with a separate secure link to be emailed to each individual director (or other identified "beneficial owners") prompting them to upload their personal information to FincenFetch (without other directors having access to others' personal information). Once all beneficial owners have uploaded their information, CWMEB will be notified, and the association's BOI report can be uploaded to and filed with FinCEN.
 - **Technical Help If Needed.** The FincenFetch portal includes a chat messaging system for technical support if directors or managers have any questions or issues uploading their information. Our team, of course, is also available to address any legal questions the association may have.
 - **Costs.** By opting in to use CWMEB's FincenFetch portal, your association agrees to pay a flat fee to our firm for the initial BOI report filed through our platform, and a smaller additional charge for any updated reports. More information regarding these fees can be obtained by sending an email to CTA@chadwickwashington.com.
 - **Accuracy of Information.** Please note that it is up to the association and its board members to accurately and fully report all required BOI information. CWMEB is not responsible to the association, FinCEN or any other party for incomplete, inaccurate or false information reported to FincenFetch or FinCEN. Please

note that reports will not be uploaded to FinCEN until the association has certified that all beneficial owners (such as officers and directors) have reported all their required information.

- The firm is hopeful that our arrangement with FincenFetch will help your association quickly and efficiently comply with the requirements of the CTA in a secure and easy-to-use portal. Please contact your association attorney if you have any questions or concerns regarding complying with CTA or opting in to our FincenFetch program.

Of course, associations should continue to monitor ongoing developments regarding the various court cases involving CTA, with particular attention to determining whether reporting deadlines have been reinstated. We will work to provide updated information on our website in the [CWMEB Journal](#), but associations may also monitor other sources of information and media outlets, including updates from the [Community Associations Institute](#).



It's Midnight. Do You Know How Your Association is Faring?

By Melissa Payne, Esq.

Let us set the scene. January 1 has come and gone, the holiday season is long gone, and 2025 is in full swing. You have a 9 A.M. kickboxing class scheduled for every Tuesday until the end of time, and you have every intention of organizing the closets in your house by the end of January (and keeping them that way – here's to hoping!). This is your year! What more is there to do, you ask.

If we may, let us suggest a few “New Year’s Resolutions” for the community association in your life. We have compiled a list of resolutions that you, as a volunteer board member or community manager, may use as a tool to ensure your association is in tip-top shape for 2025 and beyond.

1. Solar Panels and EV Charging Stations. As solar panels and EV charging stations are becoming increasingly commonplace, the law has evolved regarding how community associations may regulate them on owners’ lots. It may be time to review your association’s architectural guidelines or other rules to ensure they align with current law. Laws in Virginia and DC are pushing associations to go green, and you may have to comply! Also, more and more associations are considering adding common area EV chargers, particularly if the local area does not have much to offer. See if your governing documents allow this kind of upgrade by board or homeowner vote.

2. Insurance Professional. If you have not caught up with your insurance professional in a few years, it may be time to set up that meeting. We recommend consulting with your insurance professional every two to three years to ensure your association has the insurance coverage it needs to stay protected, including newer products like cyber liability coverage. Keep in mind that certain coverages may be required by your governing documents, while some are mandated by law (such as Virginia-mandated fidelity bond or employee dishonesty insurance policy to protect the association's funds). Your insurance broker or agent may also have some tips for improving your claims history and potentially even your insurance premiums.
3. Renewal Dates. From snow removal to landscaping, fire alarm servicing to management contracts, there are a lot of vendor agreements to track. We recommend creating a matrix of renewal dates for your association's contracts. That way, an automatic renewal clause will not catch anyone by surprise and the board will have ample time to provide notice of its intent not to renew if a change in providers is desired or under consideration.
4. Governing Documents. Your association's governing documents (i.e. the declaration, bylaws, and rules and regulations) serve as the framework by which the association operates - a joint contract, if you will. Review your governing documents periodically to stay abreast of their provisions, but with an eye out for what amendments may be worth pursuing to benefit the community as the world and your community evolves.
5. Va. Requirements. In Virginia, community associations are legally required in some instances to have certain rules or policies in place. It is important to make sure your association has the following policies (and that they are up to date with current law):
 - CICB complaint policy (for complaints the association is violation community association laws or regulations).
 - Policy for charging for access to books and records, with an approved cost schedule (required if the board wants to charge owners for this service).
 - Policy (or "guidelines") for conducting meetings and voting through electronic means (before e-meetings or e-voting are implemented by the board).
6. Managing Agent CICB Requirements. For Virginia managers, check your own compliance with the CICB continuing education requirements and ensure that your management company's CICB license is active and up to date.
7. Reserve Studies. For condominiums and property owners' associations in Virginia, boards of directors must conduct a reserve study every five years to determine the necessity and amount of reserves required to repair, replace, and restore capital components (i.e., those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement, or restoration). In addition to conducting a study, the board of directors must review the results of that study at least annually to determine if the reserves are sufficient. Think of this as your association's yearly check-up. Keeping up with the statutorily mandated reserve study requirement is not only the law but also serves as a tool that effectively keeps associations financially healthy and on track to meet future repair and replacement needs.
8. FHA Recertification. For most condominiums, in order for buyers and owners to be eligible for financing through FHA insured loans, the condominium must be certified by the FHA as meeting certain minimum standards. Although boards are not required by law to have the condominium FHA-certified, boards should consider whether the benefits (such as increasing the pool of potential buyers) outweigh the administrative burdens and expense. If the board decides to obtain FHA certification, keep in mind that you will need to go through the FHA recertification process every three years. If you are unsure of whether your condominium is currently certified or when your condominium's certification expires, the answer may be found here:

