



## The Future is Now —

### *Is Your Condominium Association Prepared to Handle These 6 Technological Advances?*

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**T**he last significant revisions to the Michigan Condominium Act took place in 2001 and 2002. While many Michigan condominium associations have amended their governing documents to address the 2001 and 2002 amendments to the Michigan Condominium Act, those amendments often fail to account for the numerous, recent technological advances which have arisen after those revisions. When amending condominium documents, associations should consider various cutting-edge issues pertaining to condominium associations. This article will identify the six (6) technological advances that most condominium associations are not prepared to handle.

#### 1. Drones

For as little as \$40, a co-owner can purchase a mini quad rotor drone with a camera. Drone usage in condominiums poses

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noise, privacy and safety concerns. Many co-owners throughout the United States have already reported drone sightings outside of their windows, balconies or community pools. In Michigan, MCL 559.172b and the condominium documents generally provide a

condominium association with the authority to regulate common element air space. Accordingly, the bylaws should indicate whether

drone use is allowed in the common areas by the co-owners including commercial deliveries. If an association allows drones, it should take appropriate precautions to protect the co-owners by restricting the locations that drone use is allowed, restricting the time periods for drone use, identifying landing and take-off locations and adopting other policies that protect the co-owners' privacy and safety. Finally, any policy that is created regarding drone use should also account for the fact that drones, when used properly, can be very useful to boards and property managers in establishing bylaw violations or by co-owners for commercial deliveries in certain areas of the country.

#### 2. Electric Vehicles

As of 2014 over 260,000 electric vehicles have been sold in the United States.<sup>1</sup> This number continues to grow annually and some states, such as California and Hawaii, have passed laws which require condominium associations—provided that certain requirements are met—to allow electric vehicle charging stations. While Michigan does not currently have any laws requiring associations to allow electric vehicle charging stations, Michigan condominium associations need to be prepared to deal with co-owners who drive electric vehicles. Condominium associations should amend their bylaws or create rules and regulations that 1) regulate the location(s) of electric vehicle charging stations, 2) address payment responsibilities for the electricity usage, 3) assign responsibility for maintenance and 4) allocate responsibilities for repair of the electric vehicle charging station. Additionally, an association should ensure

*[CONTINUES ON PAGE 8.]*

that the co-owner maintains insurance for an electric vehicle charging station and agrees to indemnify the association with respect to any potential liability, unless the charging station is a general common element that any co-owner is permitted to utilize.

### 3. Electronic Voting and Remote Meeting Participation

In 2008, significant amendments were made to the Michigan Nonprofit Corporation Act. MCL 450.2405 and MCL 450.2521 now allow for remote participation in association meetings, by methods such as Skype or GoToMeeting, so long as the articles of incorporation or bylaws do not restrict remote participation. MCL 450.2441 permits electronic voting at association meetings if allowed by the bylaws. For those that are unable to attend meetings, MCL 450.2421 allows for proxies to be electronically submitted to a condominium association. Finally, MCL 450.2407 indicates that the articles of incorporation may allow for the co-owners to take action by an electronic vote without holding a meeting if the articles of incorporation allow for an action without a meeting. MCL 450.2525, likewise, allows a board of directors to take action without a meeting via electronic transmissions unless prohibited by the articles of incorporation or bylaws. Accordingly, Michigan condominium associations should review their governing documents to determine if they need to be updated to allow for remote participation in meetings, electronic voting, electronic proxies and electronic consent to actions taken without a meeting.

### 4. Internet Use and Security

In 2002, only 569 million people, or 9.1% of the world's population used the internet.<sup>2</sup> By 2014, more than 4 billion people, or

more than 40% of the world's population, were internet users.<sup>3</sup> Given the rise of the internet, and most recently Wi-Fi, some condominium associations have started offering Wi-Fi to the co-owners in common areas such as the clubhouse or pool. However, many condominium associations have failed to create internet policies to protect against misuse. Associations that offer internet access should adopt rules and regulations to prevent hacking, illegal activities, obscenities, physical threats, sending viruses or spamming. Additionally, policies should be implemented to address the unauthorized use by fellow co-owners' Wi-Fi or internet access in order to prevent private co-owner information from being hacked or misused.

### 5. Smart Phones/Social Media

In 2002, smartphones did not exist, YouTube had yet to be invented and the largest social media network at the time, Friendster, had only 3 million users.<sup>4</sup> By 2014, more than 1.75 billion people use smart phones that are equipped with audio and video recording,<sup>5</sup> over 6 billion hours of video are watched on YouTube each month,<sup>6</sup> and Facebook is now the largest social media site with over 1.35 billion users.<sup>7</sup> While recording technology existed prior to the 2001 and 2002 amendments, the use of audio and video recording devices such as smart phones is ubiquitous. Almost every co-owner comes to an association meeting with the ability to record the meeting for later use on Facebook, YouTube or other social networking sites. While technology, if used properly, can be useful for documenting what happened at a meeting, many associations prefer not have meetings recorded because it chills the free exchange of ideas, the recordings can be easily manipulated and many recordings are later used for mud-



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slinging or for political purposes. As such, condominium associations should amend their bylaws or create rules and regulations governing the recording and dissemination of any recording(s) of association meetings and board meetings—if the condominium association permits such recordings at all. Moreover, associations should also create rules regarding the use of smart phones in common areas to prevent co-owners from taking videos or pictures at the pool or inside of a co-owner's unit. With respect to social media, many co-owners create social media sites and/or webpages that may not be sanctioned by the association. Accordingly, a smartphone or social media policy may also restrict the creation of unauthorized social media pages and/or set forth policies governing the co-owners' use of an official association social media page or website.

