



The Special Assessment October 2024 Edition

The Corporate Transparency Act (CTA): Obtaining a FinCEN Identifier and Filing BOI Reports for CTA Compliance: Step-by-Step Guides for Community Associations



As part of our continuing efforts to educate community associations on complying with the federal Corporate Transparency Act (“CTA”), we are pleased to offer additional informational resources – specifically, step-by-step guides for: (1) beneficial owners and company applicants to obtain their own FinCEN Identifiers, which can then be provided to the person or company that is completing and filing their association’s Beneficial Owner Information (BOI) Report; and (2) filing the association’s initial BOI Report. We also previously published CTA FAQs for community associations.

- Click [HERE](#) for our “How to Guide” for obtaining a FinCEN Identifier.
- Click [HERE](#) for our “How to Guide” for filing the initial BOI Report (for community associations incorporated/created prior to January 1, 2024).
- Click [HERE](#) for our “How to Guide” for filing the initial BOI Report (for community associations incorporated/created on or after January 1, 2024).
- Click [HERE](#) for our “Frequently Asked Questions” document regarding compliance with the CTA by Virginia and D.C. community associations (homeowners’ associations and condominium unit owners’ associations).

CAI Lawsuit Filed to Challenge CTA – Includes Two Chadwick, Washington, Moriarty, Elmore & Bunn, P.C., Clients

On September 10, 2024, the Community Associations Institute (CAI) filed a lawsuit against the U.S. Department of Treasury challenging the application of the Corporate Transparency Act (CTA) filing requirements as they apply to community associations. The lawsuit was filed in the U.S. District Court for the Eastern District of Virginia (Alexandria division). A Motion for Preliminary Injunction was also filed with the suit seeking an emergency court order staying the CTA filing requirements for community associations pending a final decision of the Court. That motion will likely be heard by the Court in mid-October. *A copy of the suit is available at the CAI link at the bottom of this page.*

In addition to CAI, named plaintiffs in the lawsuit include several individual community associations from Virginia and elsewhere, including two CWMEB clients in Northern Virginia that volunteered to be part of the effort. Having associations named as plaintiffs in the lawsuit helps to illustrate to the Court the negative consequences that could be caused by CTA's filing requirements for organizations that are run by volunteers.

CWMEB is representing all the individual association plaintiffs in the case, with [Brendan Bunn](#) serving as counsel of record. Brendan is currently the President of the Board of Governors for the [College of Community Association Lawyers](#) and helped lead the CAI Task Force that spearheaded the challenge to the CTA, including the request of CAI's Board of Trustees to fund the suit.

The federal lawsuit challenges the application of CTA to associations on various legal grounds, including:

1. **Exemption from the Corporate Transparency Act:** Communities should be exempt from the CTA requirements given that they are considered "nonprofit organizations" under section 528 of the IRS code.
2. **Improper Procedures as to Rulemaking:** The FinCEN office issued a number of "FAQ" policy decisions without following notice-and-comment procedures required by federal law.
3. **Arbitrary and Capricious:** The suit argues that FinCEN improperly refused to exempt associations from the CTA without considering the relevant factors, making that action both arbitrary and capricious.
4. **Constitutional Violations:** The CTA violates' constitutional rights under the Fourth, Fifth, and Ninth Amendments by requiring invasive personal disclosures without adequate privacy protections or sufficient cause.
5. **Federal Power Overreach:** CTA unlawfully intrudes on the authority of states to regulate corporate formation and governance, exceeding the federal government's constitutional powers.
6. **Equal Protection Violations:** The act discriminates against community associations by not exempting them as nonprofit organizations, unlike similar entities under section 501(c) of the IRS code.

Please note that currently the CTA's deadline for compliance remains **January 1, 2025**, and community associations should continue preparations for filing by that deadline. While it is hoped the suit will ultimately be successful, it is highly unlikely to be resolved this year. Stay tuned to CAI's [CTA webpage](#) regarding the progress of the federal lawsuit now pending in the Eastern District of Virginia.

