



Capturing The Pulse of the HOA Industry  
HOA Industry Articles & Links

MANAGEMENT COMPANIES DODGE AN IRS BULLET

The IRS issued Notice 2011-6 on December 31, 2010 that exempted management companies from Regulations that due to take effect January 1, 2011 that defined management companies as "Paid Tax Preparers." These regulations would have placed onerous regulatory burdens on management companies nationwide.

[READ MORE](#)

INTRODUCTION TO LIVING IN A COMMUNITY ASSOCIATION

First time homeowners that move into a CID will oftentimes be puzzled at the rules or the meetings or the letters that might be sent out from the management company. Everyone gets an opportunity to read their association governing documents called CC&R's, Bylaws, and Articles of Incorporation as they are closing escrow. These documents tell you something about your community and are really important to read if you plan to invest in the community.

[READ MORE](#)

COMPUTER BANKING – MAKE MORE, WORK LESS

Consider the source. In the May & June edition of its magazine, the American Association of Retired Persons (AARP) listed ways to make more money with your computer. One way is to invest in FDIC-insured online banks that do not have expenses such as branch offices. The added income is substantial. Even "bricks and mortar" banks recognize the benefits of computerized banking as they attempt to save costs by encouraging customers to use online banking services.

In today's world, nearly all of an association's internal money management is done by computer. Associations are comfortable with the electronic management of their money. It is hard to imagine an association that would prefer managing its finances using traditional manual methods. Those same associations, however, may not be taking advantage of the benefits of conducting their external business electronically.

[READ MORE](#)

In This Issue –  
Association of The Week  
Business Spotlight  
HOAPulse Articles  
Web Articles

*Association of the Week*  
Heritage Ranch



[READ MORE](#)

*Business Spotlight*  
Winding Creek Design



[READ MORE](#)

## ASSOCIATION OF THE WEEK - HERITAGE RANCH OWNERS ASSOCIATION



Heritage Ranch encompasses approximately 9,150 total acres with 2,104 single-family residential lots presently developed and 5,100 acres of dedicated open space. Open space consists of the many amenities along with undeveloped common area which is kept in a natural state consisting primarily of native grasses and oak trees. Heritage Ranch is located in the central coastal region of California, in San Luis Obispo County, along the southern shoreline of Nacimiento Lake. Nacimiento Lake's elevation at full capacity is 800 feet with 5,400 surface acres of water and a 16 mile pool length.

Heritage Ranch is managed through the Heritage Ranch Owners' Association which was incorporated in 1972. There are presently sixteen (16) separate tracts developed with a total build-out projected at 2,900 private lots.

Amenities include a marina with 80 boat slips, a full equestrian center, two community swimming pools, several parks and a sports field, and several miles of equestrian trails

throughout the community. The Association is accessed through four gates, and maintains approximately 15 miles of private roads.

A County fire station is located within the community, as well as a California Community Services District (with governmental powers equivalent to a city) that provides water and governmental services to the community.

Deer, wild turkeys, and other wildlife roam freely throughout the community. This country living style is located approximately 13 miles west from Paso Robles, California with its more than 70 wineries. Further west is the town of Cambria and the famous Hearst Castle.

Heritage Ranch Owners' Association is located on the web at [www.hroa.us](http://www.hroa.us).



## BUSINESS SPOTLIGHT - WINDING CREEK DESIGN

Winding Creek Design is a full-service marketing and IT consulting firm based in Mount Airy, North Carolina.

Winding Creek's in house services include web design, graphic design, print & layout design, custom application development, customer relationship management, online event coordination and management and marketing campaign analytics and analysis.

Winding Creek also consults with clients nationwide for marketing and IT. Specializing in cross-medium marketing, software development and project management, Winding Creek ensures that all of its clients have the tools necessary to streamline and grow their businesses. Winding Creek Design is your current to success!

[www.windingcreekdesign.com](http://www.windingcreekdesign.com)

The IRS issued Notice 2011-6 on December 31, 2010 that exempted management companies from Regulations due to take effect January 1, 2011 that defined management companies as “Paid Tax Preparers.” These regulations would have placed onerous regulatory burdens on management companies nationwide.

IRS Notice 2011-6 was a last minute fix to a problem created by the IRS when they issued Regulations in September that were simply not well thought out. This last minute reprieve saves management companies from the onerous provisions of the regulations that were to take effect January 1, 2011.

Since the IRS issued final regulations on September 30, 2010 defining who is a “Paid Tax Preparer,” we, and presumably many others, have been both seeking clarification and requesting changes to fix the obvious problems in the new regulations. Specifically at issue for the HOA industry was that management companies and others clearly beyond the INTENT of the regulations were inadvertently included in the definition of “Paid Tax Preparer.”

