

THE HEARTBEAT

FALL 2024

3 Most Costly Things for HOA Boards to Overlook

See page 15.



Fall 2024

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President’s Letter

By: Jan Mullaney, EBP

CAI Heartland: Happy Fall!

As the vibrant colors of fall start to surround us, I hope this season brings joy and a fresh perspective to you and your community. We're excited to share some important updates and initiatives aimed at strengthening our mission and ensuring a bright future for community associations.

We are having a special “Dollar a Door” campaign, reaching out to all board members and communities across our region. This initiative aims to help us continue providing exceptional resources and educational opportunities for our communities. We ask that each community consider a small donation of \$1 per door to help support the efforts of CAI Heartland and ensure we can continue to serve you well.

Additionally, we encourage everyone to support MOLAC (Missouri Legislative Action Committee). Your donations are crucial in helping us tackle both current and future legislative action items. By contributing to MOLAC, you help shape laws and policies that directly impact our communities, protecting our interests and promoting effective governance for all.

We are grateful to have you as part of CAI Heartland. Together, we are building stronger, more connected communities. Your support, whether through donations, volunteer work, or engagement with CAI, makes a lasting impact on the future of community living.

Wishing you a beautiful and productive fall season!
Jan Mullaney, EBP
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Update from MOLAC

By: Della Miller, CMCA, AMS, PCAM



Legal Action Regarding New Missouri Law on Backyard Chickens

Recent legislation passed by the Missouri House and signed into law by Governor Parsons on July 9, 2024 took effect on August 28, 2024. The law allows homeowners to keep up to six chickens and a single chicken coop structure on lots of at least 0.2 acres, regardless of homeowner's association agreements.

While the law permits HOAs to adopt reasonable rules regarding the pasturing of chickens, including restrictions on roosters, it does not apply to individual municipalities and their local ordinances on the matter.

On August 26, 2024, a lawsuit was filed by the Four Seasons Lakesites Property Owners (POA) Association against the State of Missouri. The petition argues that the law violates constitutional procedures for legislation. Four Seasons POA, a large-scale property owners association, has prohibited poultry in its Declaration of Restrictive Covenants since its inception in 1969.

We will keep you informed as this legal matter progresses.

The Missouri Legislative Action Committee (LAC) is providing support for the lawsuit, recognizing the potential for this law to set a dangerous precedent and lead to future governmental overreach. It is crucial for HOAs to remain prepared to defend their governing authority.

Support the Lawsuit

Please consider donating to help fund this legal challenge. Visit <https://advocacy.caionline.org/lac-donation-form/> and select "Missouri" to donate today! Your donation will help protect communities from unconstitutional state overreach and support the challenge of HB2062.

The CAI Missouri Legislative Action Committee (MOLAC) firmly believes that land-use restrictions should be determined by HOA homeowners, not mandated by state legislatures.

Community Associations Institute Challenges Federal Corporate Transparency Act

The Community Associations Institute (CAI) has filed a lawsuit against the U.S. Department of Treasury in the Eastern District of Virginia. This legal action seeks to exclude community associations from the stringent reporting obligations outlined in the federal Corporate Transparency Act (CTA). According to CAI, these requirements are unsuited for nonprofit, volunteer-led organizations like community associations.

The CTA, enacted by Congress in 2021, requires corporations, limited liability companies, and other entities to report the personal information of their beneficial owners to the Department of Treasury's Financial Crimes Enforcement Network. While CAI acknowledges the importance of transparency in preventing financial crimes, the organization argues that applying these rules to community associations – entities that differ significantly from typical businesses – creates undue and unnecessary burdens.

The reporting requirement could strain volunteer-driven community associations, potentially affecting their ability to efficiently serve their communities.

Currently, new community associations must file immediately, while existing associations have until December 31, 2024 to comply. Given that the law is already in effect, associations must meet these deadlines to avoid penalties, which may include fines of up to \$10,000 or imprisonment for up to two years for noncompliance.

