



MAHC Messenger

A Letter From Our President

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Another year is entering its last quarter, 2015 is almost in the history books. However, our efforts to continually improve and grow as an organization never stop.

Midwest Association of Housing Cooperatives plays a central role to elevate the cooperative housing model not only at the local and state level, but also at the national stage in collaboration with other players in the housing field.

Recently, the MAHC Board members spent 2 full days over 2 weekends to update our strategic planning with a focus on how Cooperative housing needs efficiency goals to achieve effective operation along with a need to have a "trained and fully engaged" board members to do so.

The main findings confirmed that structured continuing professional development (CPD) is required to meet the rapidly changing needs in the cooperative. The findings of the needs assessment were used to tailor educational opportunities to build the capacity of cooperative board of director's education system.

Education was one of the key issues identified in the Strategic Plan. We divided it up into 4 areas:

MAHC's Annual conference is collectively, shaping our future. In fact, the event is broader still, showcasing ideas that matter in any discipline. The format is fast paced: 50+ classes over the course of three days (to say nothing of the evening events). This immersive environment allows attendees and speakers from vastly different fields to cross-fertilize and draw inspiration from unlikely places.

MAHC Local to you training. The main findings confirmed that structured continuing professional development (CPD) is required to meet the rapidly changing needs in the Co-operative sector. The emphasis ought to be on teaching skills, outreach work, marketing and promotion, research skills and methods, subject knowledge and terminology, and management skills.

MAHC Certification is a course that covers everything from the history of Cooperatives, Corporate Law, to Ethics in the Board Room. Additional topics covered will be budget's, audits, financial components, marketing and managing of your Cooperative. This list is only a piece of this comprehensive program which the Midwest Association of Housing Cooperatives has endorsed. Each individual who completes the course and passes the test will be given a certification of completion.

MAHC online training. Currently we offer recertification classes online. We will be expanding these in the future for board member training.

The other areas include expanding our information sharing on the web site. Reaching out to vendors to get discounts for our members to help with the rising costs. Opening up communication to our members and opening up accounts on social media.

We are now gearing up for the next Annual MAHC Conference May 22 - 25, 2016. We hope to see you at Disney world, its going to be an exciting time full of Education and Networking. For more information about the 2016 Conference please refer to the MAHC website at www.mahc.coop.

Richard Berendson, President

*Teamwork
makes the
Dream Work!*

*Individually
we are one
drop but
together we
are an
ocean...*

Uncovered Coop Property and Casualty Claims? Your D & O Policy Might Not Protect You - Policy Audits Can Help

Michael S. Hale, J.D., CPCU, AAI
Melissa L. Hirn, J.D.
Insurance Coverage Attorneys

Editor's Preface: During the Co-Op legal update classes presented at the Annual conference, we strongly advised Boards and Management Agents to conduct "insurance audits" to ensure that each Co-Op has the right protection against lawsuits and claims. Please read the following article as it contains vital information. Randall A. Pentiuk, Esq.

Would your D & O policy would cover you, board members and cover a claim against the officers should review their business board members for purchasing inadequate insurance policies carefully and considering obtaining the advice of an independent insurance consultant to assist in that process. In our years of experience as insurance consultants we have seen many D & O policies specifically exclude coverage for decisions relating to insurance. This could mean disaster for you as a board member.

In our years of work mostly on behalf of policyholders we have seen major uncovered disasters involving cooperatives, condominium associations, and community living associations that

Whether or not your D & O policy

(Continued on page 3)

We Go a Long Way Back

Brenda McElhaney

Kansas City has many reasons to celebrate recently (Go Royals), but another big party here in the Heartland was Loma Vista West's 50th Anniversary Celebration. And the best way to feed a hungry crowd is by serving World Championship Barbeque. Members came to together to mingle, munch down and commemorate on Loma Vista's past 50 years of being a community. of Kansas City recognized Loma Vista West by presenting a resolution to the Board and Members of the Cooperative with appreciation to the commitment of providing quality and livable housing for the residents of Southeast Kansas City, Missouri since 1965. Now that the past has been celebrated, Loma Vista West Townhouses, INC is looking forward to the future and continuing the movement of Cooperative Living for next 50 years.*

The Board of Directors recognized several residents who have called Loma Vista home for 20, 30 and even 40 years, which was very fitting for the theme "We go a Long Way Back." The Mayor and Council

(Continued from page 2)

could have been prevented. Some of these claims have been in the millions of dollars.

