

# Palmetto Communities

## 2020 Schedule Changes

Hello,

We have made several changes to the 2020 schedule based on a couple factors.

The Expo was a huge success (thank you to all who participated). An unexpected positive factor was most attendees participated in the classes for the entire day. We did not expect them to attend another Myrtle Beach event soon after.

Additionally, many associations, management companies, managers and other organizations contacted us with new event opportunities.

Please see the changes in this issue. As always: Check the website!

Raymond Dickey  
Executive Director



## South Carolina Supreme Court Issues Key Decision Affecting HOA Lien Foreclosure Procedure

BY SEAN A. O'CONNOR

In December 2019 the South Carolina Supreme Court issued a decision which could have significant ramifications for community associations across South Carolina in regard to a certain category of lien foreclosure sales – those in which the homeowner has substantial equity in the property.

In *Winrose Homeowners' Association, Inc. et al. v. Hale et al.*, Opinion No. 27934 (December 18, 2019), the supreme court reversed a 2018 decision by the state court of appeals and set aside the foreclosure sale of a residential property, finding that the winning bid of \$3,036 was so low that it should have "shocked the conscience" of the Master-in-Equity and therefore should have been disallowed. In its opinion the supreme court established a new method for evaluating the sufficiency of a winning bid in community association lien foreclosure cases where the bid is challenged post-sale as being impermissibly low.

Devery and Tina Hale bought the subject property in the Winrose subdivision in Irmo, South Carolina in 1998 for \$104,250. In January 2011 the Hales fell behind in paying their assessments to Winrose Homeowners' Association, and the HOA filed a lien in April 2011. In February 2014 the HOA initiated a lien foreclosure action for the unpaid dues. At the time the complaint was filed, the balance due was \$566.41 in principal and interest.

The Hales failed to respond to the complaint and default was entered against them. Curiously, at some point after the HOA filed its complaint but before the Master entered a default judgment, the HOA sent the Hales a bill for \$250 in connection with their past due regime fees. The Hales promptly paid the bill, after which the law firm representing the HOA sent the Hales a notice that the lien had been satisfied. The HOA did not dismiss the suit, however, and judgment was entered in favor of the HOA at the dispositive hearing.

The Master's judgment of foreclosure and sale stated the sale would be subject to senior encumbrances, specifically a mortgage, but did not disclose the outstanding balance of the mortgage. A third party by the name of Regime Solutions, LLC ("Regime") was the successful bidder at the sale, with a winning bid of \$3,036.

The Hales moved to vacate the foreclosure sale, asserting that the winning bid was too low under the "shock the conscience" standard. At the hearing, the primary issue was whether and how to account for the senior mortgage in evaluating Regime's winning bid as a percentage of the property's value. The Hales asserted that the property's fair market value was \$128,000. They argued that the Master should compare Regime's successful bid of \$3,036 to the amount of their equity in the property, which was some \$61,996. To use such a comparison is known as the "equity method" of evaluating the sufficiency of the winning bid at a foreclosure sale. Under the equity method Regime's bid was 4.9 percent of the fair market value, which the Hales argued should shock the conscience of the court.

Relying on a 2012 decision by the South Carolina Supreme Court, *Arrow Bonding Co. v. Warren*, the Master declined to apply the equity method and instead utilized the "debt method" in evaluating the sufficiency of the bid. Under the debt method, the winning bid is added to the outstanding balance of the mortgage, which was \$66,004, resulting in an "effective sale price" of \$69,040.

The Master's reasoning for choosing the debt method was that Regime would have needed to pay off or assume the mortgage in order to re-sell the property. Accordingly, the Master found the "effective sale price" of \$69,040 was approximately 54 percent of the Property's fair market value of \$128,000, and ruled that it was high enough and did not shock the conscience of the court.

CONTINUES PAGE 4

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## CAI-SC Reaches CAI National's Highest Chapter Size Classification!

On February 5th, the chapter reached "Very Large Chapter" status. This is the highest chapter size classification that CAI National offers.

Over the last four years the chapter has grown over 40%.

Thank you!