For information on how to file under the Corporate Transparency Act (CTA), please visit CTAReview.com.

Dollar-a-Door Campaign

Each legislative session in Missouri brings new proposals that can significantly impact our state's community associations. To ensure your voice is heard, we need your continued support to educate legislators and strengthen relationships on behalf of your community.

Our success in advocating for or against important legislation depends on your contributions. By donating, you enable us to carry out essential legislative outreach and advocacy efforts.

We encourage you to consider donating just \$1 per door (or more) to help us represent your community at the State Capitol. It's easy to give – donate online today at advocacy.caionline.org or return the enclosed pledge form.

For more details, visit the Legislative Action Committee's website at caiheartland.com. 



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This diverse group of homeowner leaders, community managers, and representatives from community association business partners provides perspective on how proposed legislation could impact people living and working in community associations.

WHY WE NEED YOUR HELP

During legislative sessions in Missouri, there are always pieces of legislation introduced that impact Missouri community associations. We need your help now to continue to educate legislators and build relationships on your behalf. In order to be successful in supporting or opposing legislation, we rely on your support. Your donation makes our legislative advocacy and outreach efforts possible.

Please consider donating a \$1 per door (or more) so we can represent your community voice at the State Capitol. Giving is easy, simply donate online today at www.advocacy.caionline.org or mail back your Buck a Door pledge form.

Additional information can be found on the Legislative Action Committee's website (caiheartland.com)



1 Gives you a voice. The volunteer committee represents the approximately 948,000 Missourians who live and work with the Missouri's 5,700 community associations. Your donation saves you and your community association money by protecting Missouri's homeowner and condominium associations from burdensome legislation.

2 Keeps you informed and involved. The Missouri Legislative Action Committee organizes "grassroots" advocacy campaigns — letters, e-mails, phone, and social media communications regarding important issues related to community associations.

3 Tracks legislation that could impact community associations. In 2023, the committee reviewed 31 bills that directly or indirectly impacted community associations >> www.caionline.org/LegislativeTracking

4 Strengthens key relationships with lawmakers. By educating lawmakers, legislative and executive staff, and other organizations, as well as testifying, the committee helps advance issues facing community associations and influence the outcome of legislation.

5 Advocacy Successes. MO LAC has advocated on several notable bills that impact community associations in the 2024 Legislative Sessions:

SB 1324 – Establishes the "Missouri Homeowners' Association Act." - MO LAC has been endorsing this bill for several years. The proposed Homeowners' Bill of Rights in the state aims to standardize the rights of homeowners living in associations across the state. It would also provide clearer and more defined rules for homeowners and community associations. While it did not pass this year, MO LAC actively spearheaded and supported this bill while opposing other legislation that could harm community associations.

HB 2727 – Establishes the Uniform Unlawful Restrictions in Land Records Act. The MO LAC supports the enactment of the Uniform Law Commission's model legislative language regarding the Uniform Unlawful Restrictions in Land Records Act. Although discriminatory covenants or unlawful restrictions are no longer enforceable, existing ones continue to clutter land records. The Act provides an association board with a simplified process to remove unenforceable discriminatory restrictive covenants without the need for notice or vote of full membership. While the bill did not pass this year, the MO LAC will work to support any future introduction.

SB 985— Enacts provisions regarding deed restrictions, covenants, or similar agreements running with the land prohibiting ownership or pasturing of chickens - would prohibit associations from prohibiting or restricting agricultural activities. The MO LAC strongly opposes the proposed legislation prohibiting HOAs from restricting the keeping of six or fewer chickens, which has since been inserted into HB 2062 via amendment. The LAC is actively opposing the amendment language, as well. The current law provides a clear process for HOAs to authorize their homeowners to vote on whether to allow certain activities in their community, and this process should be maintained to protect the ability of associations to self-govern and ensure that every neighborhood can make decisions that best suit their unique needs.