<https://entp.hud.gov/idapp/html/condlook.cfm>

9. Resale Certificates: In July 2023, the legal requirements regarding what information must be included in resale certificates was updated, with resale documents for Virginia condominiums and property owners' associations being consolidated under one law. Check out Section 55.1-2310 of this relatively new Virginia Resale Disclosure Act to ensure that the certificates issued by your Association comply with the updated statutory requirements. The current version of the standardized resale form and maximum allowable fee schedule can be found here: https://www.dpor.virginia.gov/CIC-Board/Disclosure_Notices . For DC Condominiums, the law has not changed recently but is worth checking to ensure compliance – it can be found here: <https://code.dccouncil.gov/us/dc/council/code/sections/42-1904.11>.

The new year is the best time for a fresh start. Polish those resolutions, make that call, set up that meeting. In 2025, it's your association's year!



Know the Lingo: Association Intentions & (Naming) Conventions

By Brad Barna, Esq. and Edward J. Cush, III

Like most of our clients, you likely refer to your community association as “The Association” or “my association.” When we provide legal advice to our clients, we will often use shorthand to refer to our clients in the same manner. Shorthand nomenclature is undoubtedly valuable. On the front end, it allows readers to more easily digest what’s being written. At the back end, it also allows a writer to be more succinct and easily understood. But what shorthand saves in time and money, it may lose in clarifying where a given “Association” stands in relation to other entities in the common interest community association field that may also be referred to using the same word, but are actually entirely different things with varying applicable laws and standards.

The same may apply when you discuss your “HOA” with another person, and they share information on their “HOA.” It may sound like you are referring to the same thing, but you may be discussing two completely different entities without even realizing it. The goal of this article is to arm readers with the context necessary to promote understanding of just how many different types of “HOAs” or “Associations” there can be, and knowing that when we say “Association” it could mean a variety of different things for each client.

Condominiums (“Condos” & “Condominium Unit Owners Associations”):

Condominiums are a creature of statute - namely, the Virginia Condominium Act (Code of Virginia, Section 55.1-1900, *et seq.*) or the D.C. Condominium Act (D.C. Code, Section 42-1901.01, *et seq.*). Condominiums are physically constructed by or on behalf of “declarants”, and *legally created* upon the recordation of each of the “condominium instruments” (*declaration, bylaws, and plats and plans*) in the land records of the Virginia county or city where the condominium property is located (or in D.C., the D.C. Recorder of Deeds). Ordinarily, those who buy into a condominium obtain full ownership of the unit(s) purchased along with an undivided percentage interest in the “common elements” (as

defined throughout the condominium instruments) – they may also acquire the right to the exclusive use of a “limited common element” of the condominium, such as a parking space. While the condominium’s declaration is the means by which the declarant (developer) “declares” that a piece of land is a condominium, a condominium’s bylaws will typically create the unit owners’ association and contain the governance structure for management of the community. Also note that while many people hear the term “condo” and think of a high-rise building, any type of physical building or development can be created as a condominium, including single-family home developments, commercial office parks, townhome developments, parking garages, and even private airports.