Under the laws of most states, an insurance policy is to be interpreted as any other contract. Unless there is an ambiguity, courts are required to enforce the plain meaning of the words in the policy contract.

Company insurance buyers are assumed to have read and understood their insurance policies and are bound to their terms and provisions. We have found that even if they do read their policies, business representatives usually do not always understand the intricacies of the coverage not to mention the optional endorse-

ments which might be available. This is complicated ground to tread to say the least and deserves considerable attention by cooperative boards of directors.

At the time of an uncovered claim, many cooperatives come looking to their agents for answers and the most common defenses are 1) you should have read your own policy and told us if you had any questions and; 2) we were mere order-takers and did not owe you any duty to advise you of coverage adequacy or gaps. We know this because we have served as experts in hundreds of cases involving insurance agents throughout the country and these are the most common defenses.

Although there are many things that a coop can do to

(Continued on page 10)

MAHC Board of Directors 2015-2016

<u>Position</u>	<u>Name</u>	<u>State</u>
President	Richard Berendson	St. Charles, IL
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Board Member	Leslie LaMarche	Kansas City, MO
MAHC Office	Joanne Day	Detroit, MI

Did You Know?



To those of you on the Membership Committee at your cooperative:

Communication is a tool to aid you in effectively performing your task as a member of the Membership Committee. But like any tool, you must know the tool, and practice using the tool. In a sense, communication is like a smile. It's hard to define, but you know when it's there and when it isn't. While verbal communication is important, being a good listener is equally important. Our thoughts can race along from four to ten times faster than most people speak. So, while we are waiting for the words to come in, the mind tunes out. Then in again...the results are that only a few words penetrate, and we miss the whole point.

Dear Co-op Counselor; HELP!

Dear Counselor;

I have a question about professional hierarchy and specifically who answers to whom? Does the cooperative attorney represent the Management company or the cooperative?

As a board member, I was told by my management company NOT to take matters to the Cooperative Attorney. I am not sure who I can talk to? Please advise.

Signed,
Who's Who

Dear Who;

While the management company may have some role in evaluating and making recommendations of law firms for your cooperative to use for legal services. The board of directors ultimately makes the decision on which professionals to hire and fire. Some of the professions your cooperative uses include your attorney, management company and your auditor.

Once the attorney client relationship has been established with the law firm of YOUR choosing your cooperative attorney has an ethical and fiduciary duty to you and you alone as representative of your cooperative

While your cooperative attorney will often work in tandem with your other respective professionals, the cooperative attorney answers to your cooperative board and NO one else unless your attorney advises you otherwise, in other words unless you instruct them to speak with your management company.

This is essential because in certain circumstances, you may call upon your cooperative attorney to fire another professional, in which your cooperative attorney will be obligated to perform your directives on your behalf.

Signed: Co-op Counselor (CC)

If you are interested in submitting a question (regarding legal policy and procedure) to the Co-op Counselor, please submit your question via email to MAHCeditor@gmail.com, insert the words "Co-op Counselor" in the subject line. If you would like to mail your question please send it to Penttiuk, Couvreur & Kobiljak, P.C., 2915 Biddle Suite 200, Wyandotte, MI 48192 Attention: "Co-op Counselor". While we will do our best to respond to your question please understand that submission of your question to this forum is no guarantee that you will get a published response.



Disclaimer: While we hope this information is helpful in answering some of your questions, please be advised that the answers provided here are for "general" informational purposes only. This information should not be construed as "legal advice" either to the individual or the Cooperative that they represent, the use of this forum does not create an attorney-client relationship between the user/reader and Mr. Penttiuk or his law firm, Penttiuk, Couvreur and Kobiljak, P.C.

For specific legal advice and personalized assistance with regard to your particular issue or problem you should contact a professional cooperative attorney.