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METHOD OF DONATION

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*The Missouri Legislative Action Committee is **NOT** a Political Action Committee (PAC) and **does not** give money to legislators or legislative candidates.

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Cathy Roth- Johnson, Executive Director
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10 / Fall 2024



Simple questions to answer at your
Community Board Meeting...

Are management tasks completed on a timely basis? Do you talk about the same issues at meeting after meeting?

Can owners access community information via the web?

Are delinquencies out of control?

Do we get good advice from our manager?

Could our community benefit from the proven knowledge of an industry leader and a CAI Accredited Association Management Company (AAMC)?

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If the answer is yes to any of these questions we would like the opportunity to demonstrate how CPM can positively impact the many ways your community does business.

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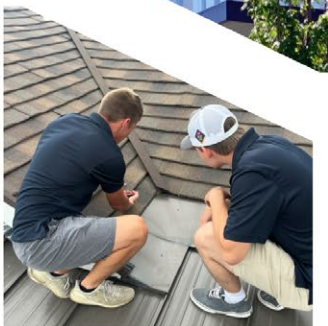


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The 3 Most Costly Things for HOA Boards to Overlook

By: Matt Marschke, owner of Midwest and Marschke Engineering companies



Homeowners Associations are tasked with maintaining the safety and longevity of their communities, but critical issues often go unnoticed. Boards can avoid some expensive repairs and big safety risks by keeping an eye on these 3 issues:

1. Deck and Roof Runoff

One of the most overlooked issues is water runoff from roofs. When roof water isn't properly managed it can seep into the building's structures causing them to rot and corrode over time. HOAs often don't recognize this issue until it becomes severe.

Water damage weakens key structural elements, and when left unchecked, it can result in sections of a building becoming unstable. Regular roof inspections and proper stormwater management can help prevent these issues before they escalate.

2. Foundation Damage from Poor Stormwater Management

Roof and stormwater runoff will also damage the building's foundation. When gutters discharge water too close to the building or storm runoff flows toward the structure, it saturates the soil around the foundation, causing it to settle unevenly or erode entirely. This leads to cracks in walls, foundation instability, and potentially major structural issues.

Foundation problems can be expensive to fix, so it's critical to ensure proper drainage systems are in place to channel water away from the building and prevent soil saturation.

3. Retaining Wall Failures

Concrete retaining walls, though durable, have a finite lifespan. Over time, they can start to tilt, crack, or even collapse if not properly maintained. Many HOAs overlook these early signs of failure. A collapsing retaining wall can cause significant damage to nearby buildings and landscapes, not to mention pose a serious safety hazard.

Regular inspections can help identify cracks, leaning, exposed rebar or other issues before a wall fails entirely. Proactive maintenance and regular inspections are key to preventing costly repairs. **CAI**

Midwest Engineering, doing business as Marschke Engineering in Illinois, helps HOAs with proactive maintenance and regular inspections. They are one of our newest members to CAI Heartlands. Contact matt.m@mwec.us today for an inspection to keep your assets protected.

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Fire Prevention Tips for Home and Work

By: Angie Hickey, BluSky Restoration



Cooler temperatures are finally on the way and the heating season is coming up. Sadly, this means the risk of fire at home and at work is on the rise as well. According to the National Fire Protection Association, a fire department responds to a fire every 21 seconds in the United States. Fire and smoke damage causes property losses approaching \$18 billion each year. The human toll is stunning, with fire injuries and deaths reaching into the thousands each year.

