

# THE UCOM PRESS

## Spring 2025

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### UCOM'S 51ST ANNUAL CONFERENCE

By: Dawn Miller

#### UCOM President/Communications Director

We hope to see you all at the 51st Annual Conference and Seminar on **Friday, May 9, 2025 at the San Marino Club in Troy, MI.** If you haven't registered, please do, so you don't miss out! You can find the registration details on our website at [www.ucomonline.org](http://www.ucomonline.org). Vendors wishing to secure a table can find Exhibitor Registration info on our website.

### UCOM EVENTS AND INFORMATION

By: Sidney McBride, UCOM Treasurer

- **UCOM Mini Seminars**— August & November
- **UCOM Newsletter**:- 4 editions- March, June, September, and December (approximately)
- **Zoom Sessions**—Virtual sessions for added convenience— 2 per year
- **Membership Registration**— Ongoing. Details are on the UCOM website or email [ucomonline@gmail.com](mailto:ucomonline@gmail.com)

**Stay connected to the UCOM website, Facebook and Instagram accounts for more details as announced.**

### HOME MAINTENANCE

#### Things Every Homeowner Should Do...

By: Cheryl Curley, UCOM Hospitality Director

With Daylight Savings here, now is a great time to remember to perform important upkeep tasks on your home. If you make a habit of taking care of these things, you can rest assured that you will be prepared every year.

- ◇ Change the batteries in your smoke alarms. Switch out your smoke detector batteries every year. A smoke detector with adequate battery power can detect smoke from a fire and save your life!
- ◇ Check your Carbon Monoxide detectors annually in your home. This also can save a life.
- ◇ Check your furnace and water heater. Many furnaces need annual maintenance. Use this time of year as a reminder to schedule it. Make sure to switch air filters on a regular basis to ensure appropriate airflow and energy efficiency for both heating seasons and air conditioning. Also check your hot water heaters for any signs of leaking.
- ◇ Dryer vents—Cleaning your dryer vents a couple times a year will help reduce the chance of dryer fires from built up lint in the tube both inside and outside of the home. This is a common cause of home fires that can be avoided.

In the words of Ben Franklin...

*"AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE"*

*"UCOM has provided extreme value for the education provided to our board members and I am happy to be a part of it!"*

*-Susan Cloud*

*"UCOM has taught our board so much over the last few years and the education is very helpful!"*

*-Ben Davidson*

*UCOM board members do a terrific job of educational planning and I appreciate all they do for us as members!"*

*-Sam Lucido*

## CLAIMS AGAINST CONDOMINIUM ASSOCIATIONS

**Distributed by: Cindy Locke, UCOM Board Member**

The Michigan Supreme Court issued a pivotal decision on July 11, 2024, which affects how co-owner's can pursue claims against condominium associations. The court ruled that a co-owner of a condo unit can bring a premises liability action against the association. An association can now be held liable under a premises liability for injuries sustained by co-owner's on common element areas. The association is responsible for maintaining, even though the co-owner has a shared interest. Previously, the Michigan Court of Appeals ruled that co-owner's could not bring a premises liability claim since they were not considered invitees because they were co-owner's of the condo association. This will increase the pool of potential plaintiffs that could bring an action against the association if the common elements are not sufficiently maintained.

The Michigan Supreme Court overturned the previous decision. The Court ruled that a co-owner of a condo unit is considered an invitee when using the common elements, imposing a duty on the association to exercise reasonable care in protecting co-owner's from dangerous conditions in these areas. This ruling allows co-owner's to pursue premises liability cases against their association. The critical factor is not the ownership of the land, but rather who has control of it. The analysis stated that co-owner's cede control over certain common elements to the association and the association owes a duty to those co-owner's as they do to any other invitee. This broadens the scope of potential liability for condominium associations beyond what is covered under breach of contract claims. The economic damages include medical expenses, nursing care, long-term care, rehabilitation therapy, lost wages, etc. to name a few. Non-economic damages may also be included for physical pain and suffering.