In the meantime, feel free to consult your CWMEB attorney regarding any questions you may have regarding the CTA, its applicability to your community, and how to comply.



Embracing the Future: How to Leverage Artificial Intelligence in Community Associations

By Lindsey Davis, Esq.

If you have searched for a question online recently, chances are you have encountered an “AI Overview” or suggestion at the top of the results. Whether through search engines or programs like Microsoft Word, Zoom, or even at the McDonald's drive-thru, artificial intelligence (AI) is rapidly integrating into and becoming ubiquitous in our daily lives. This is for good reason—AI offers the potential to simplify tasks and provide unprecedented access to information and resources. Many business and corporate enterprises, community associations included, are increasingly looking to AI as a possible way to streamline operations, enhance services, and improve overall efficiency. Effective and responsible use of AI, however, requires an informed and balanced approach. This article provides a brief overview of AI, its advantages and disadvantages in the context of community associations and offers suggestions for successful implementation.

Understanding AI: The Basics

What exactly *is* AI? AI is a branch of computer science that focuses on creating systems capable of performing tasks that normally require human intelligence.¹ An increasingly common form of AI today is "Generative AI," which refers to AI systems capable of generating new content based on predictive models and large information databases. Generative AI learns from existing data and then is supposed to create new content based on that data. The effectiveness of Generative AI, however, depends heavily on the quality and diversity

¹ Oxford Dictionaries. <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803095426960>

of the data it is trained on. Human oversight and judgment are essential to assist in guiding and shaping the behavior and outcomes of AI, because AI still lacks understanding of the concepts that it replicates and cannot reason or think like a human.² Nevertheless, as the data inputs grow, the capabilities of Generative AI continue to advance and improve.

Using AI in Community Associations

A recent survey conducted by *Common Ground* (Community Association Institute industry magazine) indicates that only 4% of community associations and management companies are currently using AI, while a surprising 65% indicated that AI could be useful for community associations.³ Thus, there is a clear interest in using AI, but many may not know where to start. The AI industry suggests ten ways AI may currently be used by community associations:

- **Data Analysis** – AI has the power to analyze vast amounts of data, which may help identify trends and provide actionable insights, such as for creating a draft community budget.
- **Administrative Efficiency** – Automation tools may be able to handle certain administrative tasks associated with record-keeping and invoicing.
- **Vendor Management** – AI may streamline vendor selection and management processes by analyzing vendor performance data as well as assist in comparing key provisions and offer points in potential service agreements.
- **Voting Systems** – AI may streamline voting processes for elections and other matters involving a membership vote, with the goal of promoting accuracy.
- **Efficient Communication** – Chatbots and virtual assistants may generate responses to routine inquiries, streamlining communication.
- **Parking Management** – AI systems may be able to optimize parking space allocations and enforcement of parking regulations.
- **Predictive Maintenance Tools** – AI algorithms may predict equipment failures, enabling better proactive maintenance.
- **Security Systems** – AI surveillance systems may enhance community security by helping to detect unauthorized activity.
- **Energy Management Solutions** – AI may optimize the association’s energy usage, reducing cost and environmental impact.
- **Accessibility Improvement** – AI may enhance accessibility by providing language translation services, facilitating communication for non-native speakers, and improve user experience for people with disabilities through assistive technology.⁴

The Potential Benefits of AI in Community Associations

When implemented effectively and after much internal due diligence and testing, AI may offer numerous advantages for community associations. Automating routine tasks such as administrative work, scheduling,

² Artificial Intelligence Meets Community Association Law: Remaining Relevant In The Age of ChatGPT

³ Common Ground Nov/Dec 2023 <https://lsc-pagepro.mydigitalpublication.com/publication/?m=20613&i=803183&p=6&ver=html5>

⁴Artificial Intelligence Meets Community Association Law: Remaining Relevant In The Age of ChatGPT