National Fire Prevention Week occurs each year in October. Now's the time to take steps to prevent fires and to protect yourself if a fire does occur. Whether in a place of business or at home, you should be doing the following:

- **Keep matches, lighters and other fire-starting devices** out of sight and reach of children.
 - **Keep candles away from children and pets.** Extinguish candles after use and never leave them burning unattended.
 - **Have your heating system checked out and serviced** before using it for the first time this fall.
 - **If you burn fuel for heat, you need a carbon monoxide detector.** CO2 is colorless, odorless, tasteless and deadly, and is the result of burning fossil fuels.
 - **If your home or business uses gas for anything (heating, water heater, stove) and you smell gas, evacuate and call 911 immediately.**
 - **Install fresh batteries in smoke detectors.** A good time to do this is each fall and spring when we change to and from daylight saving time.
 - **Businesses should have a fire escape plan** diagramed and labeled and posted in easy view. (You should have a plan for your home as well, and all family members should know what to do.)
 - **Know where all exits are located.** Even your newest employee should know this.
 - **Keep working fire extinguishers within 75 feet.** Your local fire department will come to your business
- and provide training on the use of fire extinguishers. Be sure you know how to use one. Replace fire extinguishers every year or have them serviced.
 - **Don't leave a stove unattended.** Grease causes a lot of fires in the kitchen. Interestingly, according to insurance statistics it's especially common when preparing French fries. Consider installing a fire suppressor such as StoveTop FireStop (not a paid endorsement) to prevent kitchen fires.
 - **Programmable coffeemakers should have an automatic shutoff feature** or you must always remember to turn them off. Never leave a coffeemaker on when you are away from the building. If possible, use a coffeemaker that has a thermal carafe instead of a heat plate. The thermal coupler in the heat plate can go bad and start a fire.
 - **Be sensible with extension cords.** Don't use them if you don't have to. Never plug an extension cord into another extension cord and don't overload them. Don't run them under carpet and make sure nothing is resting on an extension cord such as a chair leg. This creates resistance, which in turn builds heat, which can start a fire.
 - **Clean dryer vents.** Lint buildup and static electricity from clothing is a dangerous combination that could spark a fire.
 - **Turn off supplemental heat when not needed.** Be especially careful with kerosene space heaters that use an inverted fuel tank. If not installed properly they can leak and cause a fire.
 - **Do not store gasoline powered equipment in a storage area that has a gas water heater.** If something goes wrong with either one, the other will literally add fuel to the flame.
 - **In the event of a power outage make sure everything is turned off in case the power is restored while you are away.** Many fires have started while someone was cooking when an outage occurred, and the power came on later with the stove still on and no one at home. **CAI**

Board Relations: Avoiding Conflicts of Interest

By: Jennifer Olson

It's the time of year when many community associations welcome new board members. It also is a great time to review conflicts of interest and how to avoid them.

Community association board members are considered fiduciaries. Fiduciary duty is the highest standard of care imposed under law, and it occurs when one or more persons are responsible for the money or property of another. The fiduciary is expected to be honest, free from fraud, and faithful to his or her obligations.

As defined by the Oxford Dictionary, a conflict of interest is a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity. Accusations of self-dealing or conflicts of interest sometimes arise during the vendor hiring process. Board members who profit financially or who have friends or family members who may profit financially from hiring a vendor risk putting their own interests before those of the community.

That vendor in question may wind up being the best fit for the community, but there are steps that need to be taken so the hiring process is fair and equitable. To ensure the community comes first, board members should:

- Acknowledge when a conflict of interest may occur.
- Fully disclose a conflict when objectivity cannot be maintained.

- Document the entire disclosure in board minutes.
- Require conflicted board members to sit out the decision on the conflicting matter and related executive sessions that may occur.
- Seek multiple sealed bids and review them in their entirety before making a decision.
- Ensure the decision made is best for the entire association as a whole and not specific board members or even the management company. It is possible the management company also may have a conflict of interest when suggesting vendors.
- Always follow your association's documents and state law. If in doubt, consult your community association attorney.

There are other situations outside of the vendor bidding process where board members may find they have a conflict of interest. For example, a board member may have privileged information from sitting on the board that they may use for personal gain, such as the financial difficulty of another resident, upcoming potential projects in the community, or being paid for their work as a volunteer.