The regulations held that any individual who is not an employee that prepares tax returns and receives compensation is a “Paid Tax Preparer.” But, tax returns were defined to include payroll tax returns or 1099 forms, which are routinely prepared by management companies for their association clients.

The only minor distinction in the regulations was between “typing” and “preparing” the forms. If you simply “type” the forms, you’re probably not a “paid tax preparer.” But, if you ever assisted your association client in any way in determining WHO should receive a 1099 form, or WHO is an employee versus an independent contractor, then you are a “paid tax preparer.” And, that included virtually ALL management companies.

The IRS intention was to improve the quality of tax information being submitted, so they drafted rules to “tighten up” the quality of those individuals regularly preparing income tax returns, by forcing them to register, then forcing them to pass a competency exam. Sounds reasonable; nobody could really raise a strong argument against such a logical and noble endeavor. But, as they say, the devil is in the details. The IRS used unfortunate language in drafting the regulations and cast a much wider net than anyone suspected. This came in by way of the definitions of “Qualifying [Income tax] Return,” and “Paid Tax Preparer.” This resulted in a very wide net catching a lot more people than anticipated.

The IRS regulation ruled that any individual or company preparing and/or signing tax returns or information returns (Form 1099) that will cause another entity to owe tax must have a PTIN before doing so. The PTIN is the new method that the IRS intends to use in order to regulate who is preparing tax returns. Treasury Decision 9501 issued on September 30, 2010 specifies that the new regulations apply to “any individual who is compensated for preparing, or assisting in the preparation of, all, or substantially all of, a tax return or claim for refund of tax.”

Federal Tax Regulation Section 301.7701-15(b)(4)(i) defines a qualifying return as “A return filed by or on behalf of a taxpayer reporting the liability of the taxpayer for tax under the [Internal Revenue] Code... **A return of tax also includes any information return or other document...that reports information that is or may be reported on another taxpayer’s return...**”

This means that the PTIN requirement applied not only to income tax return preparers, but also preparers of payroll tax returns (Forms 940 and 941) and information returns (Form 1099). However, Federal Tax Regulation Section 301.7701-15(f)(1) and (6) make a distinction between reporting agents who “provide only typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund” and those who render tax advice and use independent judgment when preparing tax forms. Those who provide only typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund do not qualify as tax return preparers and are therefore not required to obtain a PTIN, while those reporting agents who exercise discretion and independent judgment while preparing returns are required to obtain a PTIN.

Our discussions with management companies over the last two months that we have been monitoring this situation indicated that few in the industry were even aware that such a potential problem existed. That’s not surprising to us, as the IRS language was so vague that it required knowing far more than was simply contained in the single regulation issued; you had to know how that regulation fit in with other tax law. Most people simply didn’t connect the dots on this one. Thankfully, the IRS did something rare for them; they came to their senses at the last minute and corrected their poorly designed regulations. The scary part for us is that no one seemed to be watching this critical issue.

While we believe that no action is required, those that seek additional information from the IRS can find what little information the IRS has available on this issue going to [www.irs.gov](http://www.irs.gov) and searching for “PTIN”. The IRS Tax Professional PTIN Information Line is also available for assistance by calling (877) 613-7846, although we found them to be unhelpful.

Gary Porter, CPA  
 Porter & Company, CPAs  
[www.garyportercpa.com](http://www.garyportercpa.com)  
[gary@garyportercpa.com](mailto:gary@garyportercpa.com)

**Innovative financial solutions for the Community Management Industry.**

Alliance Association Financial Services is a division of Bank of Nevada, an affiliate of Western Alliance Bancorporation. Member FDIC

**888.734.4567**  
[www.aafin.com](http://www.aafin.com)

**FORM 1120-H AND 1120 TAX PREPARATION**

**ASSOCIATION TAX SERVICES**

[www.1120H-ONLINE.COM](http://www.1120H-ONLINE.COM)

**Karen Bennett**  
 PCAM,<sup>®</sup> CCAM<sup>®</sup>

*Consultant Assisting Boards of Directors, Management Companies and Developers with over 20 years experience*  
*Ask us about your association's need*

**(949) 645-7256**  
**CIDexpert.com**

## Computer Banking: Make More, Work Less

By: Craig Huntington

Alliance Association Financial Services

Consider the source. In the May & June edition of its magazine, the American Association of Retired Persons (AARP) listed ways to make more money with your computer. One way is to invest in FDIC-insured online banks that do not have expenses such as branch offices. The added income is substantial. Even “bricks and mortar” banks recognize the benefits of computerized banking as they attempt to save costs by encouraging customers to use online banking services.