See also *Common Ground* March April 2024 “2024: An AI Odyssey https://lsc-pagepro.mydigitalpublication.com/publication/?i=814547&article_id=4719780&view=articleBrowser

See also ChatGPT response “How are community associations using AI”: <https://chatgpt.com/>

and homeowner inquiries, may improve efficiency. This would allow the board and association employees and managers more time to focus on more complicated community needs, strategic projects and non-routine inquiries. Using AI may also promote professionalism through work product standardization.⁵ Associations may also benefit from AI's ability to analyze large data sets, identify patterns, and anticipate future needs. Lastly, resident experiences may be improved through AI features such as chatbots that provide immediate feedback, which in turn can increase resident communication and satisfaction.⁶

Challenges and Considerations

While AI has great potential, it is not without its challenges. First, AI requires clear, specific, and contextual information to perform accurately. In other words, the quality of AI outputs depends heavily on the quality of inputs – the information in its database and the questions (prompts) entered by the user.⁷ If you want to increase your odds of producing a great response from AI, you need to carefully and precisely word your prompts to give the AI tool clear objectives. AI also needs repetition to produce accurate information, which can be seen by disclaimers such as ChatGPT's language at the bottom of its search engine stating "ChatGPT can make mistakes. Check important info." The frequency of inaccurate responses is so common that they are now referred to as AI "hallucinations" – basically, the Generative AI tool fabricates an answer that simply appears to be authentic.⁸

Bias poses another significant concern.⁹ Poorly crafted or overly complex prompts can lead to biased outputs, as AI is only as unbiased as the data it is trained on.¹⁰ Users must exercise sound judgment and determine what tasks are appropriate for automation. For example, low risk tasks such as generating community informal notices of events and reminders could be automated and may require minimal supervision initially. In contrast, a high-risk task would require a higher level of human control and oversight, such as creating official notices and other documents that are either required by law or the governing documents and that, if not worded correctly, can expose the Association or board members to legal disputes or liability.¹¹

Another factor to consider is that AI outsources interpersonal connections, which makes it impersonal to you. It's important to ensure that any work product generated by AI retains a personal touch where necessary. Finally, privacy concerns must be addressed, particularly with respect to the collection and handling of sensitive homeowner data, which should be closely regulated and could expose the association to potential liability if improperly disclosed.¹² Most publicly available Generative AI tools harvest all user-provided information to use to train the AI and to potentially share with other third parties.

Conclusion and Recommendations

AI has significant potential to assist community associations with everyday routine tasks, which can help board members and managers focus more on other more complicated governance and operational projects and decision-making. Before fully embracing AI, however, associations must be mindful of its limitations, such as

⁵ Innovate Before It's Too Late: Generative AI and Community Associations, March 2024 CAI Webinar

⁶ Artificial Intelligence Meets Community Association Law: Remaining Relevant In The Age of ChatGPT

⁷ Innovate Before It's Too Late: Generative AI and Community Associations, March 2024 CAI Webinar

⁸ <https://mitsloanedtech.mit.edu/ai/basics/addressing-ai-hallucinations-and-bias/>

⁹ <https://www.unesco.org/en/articles/generative-ai-unesco-study-reveals-alarming-evidence-regressive-gender-stereotypes>

¹⁰ Artificial Intelligence Meets Community Association Law: Remaining Relevant In The Age of ChatGPT

¹¹ Innovate Before It's Too Late: Generative AI and Community Associations, March 2024 CAI Webinar

¹² Artificial Intelligence: Responsible Guidelines for Your HOA - HOAresources (caionline.org)

overreliance on technology, potential biases in algorithms, privacy concerns, the need for human oversight and the need for ongoing training and monitoring.

As a first step, if considering utilizing AI, association boards of directors should first consider consulting with qualified, experienced IT consultant, and then, if the decision to is move forward, consider adopting clear guidelines regarding how AI will be used by the association. Even if the association is not currently using AI, but is anticipating doing so in the near future, establishing a framework will set the association up for future success and help ensure all board members, managing agents, and employees have a better understanding of when and how to use AI responsibly.¹³ The association’s legal counsel is in the best position to assist with preparing such guidelines for potential adoption by the board.