Michigan's previous slip and fall law was based on the "Open and Obvious" doctrine. This doctrine held that property owners were not liable for injuries caused by hazards that were clearly visible. This made it difficult to win a slip and fall claim against property owners even when they were negligent. This doctrine held that property owners were not liable for injuries from hazards deemed open and obvious to a reasonable person, such as a pothole, lifted or icy sidewalks, etc. The property owner could argue the danger was obvious and you should have seen it and avoided it. Thus, the case could be dismissed even before it made it to a jury. A new ruling (also in 2024) has substantially shifted the legal landscape for condo associations in Michigan as they now have increased exposure to premises liability claims from co-owner's as well. Condominium associations should be aware of these changes in the law. Your attorneys can give you a more complete explanation of these new laws.

When board of directors are doing their property walk-throughs, they need to look carefully for tripping hazards such as potholes or uneven sidewalks. It would also be advisable that they properly salt the roads and sidewalks after the snow is removed to avoid a potential hazard. Make sure any and all complaints are documented. Condominium associations should review their association's insurance policies to ensure adequate coverage for premises liability claims for both economic and non-economic damages. Also make sure you have officer and director coverage. Be prepared!

## FAQS: HOMEOWNERS' ENERGY POLICY ACT

**By: Attorney Jeffrey L. Vollmer,**

**Makower Abbate Guerra Wegner Vollmer PLLC**

To address important provisions in Michigan's Homeowners' Energy Policy Act and their impact on condominium associations, we prepared responses to the following frequently asked questions:

### **1. *What is the Homeowners' Energy Policy Act?***

The Homeowners' Energy Policy Act (Public Act 68 of 2024) is a Michigan law, enacted in 2024, that limits community associations from restricting energy-saving improvements and solar energy systems within their communities. The ability of associations to restrict these two categories of items is separately addressed in the new law.

### **2. *When does this law take effect?***

The Homeowners' Energy Policy Act ("HEPA") takes effect April 2, 2025.

### **3. Who must comply?**

All homeowners' associations. We believe that term includes condominium and subdivision associations.

### **4. Are condominium co-owner entitled to make energy-saving improvements regardless of what the master deed, bylaws and rules say?**

Generally, yes. Provisions in an association's governing documents that prohibit or require approval for the installation or operation of energy-saving improvements are invalidated, except when applied to shared roofs or common areas. The ability to freely make these improvements also applies to "auxiliary changes" supporting an energy-saving improvement, although again, auxiliary changes cannot be made to shared roofs or common areas without approval.

### **5. What are examples of energy-saving improvements?**

Clotheslines

Heat pumps

Insulation

Rain barrels

Reflective roofing

Energy-efficient appliances

Solar water heaters

Electric vehicle supply equipment

Energy-efficient windows

Condominium restrictions are still valid for proposed energy-saving improvements on shared roofs and common areas.

### **6. What are "shared roofs" and "common areas"?**

"Shared roofs" is relatively self-explanatory. It is a roof that serves more than 1 home or unit. Any roof covering multiple units is a "shared roof." The term "common areas" is defined to include areas owned or managed by an association that are "generally accessible to all members." Stated examples include hallways, stairways, elevators, laundry rooms, recreational rooms, playgrounds, community centers, garages, green spaces, parks and fitness rooms. How "common area" is defined will ultimately depend on the association's governing documents.

### **7. Are limited common elements in a condominium "common areas"?**

No. By definition, limited common elements are reserved for the exclusive use of less than all co-owner. They are not generally accessible by all members and are not "common areas."

### **8. What about solar panels?**

Solar panels are part of a broader category of defined "solar energy system[s]." Restrictions in condominium documents banning solar energy systems outside of shared roof or common areas are invalid.

Co-owner must submit applications to install solar energy systems, but condominium associations may only deny the application if one of the following apply:

A court has found the proposed installation violates the law.

The installed system does not substantially conform what was contained in the application.

When installed on a roof, one of the following apply: (i) it will extend above or beyond the roof by more than 6 inches; (ii) it does not conform to the slope of the roof and has a top edge that is not parallel with the roof line; (iii) the frame, support bracket or wiring is not silver, bronze or black.