In today’s world, nearly all of an association’s internal money management is done by computer. Associations are comfortable with the electronic management of their money. It is hard to imagine an association that would prefer managing its finances using traditional manual methods. Those same associations, however, may not be taking advantage of the benefits of conducting their external business electronically.

Many associations have been reluctant to use online banking services. Those concerns often do not reflect the reality of today’s world. The internal operating systems of the world’s banks are all most entirely electronic. They are designed to interact with customers electronically if those customers choose to do so. Businesses conduct most of their banking online. In light of the benefits, the question is why associations have lagged behind the rest of the world in using online banking. Consider the benefits they are losing:

### More Money

Online banks can generally pay a substantially greater return on investments. Associations are always looking for ways to cut costs in order to avoid raising common expenses. They need to spend as much energy on getting the greatest possible return on investments. This is particularly true in Hawaii where associations can hold millions of dollars in reserves. Boards of directors have a fiduciary duty to their associations to invest association assets wisely. In light of the potential for substantially greater returns, boards should consider FDIC-insured online banks in making their investment decisions.

### Internet Cash Management

By using internet banking, association’s have greater, and easier, access to basic financial information. Any board member can view the status of accounts online, 24 hours a day, from any computer. They can see scanned copies of cleared checks which will allow them to immediately respond to payment questions. That avoids the days of delay that can occur waiting for a bank to produce copies of cancelled checks. Instead, copies of checks can be printed immediately on computer’s printer.

An association’s treasurer can receive balance alerts by e-mail if association accounts rise above or fall below preset balance amounts. Funds can then be transferred, by computer, to meet the association’s needs.

An association’s bills can be paid online. Envelopes, stamps and trips to the mailbox are no longer necessary, nor do they make sense. Vendors can be paid online and the Association will have all the records of payment that it would with paper checks. Further, with password protection, payment authorization is as secure, or more secure, than writing paper checks.

### Greater Security

Electronic banking reduces opportunities for fraud. Paper checks can easily be stolen and altered and it may take days or weeks before anyone realizes what has happened. Online payments can be posted and reviewed immediately. There is also software that can monitor payments and receipts for transactions and notify bookkeepers and treasurers of transactions that appear to be out of the ordinary.

### Check 21, Check Imaging

When Congress passed the 21<sup>st</sup> Century Act, commonly known as Check 21, it radically altered the use of paper checks. Since the inception of the Act in October of 2004, banks have been required to accept digital images of checks in lieu of the original check. The original check is not used at all. This means that bills can be paid as quickly as it takes an e-mail to arrive at its destination.

These are just a few of the benefits of banking online. Electronic banking has significantly altered the world’s banking and finance systems. It is the standard for business banking. It is time for community associations to move into the 21<sup>st</sup> Century as well.

**Craig Huntington**

Alliance Association Financial Services

[www.aafin.com](http://www.aafin.com)



### Reserve study software

Experience an entirely new level of sophistication with the **ONLY** fully integrated facilities maintenance management software

[www.facilities7.com](http://www.facilities7.com)  
(877) 304-6700



Reserve study services nationwide for all types of associations.

More than 20 years experience.

Call for a fee quote today, or download our handy RFP form from our website.

[www.reservestudyusa.com](http://www.reservestudyusa.com)  
(877) 304-6700

**Frank Civil Consulting**

**Exceptional Land Development Guidance**

[www.frankcivilconsulting.com](http://www.frankcivilconsulting.com)  
(480) 654-4533

## Introduction to Living in a Community Association

By Karen Bennett, PCAM, CCAM  
Community Association Consulting  
Newport Beach, California

Many of us live in Homeowner Associations, also known as Condo Associations, Townhome Communities, Community Associations or Planned Unit Developments. An all encompassing term used to describe all of the associations is Common Interest Development or CID's.

First time homeowners that move into a CID will oftentimes be puzzled at the rules or the meetings or the letters that might be sent out from the management company. Everyone gets an opportunity to read their association governing documents called CC&R's as they are closing escrow. It is a large, stapled, ream of paper looking very ominous. Your escrow officer will ask you to sign that you agree with the terms included in the document but you can read it later. You will also get By Laws and Articles of Incorporation. All of the documents tell you something about your community and are really important to read if you plan to invest in the community. Most people file the papers away and don't think anymore about them until something comes up.