No matter what the situation is, board members are expected to approach each decision with transparency and honesty for the betterment of the community they serve. Community association managers need to remind board members of their obligations. **CAI**

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Corporate Transparency Act Update: Key Hearing Held in Lawsuit

By: Dawn Bauman, CAE

On Oct. 11, the U.S. District Court in Alexandria, VA held a hearing for preliminary injunction in *Community Associations Institute v. U.S. Department of Treasury*. CAI anticipates a ruling on the request shortly. This case is a critical component of CAI's fight to protect community associations from burdensome requirements mandated under the Corporate Transparency Act.

CAI Membership May Be Needed for Exemption from Corporate Transparency Act


Based on an interpretation in a similar case filed by the National Small Business Association, association standing" may protect all members of the organization. If CAI's lawsuit is successful in exempting community associations from the act, it is possible the exemption may only apply to community associations that are CAI members.

CAI recommends associations sign up for a homeowner leader group membership. Up to 15 board members may participate, which should cover most community association boards, visit www.caionline.org/join.

CAI's Three-Pronged Approach to Fighting the Corporate Transparency Act

CAI is committed to a comprehensive strategy in its fight to exempt community associations from the act.

- **Lawsuit.** *CAI v. U.S. Department of Treasury* challenges the act's application to community associations.
- **Regulatory Advocacy.** Arguing that volunteer entities such as community associations do not pose a risk to federal efforts to combat money laundering and terrorist financing activities, CAI continues to appeal to the Financial Crimes Enforcement Network and the Treasury Department to secure an exemption for community associations
- **Advocacy Legislative Efforts.** CAI continues to advocate for the passage of HR 9045, legislation that specifically exempts community associations from the act. This bill is the only piece of legislation in Congress that provides an exemption to any sector.
- **Preliminary Injunction Hearing.** The hearing requesting a preliminary injunction was a significant step in the case. While a decision is pending, the arguments presented underscore the potential hardships community associations may face under current regulations. The court's decision will determine whether enforcement of the act will be halted while the case proceeds. CAI will keep members informed of any updates.

CAI is hopeful for a favorable outcome in the case. Until a decision is reached, community associations must comply with the act by Jan. 1. We encourage all community associations to review current requirements and prepare accordingly. Stay tuned for more updates as we work tirelessly to exempt community associations. For more information and resources, visit www.caionline.org/cta. 



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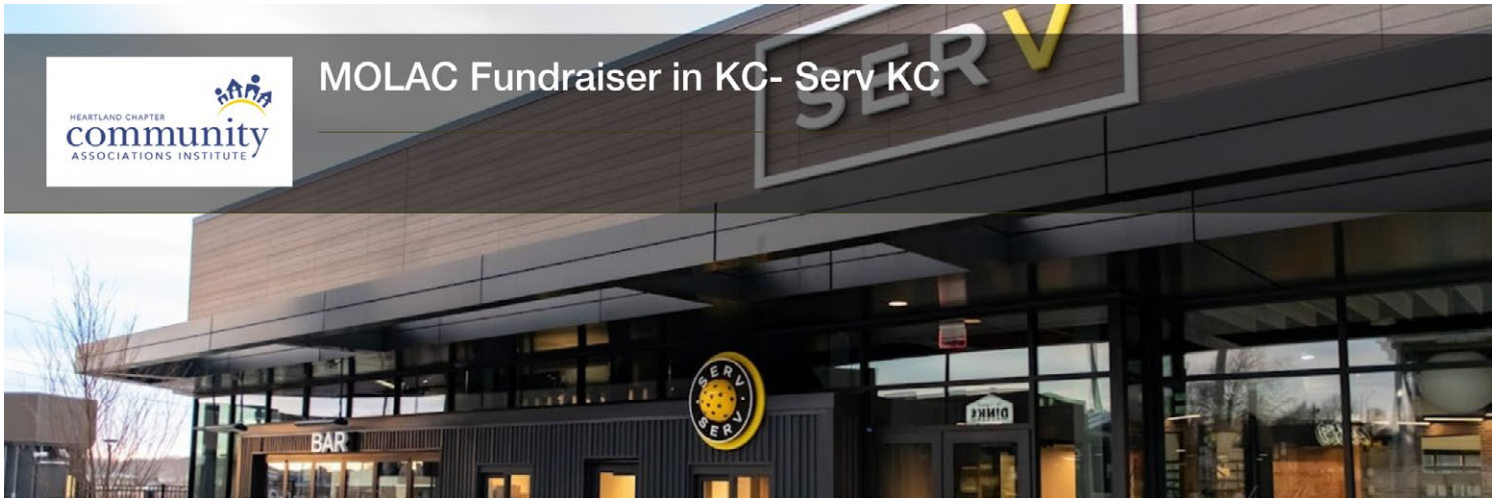
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Electronic voting: Recent developments in community elections