The system is: (i) being installed in a fenced yard (instead of a roof); and (ii) it will be taller than the fence line.

**9. *We live in a site condominium having single homes without shared roofs. Our bylaws ban solar panels. Is this restriction valid?***

No. HEPA invalidates this bylaw as a matter of law, and co-owner may install solar panels in accordance with HEPA.

**10. *Our community does not have shared roofs. Do we have any say where a solar panel is placed on the residence?***

Maybe. There is nothing in HEPA prohibiting an association from expressing a preferred placement on the residence or within a unit boundary. However, any preference cannot reduce the solar panel's electrical production by more than 10% or increase costs by more than \$1,000.00.

**11. *What should a solar energy system application contain?***

HEPA requires a few things: (i) co-owner name and address; (ii) contact information for installer; (iii) image showing the layout of the proposed system; and (iv) description of the system.

**12. *How long does the Association have to approve or reject a solar energy system application?***

Thirty (30) days if the solar energy policy statement ("Policy") was already adopted by the association. If the Policy has not been adopted (see #10 below), one hundred twenty (120) days.

**13. *Do condominium associations need to adopt a Policy?***

Yes! Every homeowner association in Michigan must adopt a policy between April 2, 2025, and April 2, 2026. That Policy must contain various disclosures required by HEPA.

**14. *Do condominium associations need to distribute the Policy to co-owner?***

Technically, no. However, the association must make the Policy available within thirty (30) days of adoption, or upon request. Additionally, if the association has a website, the Policy must be posted on the association website.

**15. *Can the Association face penalties for violating HEPA?***

Yes – potentially severe ones. If the association violates HEPA, a co-owner can sue the association for damages and may be awarded attorney fees and costs incurred in bringing the action.

**16. *What steps should condominium associations take to deal with HEPA?***

Consult your attorney about preparing the required Policy.

Make the Policy available to Co-owner and post it on the association website (if you have one).

Carefully consider any requests you receive for energy-saving improvements and solar energy systems and whether you have a right to approve or reject them.

Promptly respond to applications for solar energy systems.

Although HEPA will have a greater impact on site condominium projects lacking attached roofs, all condominium associations are affected by this law and must be prepared.

**Jeffrey L. Vollmer is a member of Makower Abbate Guerra Wegner Vollmer PLLC in St. Clair Shores. Jeff is in his 22nd year of legal practice, all of which have been dedicated to the representation of community associations. His Firm represents over 2,000 community associations throughout Michigan. Jeff has presented on community association law and authored articles for the Real Property Law Section of the State Bar of Michigan, Michigan's Institute for Continuing Legal Education, Michigan's Chapter of Community Associations Institute (CAI) and UCOM. He now serves as a director on the Board of Michigan's CAI Chapter after serving as the Chairperson of Conference/Education Committee for many years. Jeff was previously identified as a "Leading Lawyer" by Leading Lawyer's Magazine and has been identified as a Best Lawyer by Best Lawyers in America© in real estate law.**

**REMINDER: UCOM HAS SHIFTED TO E-COMMUNICATIONS**

UCOM uses various electronic communication methods to conserve costs and improve efficiency over using direct mailings.

UCOM Electronic communications will be in the form of email and text messaging to the designated contact for your association or company. Additionally information will be shared via the UCOM website and various social media pages.

We trust you will promptly share the information with others in your group.

Help us remain in contact with you by utilizing the following

UCOM website at [www.ucomonline.org](http://www.ucomonline.org)

UCOM's Facebook, Instagram and TikTok social media accounts

UCOM email —[ucommich@gmail.com](mailto:ucommich@gmail.com) to send updates and

UCOM text at 248-352-8606 to send text messages and for phone contact

***Be sure your association or business has provided a reliable contact name, email and cell number to ensure you receive timely UCOM notifications that you can share with others.***

**We wish everyone a safe and wonderful Spring!**

**Stay tuned for reminders regarding our upcoming events !**

**Sincerely,**

**Your UCOM Board of Directors**