### 6. Solar Panels

As of 2014, roughly half of the states in the United States enacted laws that prevented community associations from outright banning solar panels. While Michigan has not yet enacted such a law, it is likely that such legislation will come to Michigan in the near future. In states that do not allow outright bans on solar panels, the condominium association typically has the power to restrict the size and location of solar panels for aesthetic purposes. In addition, the condominium association may establish conditions regarding solar panel installation, maintenance and repair, indemnification, insurance and responsibility for liability.

While many condominium associations have not yet encountered the above issues, with the rapid evolution of technology, most if not all condominium associations will be forced to deal with some, if not

all of the above issues in the near future. Accordingly, condominium associations should be proactive in amending their governing documents to account for technological advances. The money spent on updating the condominium documents will not only make your community more attractive to potential purchasers, but will also likely save your condominium association from future lawsuits. ■

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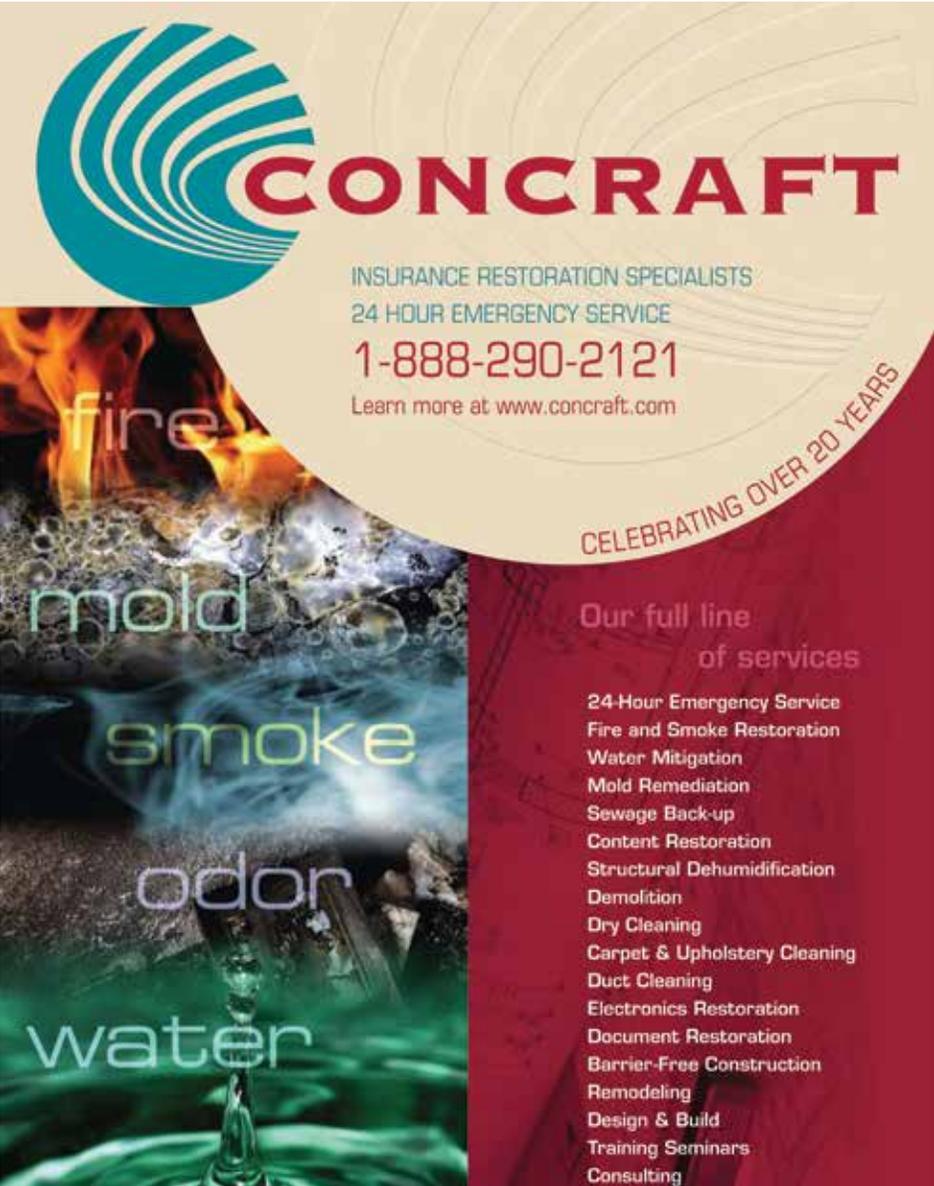
### Footnotes:

- 1 [http://en.wikipedia.org/wiki/Electric\\_car\\_use\\_by\\_country](http://en.wikipedia.org/wiki/Electric_car_use_by_country)
- 2 <http://venturebeat.com/2012/08/14/the-internet-2002-2012-infographic/>
- 3 <http://www.internetlivestats.com/internet-users/>
- 4 <http://venturebeat.com/2012/08/14/the-internet-2002-2012-infographic/>
- 5 <http://www.emarketer.com/Article/Smartphone-Users-Worldwide-Will-Total-175-Billion-2014/1010536>
- 6 <https://www.youtube.com/yt/press/statistics.html>
- 7 <http://newsroom.fb.com/company-info/>



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