Planned Communities (“Homeowners Associations” & “Property Owners Associations”):

Often used interchangeably, “homeowners associations” (“HOAs”) and “property owners associations” (“POAs”) are virtually identical in nearly all respects. The affairs of HOAs and POAs alike are regulated by the association’s “governing documents”: (1) *declaration or other type of restrictive covenants*, (2) *articles of incorporation (if applicable)*, and (3) *bylaws*). HOAs and POAs, unlike Condos, need only record their restrictive covenants or declaration (a document ordinarily setting forth covenants, conditions, and restrictions applicable to owners of property under association control) with the county or city land records office. Those who buy into an HOA or POA own *only the home(s) or lot(s) purchased*, and not the association’s “common area” or “open space”.

While all legally recognizable POAs in Virginia can be referred to as “HOAs”, not all HOAs legally amount to “POAs” under current Virginia law. Whether an “HOA” qualifies as a “property owners’ association” that is subject to the Virginia Property Owners’ Association Act (“POAA”) hinges upon whether the HOA’s recorded declaration expressly provide the HOA power to collect or make certain assessments and whether that declaration imposes upon the HOA a corresponding duty to maintain common area. See [Dogwood Valley Citizens Ass’n v. Winkelman](#), 267 Va. 7 (2004). If your association is uncertain about whether it is an “HOA” or a “POA”, or concerned about the legal implications of this distinction, your association should consider contacting legal counsel on these issues.

Cooperatives:

Cooperatives are another type of community association existing in Virginia and the District of Columbia. While cooperatives are most often seen in older cities, there are a number of them remaining in both jurisdictions, but more so in D.C. Cooperatives are typically in apartment-style buildings and often confused with condominiums. However, in a condominium, an owner owns their individual unit plus a proportionate share of the common elements, while in a cooperative, an owner does not own the unit but instead owns a share in the cooperative association, with the ownership of the share granting a right to occupy a specific unit within the cooperative building. While this appears similar to some condominiums, the legal ownership is very different and has significant impacts on the rights of owners, associations, and even lenders.

Civic Associations:

Another type of community entity that you may come across are civic associations. Typically, civic associations are *voluntary* membership entities that residents within a geographic area can join to help promote the common interests of residents within their community. While civic associations are made of individuals with interests in a community, they are not “common interest communities” in which membership is mandatory for all persons owning a unit or land that is subjected to a recorded declaration of covenants. In addition, the voluntary nature of civic associations means that they have little authority and as such are a very different type of entity to Condos and HOAs/ POAs in Virginia.

Incorporated vs. Unincorporated Associations:

Another key distinction amongst community entities is whether they are incorporated or not. Many associations will be required by their governing documents to be an incorporated entity, while others may opt to do so for various reasons. Once incorporated, most community associations would be subject to the Virginia Nonstock Corporation Act (in addition to any other applicable statute; note that cooperative associations are typically stock corporations). There are many considerations that go into whether an association should incorporate, including whether or not corporate protections

would help protect the association's members from personal liability for acts or omissions of the association. If your association is not incorporated, you may wish to consult with legal counsel to discuss if doing so may be beneficial.

Key Takeaways

Common interest community associations come in many shapes and sizes, and many formats and structures. Each type of community association is different, and each community association within those types is governed by a different set of governing documents. We often provide general education regarding "associations", as we do in this newsletter, and many people will discuss "HOAs" with people that also have an "HOA" but of an entirely different type, subject to entirely different governance. Please keep in mind that solutions for association problems can be as varied as the many types of associations, and that a "one-size fits all" approach may not always be appropriate. Legal counsel can assist with answering questions regarding governance issues, interpreting governing documents, and providing advice to associations of all types.

CHADWICK WASHINGTON MORIARTY ELMORE & BUNN, P.C. ELECTS TWO NEW PARTNERS



Bradley Barna

Olga Tseliak

We are pleased to announce that Bradley M. Barna, Esq., and Olga S. Tseliak, Esq., will start off the New Year as shareholders of the firm with the focus of their practice being common interest community association representation.