**What you should look for in your CC&R's** - If you want to streamline your reading you should refer to the detailed Table of Contents. Most owners want to know, "Who maintains what?" You should be able to find **Owner Maintenance Responsibilities** and **Common Area Maintenance**. A few paragraphs in each section will explain what you must take care of and repair and replace and what the association funds will keep repaired and replaced. **Common Area Assessments** are the monthly fees that you and your neighbors pay for common area upkeep, administration of the community, utilities, and reserves for future replacements. Oftentimes the management company is accused of collecting the entire monthly assessment as their fee. That is not the case and you will see that only a small portion is allocated to the administration of the community in your **Annual Budget**.

Another really interesting section is titled, **Use Restrictions**. These are the rules and regulations that you must agree to abide by when you move into a community. It is a sad new owner that finds out that he can't park his boat, RV or large commercial truck within the community streets. Pet restrictions, antennae, noise, window coverings and parking regulations are usually mentioned in Use Restrictions and become the basis for specific **Rules and Regulations** that are written, amended and adopted by the association.

A really important section is titled **Architectural Guidelines**. This section is written in the governing documents to notify you that you must go through the architectural review process before you do most anything outside your front door. Some associations include front yard landscaping in their monthly association fees and the installation and choices are decided before you move in. Other associations expect the new owner to landscape their front and rear yards soon after move-in. Detailed plans and architectural guidelines, based on the Architectural Guidelines in the CC&R's must be followed to gain approval to landscape or add a patio, new fence, bar-be-que, pool/spa, or trellis. Not knowing the process is necessary and starting construction before gaining approval can be very costly.

**Why it is important to attend Board of Director Meetings?** - New owners should attend board meetings to see what is being discussed, to meet community leaders and to consider adding your expertise to the association in some way. Our homes are usually our biggest asset. Maintaining and enhancing the asset will help increase the value and add to the enjoyment of community living. Boards of Directors are volunteers who agree to serve for a period of time. It can be time well spent if the board is productive, responsive and works in the best interest of the entire community. Your attendance at board meetings assures that your board is working in your community's best interest. Most communities have committees that assist the board. It is an excellent training ground for new board members.

**What does the Management Company do for their fee?** - Many residents are critical of the management company for what they do and what they do not do. Each management company and each association enter into a contract for services. We will discuss, in general, what a "typical" contract entails. However, your association may have specifics that are deleted or added because of board decisions and some associations only contract for financial management.

A typical association management contract includes **Financial Management** - Collecting assessments, paying bills, creating a monthly financial report, monitoring a collection policy for delinquent assessments and providing escrow/refinance services. **Administrative Management**- customer service, board support - monthly board reports, minutes, walk throughs, committee oversight, architectural oversight, annual calendar, board education, etc. The management company maintains all of your association's files, both administrative and financial. All month long, between meetings, your manager and support staff, both administrative and financial, are answering the needs of your residents and preparing information for the board. The success of the manager in providing clear, concise and useful information allows your board to make decisions for your association in a timely manner. It is a very important contract and the success of the association often depends on the cooperation and coordination between management and the board.

**Why are there so many CID's? Is it a Good Thing?** - Cities make developers enclose their communities within an association. Nobody wants to pay more taxes. People need someone to take their trash, clean their streets, and provide Police and Fire Protection. To divide up some of those tasks and to create a system to more efficiently handle the direct costs, community associations were created. Each developer pays for attorneys to create CC&R's that define what the community will provide and what the homeowner must budget for and maintain himself. By using volunteer boards to manage budgets and decide what is best for their communities, the homeowner gets a more direct voice in decision making. Well educated boards with professional management can be very effective in solving community issues. The most effective communities are active with a constantly evolving committee system that will eventually become future board members.

Karen Bennett, PCAM®, CCAM®  
Community Association Consulting  
[www.CIDexpert.com](http://www.CIDexpert.com)  
karen@cidexpert.com



John Knobelsdorf  
MacNaughton,  
Knobelsdorf & Company  
Tax Attorney  
(888) 788-7420



Siebert Botkin Hickey  
& Associates, LLP

Audit & Tax Services  
Serving all of California

[www.sbhaccountants.com](http://www.sbhaccountants.com)  
(760) 325-2353

**WINDING CREEK DESIGN**  
Your Current To Success

- Marketing •
- Web Design
- Print/Layout •
- Application Development
- Consulting •

[www.windingcreekdesign.com](http://www.windingcreekdesign.com)