Trick-or-Treat Triumph: Top Tips for a Safe and Happy Halloween

By Michael A. Sottolano, Esq.

As the days grow shorter, the nights longer, and Halloween creeps closer, many in your community may be getting ready for a night of spooky fun and eerie excitement. For homeowners, HOAs, and condominium associations, this haunted holiday offers a fun opportunity to conjure up a memorable

night of treats, spooks and scares. With some thoughtful planning, associations and their residents can help ensure that Halloween is not only thrilling but also a safe experience for all involved. So, let’s dive into a cauldron of tips and tricks to make this Halloween a bewitching success!

Community Safety Tips

All residents have a role to play in helping create a safe environment during Halloween. Owners should make sure their homes are well-lit to enable trick-or-treaters to navigate safely and help prevent accidents, injuries and damage to property. Keeping pathways clear of obstacles can help minimize the potential for falls. Using non-flammable decorations, especially around candle-lit jack-o-lanterns, is also recommended (better yet, encouraging the use of battery-operated candles, rather than live flames, can help minimize the possibility of damage, injury and resulting potential liability). Keeping pets indoors on Halloween night can help protect them, and trick-or-treaters, from potential stress and injuries. Reminding drivers in the neighborhood to drive slowly and be extra aware during Halloween, as well as reminding parents and children to wear bright or reflective costumes for trick-or-treating to aid in visibility, can also help ensure a fun and safe evening for all.

Adopt Appropriate Rules and Guidelines

Community associations can play an important role during Halloween. If there is sufficient authority in the association’s governing documents to establish rules such as setting specific trick-or-treating hours or regulating parking within the community, this can help manage the influx of people during the evening. Communicating with owners and residents about the applicable rules for the community, (including reminders about any community noise ordinances or quiet

¹³ *Common Ground* March April 2024 “2024: An AI Odyssey https://lsc-pagepro.mydigitalpublication.com/publication/?i=814547&article_id=4719780&view=articleBrowser

hours, through newsletters, email blasts, community websites, bulletin boards, placards placed near entry or exit points to the community, or social media) can help ensure everyone is informed and prepared.

Association Events and Celebrations

If your association hosts Halloween events like a haunted house, a costume contest, a ghoulish parade, trunk or treating, or a spooky neighborhood party, proper planning prior to the event is key. The board of directors should ensure that any events held on common areas/elements or hosted, sponsored or affiliated with the association include sufficient liability insurance (and possibly additional coverage, riders, or licenses, such as an ABC banquet license if alcohol is to be served). You may need to consult with the association's insurance carrier or agent regarding whether the association's current coverage in place is adequate or if additional policies or riders may be worth adding. If music is to be played at the event, especially if not an original work of the artist performing, then a license for such performance may be needed from one or more of the major performing rights organizations, which include Broadcast Music, Inc. (BMI), the American Society of Composers, Authors and Publishers (ASCAP), the Society of European Stage Authors and Composers (SESAC). If the association will be facilitating activities with a higher risk of injury (such as moon bounces), obtaining appropriate signed assumption of risk/waivers by participants (or the parents or guardians of minors), may also be prudent.

With a little common sense, reminders and advance planning, your community can have a spooky, but safe, experience. If questions arise along the way, consultation with legal counsel can be helpful to ensure the association is adequately protected.



We are thrilled to announce the launch of our firm's new website!

As a law firm dedicated to representing common interest community associations across Virginia and Washington, D.C., our revamped site is designed to better serve our clients, community association managers and business partners. With improved navigation and functionality, you can easily access the latest legal updates, resources, and information on our services. Visit us at www.chadwickwashington.com to explore the new features and stay connected with everything happening at Chadwick, Washington, Moriarty, Elmore & Bunn, P.C. We can't wait for you to check it out!