February 5, 2020

**To:** Mr. Sean Fleming, South Carolina Chapter President  
Mr. Raymond Dickey, South Carolina Chapter Executive Director

**From:** Crystal L. Wallace, IOM, CAE  
Vice President, Membership & Chapter Relations

**RE:** Chapter Size

CONGRATULATIONS! It's my pleasure to inform you that the South Carolina Chapter has grown from a large size chapter to a very large size chapter!

CAI categorizes chapter sizes based on the below metrics and chapter growth is a direct reflection of the hard work and dedication of the chapter leadership, membership and staff put forth every day. Without your commitment to the organization and the industry, CAI would not be where it is today. With more than 43,000 members and 64 chapters including partnerships overseas, we continue to see growth in membership, education programming, and increases in the number of designees.

The chapter should be very proud of this accomplishment and we look forward to working with you to continue the chapter and CAI's growth!

Chapter Sizes

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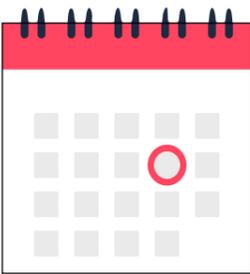


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## PCAM Column:

If “Jack of all Trades” was listed in Webster’s Dictionary one definition would be Community Association Manager (CAM). On a daily basis, CAMs are expected to be knowledgeable in many, many, areas. While we do not need to always stand in the shoes of every type of vendor, expert, authority, specialist and professional in our industry, we do seem to deal with a very wide array of topics, duties and professions. In fact, we are specifically trained to NOT act in the place of an attorney, accountant, engineer or general contractor. We just need to be steady and competent at steering and assisting our boards in the right direction.

Here is a fun A – Z look at the related fields of expertise that we deal in regularly, unlike any other career that I know of. While some may be a bit of a stretch, this is not all that far from the truth!

As a CAM I am able to assist with arbitration, amenities, accountants, arborists, action items, asphalt experts, adjusters and appraisers. I can have the board’s back with banking, boats, bookkeeping, bugs, blacktop and building consensus. I can contribute with claims, collections, communications, carpentry, concrete, computers, committees, carpets, concrete, cable TV and complaints. I deal with disasters, disputes, deliveries, dredging, decals, drainage, developers and dumpsters. I am eager to assist with elections, expenses, electrical issues, entomology and employees.

I fix fountains, fences and fitness equipment, fortune-tell, find fish, fine fools and give financial advice. I am able to assist with gardening, gators, garbage collection, gates and golf course issues. I help with HVAC problems, housekeeping and prowl hardware stores. I am an information center, inspector, insurance resource, irrigation expert and internet browser. I am a jack of all trades that majored in journalism, criminal justice and janitorial sciences. We are the keepers of the keys and must have a keen sense of smell (and humor). I deal with lawyers, lagoons, landscapers, locksmiths, legal issues, live oaks and lifeguards. Masonry, maintenance, maps, mechanicals, mediation, mosquitos, meteorology, messenger, mathematician and mind-reader are also my many skills. I can negotiate, notarize and nurture nominees before noon or well into the night.

I organize events, observe orders and offer ongoing office operations. We must be poised portfolio professionals that prepare pools and act as psychiatrist, plumbers, palm pruner, pest preventers, parking patrollers, paving pros, pine straw providers, painters and pet people punishers. I must be quick on my feet, quote the documents, act as quality control and quiet the crowds at meetings. We are rule enforcers, rodent eradicators, a board resource, a Roberts Rules expert, repair roads and assist with rude renters. I support our associations with security, signage, sales, sealing streets, sewers, surveys, sprinkler systems, signs, siding and social events.

We train, teach, treat termites, tow, trim budgets, charge title transfer fees, pay taxes, negotiate with TV and telephone companies and protect turtles. We are under paid, under-appreciated and misunderstood and deal with utility companies. Vehicle violations, ventilation and verifying voting is our vocation. I assist with wells, windows, websites, wood rot and pressure washing. We are e”x”perts in e”x”termination. We yearn to yell at our owners when their yards need mowing. Finally, with zeal we act as zoologists when we deal with all of the zany pets that violate the rules.