Brad M. Barna, Esq. is in the firm's Fairfax office and joined the firm in January 2016. A northern Virginia native, his practice is devoted to representing community associations in such matters as corporate governance and procedure, reviewing contracts and resolving contract disputes, and covenant and rule interpretation and drafting. Brad also

provides litigation services to the firm’s clients, including representing community associations in assessment collection and covenant enforcement cases, as well as warranty claims and general defense. Brad is an active member of the Washington Metropolitan Chapter of Community Associations Institute (“WMCCAI”) and works with the D.C. Legislative Action Committee (“DC-LAC”). He has also provided education and seminars to managers and directors on a variety of topics impacting community associations.

Olga S. Tseliak, Esq. joined the firm as an attorney in 2015, having previously been employed by Chadwick Washington as a paralegal since 2010. Olga completed her legal studies part time while maintaining her full-time job at the firm and graduated from George Mason University School of Law magna cum laude. Olga’s practice is devoted primarily to community association law and creditor’s rights in Northern and Southeastern Virginia. She provides counsel and advice to the firm’s clients regarding a wide range of community association issues including, for example, corporate governance, developer transition and warranty, drafting of rules and regulations, covenant enforcement, drafting and negotiation of client contracts, and general litigation. Olga is actively involved with the Washington Metropolitan Chapter of Community Association Institute (“WMCCAI”), where she is the chair of Quorum Committee and has authored multiple articles in Quorum magazine, and in the Southeastern Virginia Chapter of Community Association Institute (“SEVA-CAI”), where she volunteers for the Program Planning Committee. In 2021, Olga received a Rising Star Award in recognition of her work for WMCCAI, and in 2024, she received a Rising Star Award in recognition of her contributions to SEVA-CAI.



Tiago Bezerra will be ceremoniously inducted as a Fellow with CAI’s College of Community Association Lawyers (CCAL) at the Community Associations Institute Law Seminar on January 30, 2025. Tiago will be the ninth attorney in Chadwick

Washington's history to receive this substantial honor, which recognizes attorneys throughout the country for their excellence in the practice of community association law. Nationwide, there are only approximately 200 CCAL fellows.

CWMEB Welcomes New Attorney



Chadwick, Washington, Moriarty, Elmore & Bunn, P.C. is excited to announce that **Katherine L. Milane** joined the firm in December 2024 as an attorney in the firm's Fairfax office, having worked as a community association attorney since 2022. Prior to practicing community association law, Katy spent nearly a decade as a litigator in the criminal justice system. She received her J.D. from the University of Akron School of Law in 2008 and graduated from Miami University cum laude in 2025. Katy provides general counseling and representation to community associations concerning assessment collection, covenant enforcement, contract negotiation, corporate governance, drafting rules and policies, and interpretation and amendments of governing documents. Katy also provides litigation services, including representing community associations in assessment collection and covenant enforcement cases.

Firm Happenings



Brendan Bunn recently served out his 2024 term as President of the Board of Governors of CAI's College of Community Association Lawyers, a year in which he also presided over CAI's various challenges to the Coporate Transparency Act. He remains on the Board for 2025. Brendan has also been named as President of our law firm beginning in 2025.



At the 2024 WMC-CAI Annual Awards Dinner and Celebration **Wil Washington** was the recipient of the Chapter's President's Award, **Sara Ross** was the recipient of the Chapter's Outgoing President's Award, **Bruce Easmunt** was the recipient of the Chapter Appreciation Award, and **Tiago Bezerra** was the recipient of the Chapter's Virginia Public Advocate of the Year Award.



Michael Sottolano received the 2024 Chapter Award from CVC-CAI and was part of the Committee of the Year presented with the Chapter's 2024 People's Choice Best Event of the Year Award. He was also recognized by the SWVA-CAI for his leadership and contributions to the Chapter at SWVA-CAI 2024 Annual Meeting and Business Summit.



Olga Tseliak received the 2024 Rising Star Award from SEVA-CAI and has been appointed as Co-Chair of the Quorum Committee of WMC-CAI.



On January 22, 2025 **Michael Sottolano** and **Olga Tseliak** presented *Tips for Success: The Essential Guide for Community Association Leadership* at a Hampton Roads Webinar hosted by EJP Real Estate Services. To access a recording of the presentation, click [here](#).



Jerry Wright and **Michael Sottolano** will be presenters at the 2025 Rules and Regs Update hosted by CVC-CAI on February 27, 2025. For more information and to register, click [here](#).



Dan Blom and **Tiago Bezerra** will be presenting the *Animal Questions Game Show – Fair Housing Edition* at the WMC-CAI Annual Conference & Expo on March 8, 2025.



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