Chadwick Washington Zoom Webinar Series



Chadwick, Washington, Moriarty, Elmore & Bunn, P.C., is pleased to host and invites you to attend our last educational Webinar in our 2024 series highlighting topics relating to community association law and governance. Each Webinar is approximately one hour, with two topics presented by CWMEB attorneys followed by Q&A Sessions in separate Zoom breakout rooms staffed by CWMEB attorneys. The waiting room for the Webinars opens about 15 minutes before the sessions begin at 7:00 p.m., with the Q&A Breakout Rooms opening at approximately 7:45 p.m.

Topics this season included Neighbor-to-Neighbor Disputes & Group Homes in the Fair Housing Era; Find the Money – Post-Judgment Collection Remedies; Association Special Funding Options; Navigating the Corporate Transparency Act; Top 10 Amendments to Governing Documents; Are Rules Enough? Behavior Modification in Associations; Election Integrity in New Era: From Paper to Online Voting; Case Law Update; The Ins and Outs of Exec Session and Confidential Information; Defending an Administrative Fair Housing Claim: An Overview; Managing the Risks: Tips for Avoiding Premises Liability Claims; and a Virginia legislative update.

The firm's final educational Zoom Webinar this season will be held on **Monday, October 21, 2024, at 7:00 p.m.** and will include presentations regarding **Associations in SocialMedia: Best Practices** and **Parliamentary Procedure**. If you are interested in registering, you may do so directly [here](#).

More information about our Seminar Series can be found on our website at www.chadwickwashington.com. We have enjoyed seeing all of our clients and business partners during our 2024 Webinar Series and encourage you to register for our upcoming October webinar.

CWMEB Welcomes Two New Attorneys



Chadwick, Washington, Moriarty, Elmore & Bunn, P.C. is excited to announce that **Edward J. Cush III** ("Eddie") joined the firm in August 2024 as an associate attorney in our Richmond (Glen Allen) office, where he predominantly practices community association law. A Brooklyn, New York native, Eddie spent several years with the legal and compliance team of a multi-billion-dollar hedge fund in New York City while obtaining his J.D. from The George Washington University Law School and undergraduate degree from Fordham University's Gabelli School of Business. After graduating from law school, Eddie practiced civil defense litigation in Northern Virginia, achieving success as a trial attorney. Outside the office, Eddie is a passionate dog-dad and an avid fan of the New York Giants.

Chadwick, Washington, Moriarty, Elmore & Bunn, P.C. is also excited to welcome **Madeline Jatzak** as an associate attorney in the firm's Richmond (Glen Allen) office. Having joined the firm in September 2024, Madeline's practice involves both community association law and insurance litigation defense. Prior to joining the firm, she clerked for the 6th Judicial Circuit of Virginia, serving six jurisdictions. She received her J.D. from William and Mary Law School in 2023 and served as an Articles Editor for the William & Mary Environmental Law and Policy Review. She graduated from Florida State University with dual bachelor's degrees in business



management and marketing in 2020. As an undergraduate, she interned with the Executive Office of the Governor of Florida and was Vice President of the Women in Pre-Law Society. Outside of work, Madeline enjoys traveling, trivia, and trying her best at gardening.

Firm Happenings



On September 19, 2024, **Michael Sottolano** provided training on the Fair Housing laws to community association managers and directors at the CVC-CAI Knowledge Day



Tiago Bezerra presented a webinar Coffee Talk – Reserves & Legislative Update, alongside industry colleagues Michelle Baldry (Reserve Advisors) and Ginny Peebles (Townside Community Management), for the Southwest Virginia Chapter of CAI on October 2, 2024.



Daniel Blom and **Tiago Bezerra** are presenting Educating to Increase Compliance, alongside industry colleagues Bryant Phillips (Associa-CMC) and Nura Rafati, Esq. (Lerch, Early & Brewer), at the Washington Metro Chapter of CAI's Education Palooza in late October.



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