By Dave Lewellen, PCAM  
IMC Resort Services, Inc.

*If you’re a chapter PCAM and would like to submit a column, please contact us.*

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The Hales appealed the Master's order and the South Carolina Court of Appeals affirmed in a 2-1 decision published in 2018. Notably, Chief Judge James Lockemy dissented, criticizing the notion that Regime should be credited for the balance of the mortgage because Regime had not assumed the mortgage or made any payments on it. In fact, the Hales had continued to make the mortgage payments during the foreclosure litigation and subsequent appeal.

After reviewing the existing South Carolina jurisprudence on evaluating a winning bid at a foreclosure sale for sufficiency, the supreme court, in an opinion written by Justice John Kittredge, reversed the court of appeals and vacated the sale. The supreme court opted to apply the equity method for testing the sufficiency of the bid, and chose to use a 10 percent threshold as the measure of whether the sale shocked the conscience, while noting that other jurisdictions had held that bids below even 40 percent had been deemed too low and compelled the sale to be set aside.

The supreme court rejected application of the debt method, favorably referencing Judge Lockemy's dissent in the court of appeals opinion. The supreme court stated that it would be "absurd" under the circumstances to apply the debt method and give Regime credit for assuming the amount of the outstanding mortgage when it had done nothing to legally assume or pay that debt obligation. The supreme court was not persuaded by the concern of the majority of the court of appeals that the debt method is consistent with the general policy of upholding properly conducted judicial sales and would result in fewer sales being set aside.

As part of a detailed discussion of whether the debt method or equity method was preferable, the supreme court noted that "in most circumstances, a foreclosure purchaser will assume any obligation to pay outstanding senior liens in order to obtain free-and-clear title to the property. In those cases, it follows the Debt Method should be used."

The supreme court made clear that it was particularly disturbed by the conduct of Regime, and that those facts were of great importance in the decision to apply the equity method and vacate the sale. In a footnote, the court described Regime's actions, recounting that after the property was sold at the foreclosure sale, the Hales had offered Regime \$9,000 in order to recover title to their home. Regime, which had paid \$3,036 for the property, countered with a demand for \$35,000. The supreme court stated that it was "especially troubled by Regime's participation in a foreclosure proceeding to accommodate its business model of leveraging a nominal debt to secure an exorbitant return from homeowners who fear the prospect of eviction." The court criticized Regime's conduct as "manipulation

of a foreclosure procedure to engage in strong-arm tactics."

The supreme court then went on to denounce the decision by the HOA and its legal counsel to proceed with foreclosure on what it the court considered to be a relatively miniscule debt. The court described the amount due as only \$250, and compared that figure to the \$128,000 value of the home in characterizing the debt as 0.2 percent of the fair market value. The court also found fault with the service and filing fees, which it described as "more than double the amount of the principal due), and the attorney's fees, which it calculated as being "eight times the amount of the principal due." The supreme court further admonished, "[a] foreclosure proceeding is a last resort, not a business model to be swiftly invoked for the purpose of exploiting property owners. We do not countenance the improper use of foreclosure proceedings by the HOA, its attorney, or Regime."

In this fractious colloquy the supreme court downplayed the fact that the legal fees and costs were properly chargeable to the delinquent homeowner pursuant to the unambiguous language of the recorded governing documents, and seemingly failed to recognize the reality that associations such as Winrose HOA have no other effective method to enforce homeowner obligations to pay assessments other than to utilize lien foreclosure.

The supreme court concluded the opinion by stating that its decision "should not be read as a shift toward providing relief to homeowners despite their own poor choices," and added "there are serious consequences to default," but nonetheless reiterated its view "that under the unique facts of this case," the Hales had established that Regime's winning bid price of \$3,036, without the outstanding mortgage balance added to it, was "so grossly inadequate that it shocks the conscience of the court and cannot be sustained."