By: Hazel Siff



In September, California Gov. Gavin Newsom signed AB 2159 into law, making electronic voting a possibility for California-based community associations.

The law aims to maximize voter turnout and improve the voting process in communities for more sustainable and equitable elections. AB 2159 will allow community associations to conduct electronic elections, governing document votes, and votes to approve exclusive use of common area transfers. Under the law, membership approval will not be required for electronic voting, but communities will be able to [“adopt election rules to allow for an inspector of elections to conduct elections electronically.”](#) Community members will still be able to opt for a traditional written ballot. In addition, paper ballots are required for special assessment votes.

AB 2159 marks just one of several recent developments for online elections in community associations. Online voting systems offer customizable ballots, real-time results, and secure processes. Today, we spend more time on our phones than ever, and communication methods have changed significantly. Traditional mail is now opened only 42% of the time. Email does a bit better, but still lags with only 18% of emails opened, according to Campaign Monitor, a global technology company. [There are many benefits to holding online elections.](#) They include:

- **Increased participation.** The convenience of voting from anywhere encourages more members to participate in the decision-making process.
- **Efficiency and accessibility.** Effortlessly achieve quorum and guarantee accessibility on the go from your phone. This is particularly beneficial for those who can’t attend in-person meetings or vote via traditional methods due to time constraints or physical limitations.
- **Enhanced security.** Online voting can offer greater security and transparency than traditional methods.

Digital trails provide clear audit capabilities and enhance the integrity of the election process.

- **Promoting speed.** E-voting streamlines the voting process. It alleviates the burden on board members and managers by eliminating the need for manual labor and vote counting.

The cost of setting up an e-voting system might seem elevated at first, but it is offset by long-term benefits. Traditional voting methods involve high costs like printing, distributing, and collecting ballots.

For communities considering the move to online elections, [several best practices](#) can ensure a smooth transition:

- **Legal compliance.** Associations must first ensure that online voting is permissible under their governing documents and state laws. This may involve amending bylaws or seeking legal counsel to navigate specific requirements.
- **Educating owners.** Transitioning to online voting requires teaching owners about the new system. This involves clear communication about how to use the platform, the security measures in place, and its benefits.
- **Pilot testing.** Before fully implementing online voting, booking a free demo and conducting a pilot test can help identify any potential issues and solve member concerns.

Managing online elections is a significant step toward modernizing community governance. Communities that embrace digital solutions can ensure their election processes are inclusive and transparent while maximizing turnout, enhancing security, and saving time and money. **CAI**

Carlos Guzman, CEO at ONR Applications in Miami, contributed to this article.

>>CAI’s [Mastering Virtual Meetings and Electronic Voting: A Guide for Community Association Leaders](#) has information for new and experienced board members on how to conduct virtual meetings and elections simply and effectively.