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Announcements/Awards

Mark Your
Calendar

Congratulations to the Following Award Winners from the Conference



Solidarity Award-Oakdale Resident Cooperative
Almeda Ritter Award-Dale Janke– Tailor-Made Property Service
Morley President's Gavel– Christine Johnson–
 Noble Square Cooperative
Dr. Herman E. Curtus– Co-oper of the Year Award–
Larry Redmond– Walton Park Manor Cooperative
Bill Magee Spirit Award– Dave Rudicil (Rudy)-
 Colonial Village Cooperative
Way to go guys!

The Midwest Association of Housing Cooperatives is pleased to offer training locally for you.

MAHC continues to dedicate itself to ongoing education for the Board of Directors and its members. The MAHC Board of Directors and staff have responded to overwhelming requests for new, improved, and extensive training for Board of Directors and their staff.

We hope you will take the opportunity to come and further your education within your role of Cooperative housing.

Visit MAHC's Website at: <http://www.mahc.coop/> for a course catalog and registration information.

MAHC IS GOING TO DISNEY...

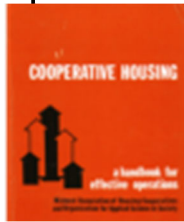
MAY 22-25, 2016 @ the Hilton Orlando Lake Buena Vista Walt Disney World Resort. Classes offered include:

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You can book your reservations online now at:
<http://www.mahc.coop/> OR
 Call MAHC at 734-955-9516

Bring your family to Walt Disney World.



Education is Power.

MAHC offers valuable resources such as:

- Cooperative Housing Handbook
- Serving on The Board
- Membership Orientation
- Cooperative Communication
- Parliamentary Procedure Cards

Visit our Website at <http://www.mahc.coop/index.html> to order these titles and find out about the other valuable materials and resources that we offer.



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*A limited number of apartments are available in some locations for younger persons who are physically disabled and need the special features of a unit designed for the mobility impaired. Income limits apply. Most utilities are included.



Our Mission Statement

To Support and champion the cause of quality housing through education, legislative actions, partnership, and advocacy for housing cooperatives

When The Two Sisters Came A Calling...

Creighton Gallup, Esq

What happens when the family of a recently deceased member shows up at the Cooperative office expecting immediate access to the unit and presents you a Power of Attorney as their authority?

Deaths of members can be tricky scenarios as the Cooperative is tasked with balancing sympathy for the grieving family, while at the same time practicing a uniform policy which protects the Cooperative from potential lawsuits. Don't panic by handing over the unit keys as your conscious may suggest. Remember: no good deed goes unpunished. Simply follow some general guidelines and it will work out.

First, let's quickly dispel the Power of Attorney issue, or POA's to which they are often abbreviated. POA's by their very existence are finite in duration, and expire with the deceased. Anyone attempting to use this as authority to get access to the unit is holding monopoly money, particularly to the well trained site manager who is now armed with this knowledge.

The safest route is to be up front with the family and explain your willingness to cooperative with them, but only after he/she presents legitimate documentation of his/her authority such as an order appointing him/her as the Personal Representative or another letter of authority from the county probate court where your cooperative is located. Always, contact your Cooperative Attorney and provide him/her with a copy of the documentation so you can be properly advised of it's legal sufficiency, you will want to do this prior to emailing any representations to the representative or filing other action.

Now that you have the necessary documentation to grant access to the deceased member's cooperative unit, you also have someone who is officially responsible for access to the cooperative unit and the decedent's personal property. This means that a claim by a third-party that the authorized person is not entitled to enter the decedent's cooperative unit is shifted to the one holding the probate court paperwork not the Cooperative. A decedent's authorized personal repre-

sentative is also important because without him/her, the sale of the membership most often becomes a financial liability because of accruing unpaid carrying charges and fees associated with maintenance. As time goes by, it runs through any remaining equity necessary for refurbishing and getting the sale ready.

Sometimes there is not much time for family members to get things in order. For example, if a family member, without appropriate documentation, comes forward requesting access to the decedent's cooperative unit only to obtain a few of the decedent's personal effects for the funeral, you can still work with him/her.

We do not advocate unfettered access to any person without legal authorization, but, if absolutely necessary and for such a limited purpose, you can accommodate as long as he/she is accompanied by the police and/or a representative of the Cooperative as long as no other items are removed. Not every case will fit this example though, therefore, you should always contact your Cooperative Attorney to discuss the facts of your situation in advance.

