

# Community Trends®



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## LEGISLATIVE UPDATE

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We start January with some good news and some bad news. It is traditional to start with the bad news. In that connection, we are very frustrated that the Legislature did not approve an extension of immunity for COVID-19 related claims for common interest communities (CICs). The original bill was set to sunset on January 1, 2022. Starting at the end of the summer, we commenced an intense campaign to have the bill extended for another period of time. In connection with those efforts, we and our lobbyists met with numerous legislators, sent letters to the Speaker of the Assembly and President of the Senate, and issued several LAC alerts and calls for action. These alerts generated a tremendous number of responses which were so numerous that they overwhelmed the Speaker's email system.

Near the end of December, we were informed that the Speaker and the Senate President, together with the Democratic caucus, were all opposed to an extension of immunity. Essentially, we were told that they thought the first bill gave CICs enough "breathing room" to learn how to address the pandemic. It goes without saying that we disagree with their logic, as the issue of potentially uninsured claims remains unaddressed.

Unfortunately, while we felt we had strong, equitable arguments for passage of the bill and even though there were tremendous efforts made on the part of both the LAC and CAI members to communicate their preferences to legislators, the legislature was unwilling to pass the bill. Further efforts at this point would be unavailing and could

potentially damage our standing and credibility with the political leadership. However, we will continue to monitor the situation and press forward with future efforts if and when same becomes appropriate.

With respect to the good news, the legislature passed our statute of limitations bill (S396) on the last day of the session, and we are optimistic that the Governor will sign same into law. As you may know, in the case *The Palisades*

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*At Fort Lee Condo. Ass'n, Inc. v. 100 Old Palisade, LLC, 230 N.J. 427 (2017), the New Jersey Supreme Court issued a ruling which upset the longstanding precedent that the statute of limitations on construction defect claims was "tolled" until transition to unit owner control. This decision has resulted in several adverse court rulings against CICs. However, we were successful in convincing Assemblyman Gordon Johnson and Senator Loretta Weinberg to push through the aforementioned bill, which states that the statute of limitations on construction defect claims does not commence running until the owners control the board. In*

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so doing, the LAC successfully fended off challenges from construction, developer, and insurance industry groups.

In addition, we are pleased to announce that the Governor signed A5549 regarding remote membership meetings in non-profit corporations into law. You may be aware that emergency COVID-19 related legislation permitted meetings of members (such as an annual meeting

and election) to be conducted remotely during a state of emergency. The new law, which the LAC supported, makes it permissible to have remote member meetings in the absence of a state of emergency.

In closing, while we cannot win every legislative battle, the LAC continues to have substantial success in getting key pieces of legislation passed. ■