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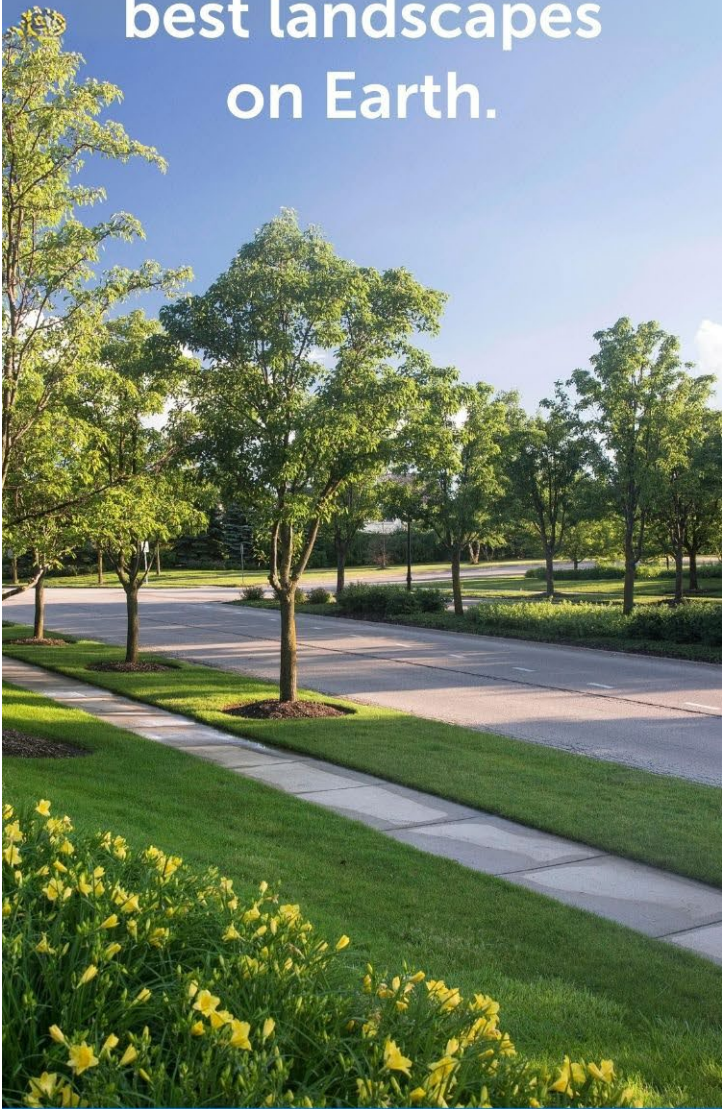
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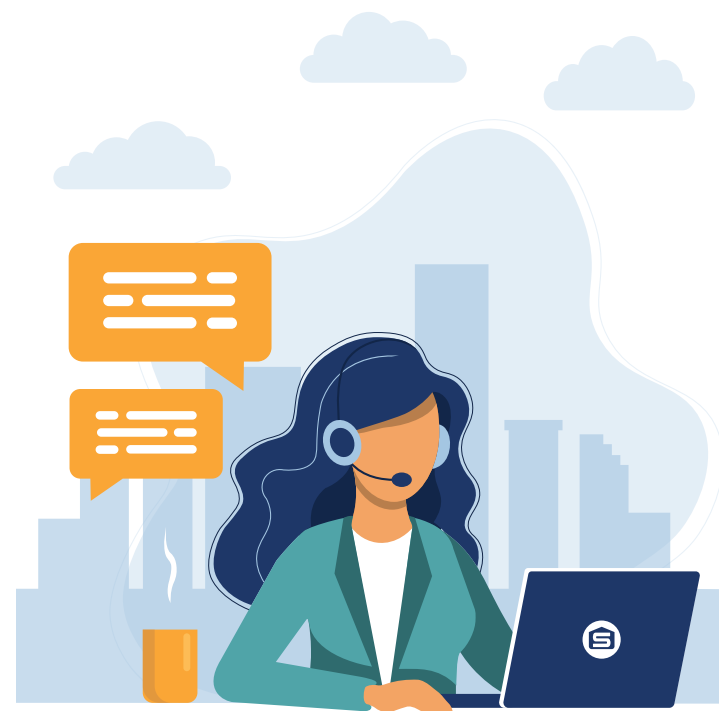
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