The significance of this decision should not be underestimated, particularly in cases in which there is substantial equity in a property being foreclosed by a community association. However, it should be kept in mind that the new rule announced in Winrose v. Hale would not be expected to come into play if the homeowner has little or no equity in the property,

*Sean A. O'Connor is a partner with Finkel Law Firm LLC in North Charleston.*

- 1) 399 S.C. 603, 732 S.E.2d 622 (2012) (plurality opinion).
- 2) Winrose Homeowners' Ass'n, Inc. v. Hale, 423 S.C. 220, 813 S.E.2d 894 (Ct. App. 2018).

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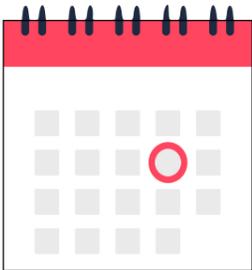
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9/11/2020  
COMMUNITY  
LEADERSHIP**



Learn how to preserve and enhance your association's property and prepare for emergencies.

This course provides a hands-on approach to help you analyze, evaluate, communicate and plan for property maintenance. Your community will benefit from your increased understanding of the various types of maintenance—routine, preventive, emergency, corrective and scheduled

Go to:  
[www.caionline.org](http://www.caionline.org)



**Changes Happen!**

Always Check the Website!

[www.cai-sc.org](http://www.cai-sc.org)

**APRIL 30** HOA / CONDO MINI-EXPO Bluffton, SC

SOUTH CAROLINA CHAPTER **community ASSOCIATIONS INSTITUTE**

**APRIL 30, 2020 • 9:30-2:30pm** EDUCATIONAL EXPO **3 CEUs**

Learn about important HOA/Condominium Issues

At *Hampton Lake* Hampton Lake Community Association  
200 Hampton Lake Crossing  
Bluffton, SC 29910-9588

Registration (9:00-9:30am)

HOA/Condo "Boot Camp" (9:30-12:00am):  
Topics (including but not limited to): Roles and responsibilities • Ethics • Rules Board meetings • Budgets Funding reserves Assessment & collections Financial statements • Insurance Maintenance • Bid requests & contract provisions. **Breaks included throughout session.**

Lunch • Exhibitors • Network (12:00-1:30pm)

HOA/Condo FUN Workshops (1:30-2:15pm)

Quick Wrap Up • Door Prizes (2:15-2:30pm)

CLASSES • FOOD • EXHIBITORS • GIVEAWAYS

South Carolina Community Association Institute • REGISTER at [www.cai-sc.org](http://www.cai-sc.org)

SOUTH CAROLINA CAI EDUCATIONAL SEMINARS

**HOA/CONDO EDUCATION**

11:00 - 12:00PM

**Your HOA!**

Real Life Embezzlement Stories and Lessons

12:00-1:00PM LUNCH / NETWORK

1:00 - 2:00PM

**HOA/CONDO LAW SCHOOL**

Construction Defects

SEPT 29 11AM - 2PM **2 CEUs**

Holiday Inn Express & Suites Charleston Airport  
3025 W. Montague Ave.  
North Charleston, SC 29418

REGISTER AT [WWW.CAI-SC.ORG](http://WWW.CAI-SC.ORG)

SOUTH CAROLINA CAI EDUCATIONAL SEMINARS

**2 CEUs** **You ask anything! Industry Experts Answer!**

The attendees run the show!

9:30-11:30am

Hilton Garden Inn Rock Hill  
650 Tinsley Way  
Rock Hill, SC 29730

3:30-5:30pm

Hilton Garden Inn Spartanburg  
805 Spartan Boulevard  
Spartanburg, SC 29301

REGISTER AT [WWW.CAI-SC.ORG](http://WWW.CAI-SC.ORG)

SOUTH CAROLINA CAI EDUCATIONAL SEMINARS

**REVERSE TRADE SHOW**

Managers and board members representing their associations communicate with industry leaders on the services and products they require.

Industry leaders go from table to table.

SEPT 30 11AM - 2PM

Myrtle Beach Sports Center  
2115 Farlow Street  
Myrtle Beach, SC 29577

Contact the chapter office if interested in attending.