## Web Articles (Click on Title to View)

<u>Title</u>	<u>Summary</u>	<u>State</u>
<a href="#"><u>San Francisco's outposts of dictatorship, and what you can do if you live in one</u></a>	A resident of Condo association tells his story of not being able to post political signs.	California
<a href="#"><u>What is the legality of placing a boot on a car while on your property in a gated community?</u></a>	Car gets booted while sticking out of driveway, onto street. CC&Rs state this as a consequence for not following rules.	Florida
<a href="#"><u>Homeowners association dues - taking the "Whoa!" Out of HOA</u></a>	A piece that describes HOAs, their purpose and how to be aware of what it is your buying into when purchasing a home.	California
<a href="#"><u>Rats! Half-built homes mar residential neighborhoods</u></a>	Construction has halted on numerous homes, due to lack of funding, causing neighbors to feel as if they are living in a construction zone.	Washington
<a href="#"><u>Acceleration clause speeds up payment from delinquent owners</u></a>	Acceleration clause in your by-laws is explained	Illinois
<a href="#"><u>Homeowners facing foreclosure demand recourse</u></a>	Banks are making errors and mistakenly foreclosing upon homeowners.	National
<a href="#"><u>Suing HOA over unsellable condo?</u></a>	Owner can't sell her condo. The buyer can't get approval for funding due to the HOA finances.	National
<a href="#"><u>Updated: SF resident fights for his right to post political signs</u></a>	Resident, along with ACLU, fight HOA Board to allow him to hang signs during election.	California
<a href="#"><u>Homeowners association insurance protects board and titleholders from liability</u></a>	Not only is liability insurance important, it is an obligation.	California
<a href="#"><u>Shared homeownership could mean paying your neighbors' bills</u></a>	The foreclosure crisis has caused homeowners to pick up the expenses on foreclosed homes.	Illinois
<a href="#"><u>Homeowners Association Policies</u></a>	Informational piece about HOAs	California
<a href="#"><u>Legal maneuver can help when lenders refuse to pay dues</u></a>	Study shows that more than 7 in 10 bank-owned homes are not making their regular assessment payments to their associations. This puts a huge strain on the association to meet their budgets	California
<a href="#"><u>Smart ways to handle a budget surplus</u></a>	Various options are available for the use of surplus funds.	Illinois
<a href="#"><u>Condo seller still has to pay for window replacement</u></a>	Condo owner, who has home on the market, is still responsible for paying special assessment for the replacement of windows.	Illinois
<a href="#"><u>Danville HOA recruits owls to control rodents</u></a>	Boxes were put up with the hopes that owls will move in and nest so they will help with the rodent population.	California
<a href="#"><u>How to slow drivers in your HOA neighborhood</u></a>	Slowing drivers in a neighborhood can be done when residents get together and ask Board for a change	National
<a href="#"><u>Q &amp; A</u></a>	Various issues arising from co-ops are addressed	New York

<a href="#"><u>Condos have reserve funding problems</u></a>	Reserve funding and budgeting questions are addressed	Florida
<a href="#"><u>Unit owners are entitled to elect their first board</u></a>	Issues with the Developer are addressed.	Illinois
<a href="#"><u>Would you buy a home with a bad foundation?</u></a>	Home for sale has a bad foundation. Would you buy it?	California
<a href="#"><u>Home safety reminders to keep holidays joyful</u></a>	Various safety reminders are shared	Illinois
<a href="#"><u>Q &amp; A</u></a>	Lobby accidents and meeting quorum at board meetings are discussed	New York
<a href="#"><u>Know association rules before decking the halls</u></a>	In many associations, holiday decorations are restricted by governing documents	Illinois
<a href="#"><u>After switching homes, hang on to these forms</u></a>	Suggestions for the papers to keep after a home sale	Illinois
<a href="#"><u>Peoria wins ruling in water battle with Desert Harbor HOA</u></a>	Desert Harbor HOA owes Peoria \$800,000 in back payments for water used to fill its 46 acre lak and common area landscaping	Arizona
<a href="#"><u>Condo's amenities are for residents</u></a>	Board responsibilities and accounting questions are answered	Illinois
<a href="#"><u>Association fees can go up and up and up</u></a>	Association assessments and budget questions are discussed	Florida
<a href="#"><u>Now's the time for condo, HOA elections</u></a>	Residents of community associations need to be aware of when their elections are, whose running and even consider running for office themselves	Florida
<a href="#"><u>Water rate hikes prompt AF HOA to cut irrigation</u></a>	Water rate hikes have Ahwatukee Foothills HOA converting two-thirds of irrigated public space to desert landscaping	Arizona
<a href="#"><u>Elite unit running HOA fraud investigation</u></a>	Investigators claim there is a scheme to rig HOA board elections to position conspirators that would push for lawsuits over construction defects	Nevada