The goal is not to be obstructive or exacerbate the family's grief, but rather insulate the Cooperative from a lawsuit involving disgruntled heirs and squabbling siblings. Suppose the long lost brother from out of state gets wind that his sisters have been pillaging through the family heirlooms that were promised or willed to him. The Cooperative will find itself unnecessarily ensnarled in the grieving family's drama. Like my dad always said: not my circus, not my monkeys. Let drama find it's home elsewhere.

When these scenarios arise, contact your Cooperative Attorney and keep these thoughts in mind.

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protect itself, here are ten recommendations:

1. Evaluate the agent – is the agent an order-taker or a true advisor? If the insurance is being quoted every year, you might be setting the tone that you want more of an order-taker who quotes price. This is usually a mistake.
2. Evaluate your property insurance limits every year and do not rely upon the insurance agent to set the values. Instead, obtain an outside appraisal. Even with an appraisal, factor in the costs of debris removal and the fact that rebuilding expenses are almost always higher in emergency conditions. Be certain that there are “blanket” limits as opposed to individual limits for building and contents by location.
3. Do not tolerate coinsurance penalty provisions on property insurance policies.
4. Look carefully at named insureds to be certain that no entity names are missing.
5. Avoid protective safeguard warranty provisions in property insurance policies which could negate coverage in the event a fire sprinkler system or alarm system did not work.
6. Be sure you have adequate limits of insurance for additional rebuilding and delay costs associated with ordinances or building codes. One recent claim we were involved with had over \$5,000,000 in losses in this area.
7. Maintain auto liability insurance even if the coop owns no vehicles. This is important because representatives such as board members, officers or employees can drive in their own vehicles on behalf of the coop, creating liability exposures.
8. Be sure the coop’s umbrella policy does not have an absolute pollution exclusion which would bar coverage for liability for injuries from fumes or carbon monoxide.
9. Carefully evaluate contracts with contractors and vendors to transfer risk and to assure that their coverage is primary.
10. Hire an independent insurance consultant to objectively review policies, proposals, endorsements, contracts and otherwise advise on expo-

sures. Those who are not trained in the complexities of insurance are not likely to know the questions to ask. Note that sometimes negotiated savings can reduce the costs of the consultant.

Conclusion

It may be time for an audit of your business insurance program. This can help protect the board in showing due diligence and also in potentially addressing any coverage gaps that were not known. The intricacies and options make the process of purchasing insurance a complicated one to say the least. Obtain an expert to help you. *

Key Principles from this Article

Insurance policies are not fungible commodities. Buying insurance is not like buying janitorial supplies. All policies differ in terms, conditions and exclusions.

Companies are charged with the obligation to read their policies and to raise any questions. Failure to do so will be used against you in any claim against your insurance agent that he or she should have advised you.

If there is an uncovered claim, members of the board of cooperative could be faced with liability which might not be covered under the organization’s D & O policy.

Retaining an independent consultant to evaluate your insurance program could be one the most important things that the board does to show due diligence and close gaps.



ROBERT RULES!

He rules! Even if we don't have a clue who he is?...

Can something be defeated by adopting a motion to table it?

Answer:

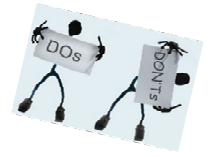
This is a common violation of fair procedure. Such a motion is not in order, because it would permit debate to be suppressed by a majority vote, and only a two-thirds vote can do that. The proper use of the motion to *Lay on the Table* is stated in the answer to Question 12, immediately above. [[RONR](#) (11th ed.), pp. 215-17.]

<http://www.robertsrules.com>



Cooperative

Dos & Don'ts



When interviewing an applicant...

Do— Use listening skills to gather as much information as possible.

Don't—Talk excessively you want to get information not give it. Also, stay focused to avoid wasting time during the interview.



MAHC Messenger-

We welcome your article contributions of 500 words or less submitted in MS Word format. Please feel free to forward them to the editor at the address listed below. If you are a Management Company and would like to contribute to the "Cooperative Dos and Don'ts" section of the MAHC Messenger please submit your suggestions to MAHCeditor@gmail.com.

If you are interested in placing an ad in the MAHC Messenger, please contact the editor at MAHCeditor@gmail.com

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MAHC is Going GREEN!

(at least we're going to try)

But we need **YOUR** help to do this.

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