**HAYES LAW**

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"Thank you for getting to our lot first thing today. Both lots look great and I would not hesitate to recommend your company to anyone who asks. The crew was friendly, professional and answered questions that I had concerning the job, so "kudos" to them also. Company all around including staff doesn't miss a beat responding to the needs of the customer. Best regards and again thank you. I do enjoy doing business with a company that "does it the right way." - J. Stall, HOA President

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SOUTH CAROLINA CAI EDUCATIONAL SEMINARS **2 CEUs**

**HOA/CONDO BOARD MEMBER MANAGER BOOT CAMP**

**FREE EVENT**



**Topics** (including but not limited to):

- Roles and responsibilities
- Ethics
- Rules
- Board meetings
- Budgets and funding reserves
- Assessment & collections
- Financial statements
- Insurance
- Maintenance
- Bid requests & contract provisions

Speakers will discuss a wide range of topics and adapt to the attendee's interest.

**Hilton Garden Inn Anderson**  
115 Destination Boulevard  
Anderson, SC 29621

Networking Refreshments Door Prizes

**TIME FOR LUNCH**

**OCT 20** **Oct. 20**  
**9:00-11:00am**

REGISTER AT WWW.CAI-SC.ORG

SOUTH CAROLINA CAI EDUCATIONAL SEMINARS **FREE EVENT**

**REVERSE TRADE SHOW**

**TIME FOR LUNCH**



Managers and board members representing their associations communicate with industry leaders on the services and products they require.

Industry leaders go from table to table.

**DOOR PRIZES WIN PRIZES**

**OCT. 20**  
**2PM - 5PM**

**Hilton Garden Inn Greenville**  
108 Carolina Point Parkway  
Greenville, SC 29607

**OCT 20**

Contact the chapter office if interested in attending.

**M202**  
**(Charleston, SC)**  
**10/16/2020**  
**ASSOCIATION COMMUNICATIONS**



Learn key communication techniques to improve resident and board relations. This course offers communication strategies that will benefit both new and experienced managers and provide the skills to better understand owners and volunteers. You'll learn the basics of good customer service and gain the tools to effectively handle complaints, write newsletters and reports and manage public relations.

Go to:  
[www.caionline.org](http://www.caionline.org)

SOUTH CAROLINA CAI EDUCATIONAL SEMINARS **2 CEUs**

**HOA/CONDO EDUCATION**

**THE SCIENCE OF CONCRETE • ASPHALT**  
11:00 - 11:45AM

Learn how chemicals, aggregates, water and more effect whether or not your surface will survive the test of time and may void your warranties.

**HOA LAW SCHOOL RULES**  
11:50 - 12:35PM

- Types
- Enforcement
- Paper Trails
- Fines
- Procedures

This event is **no cost** and limited to managers, boards and volunteers.

**12:35-1:15PM LUNCH / NETWORK**

**1:15-2:00PM BUILDING ENVELOPES**

- Maintenance Types
- Warning Signs

**OCT 28**  
**11AM - 2PM**

**Myrtle Beach Sports Center**  
2115 Farlow Street  
Myrtle Beach, SC 29577

**OCT 28**

REGISTER AT WWW.CAI-SC.ORG

SOUTH CAROLINA CAI EDUCATIONAL SEMINARS **2 CEUs**

**You ask anything! Industry Experts Answer!**

**FREE EVENT**

**DOOR PRIZES WIN PRIZES**

**The attendees run the show!**



**NOV 19** **Nov. 19**  
**5:00-8:00pm**

**British Open Pub**  
1 Sheridan Park Dr.  
Bluffton, SC 29910

**NO CHARGE** and limited to: managers, board members, residents and volunteer leaders

**HOA & Condo Experts from:**  
**Legal • Insurance • Engineering**  
**Banking • Landscaping • Asphalt**  
**Construction...and more!**

REGISTER AT WWW.CAI-SC.ORG

*Congratulations!*

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**Highest**  
**Chapter Size**  
**Classification!**

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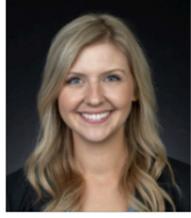
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