

History of

Federal FOR 2016 **Involvement**

in Community Associations



2016
Community Association
Fact Book *Part Three*

Chronological History of
Federal Involvement in
Community Associations



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Sources

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CAI Press

California Bureau of Real Estate

California Law Revision Commission

Colorado Department of Regulatory Agencies

Connecticut Judicial Branch Law Libraries

Department of Agriculture – Rural Development

Department of Veterans Affairs (VA)

Federal Emergency Management Agency (FEMA)

Federal Home Loan Mortgage Corporation (Freddie

Mac)

Federal Housing Administration (FHA)

Federal National Mortgage Association (Fannie
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Florida Department of Business & Professional
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Florida Division of Condominiums, Timeshares and
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National Association of Homebuilders (NAHB)

National Association of Realtors (NAR)

Nevada Real Estate Division

Urban Land Institute

Virginia Common Interest Community Board

Notes on Community Association Data: The *Fact Book* is based on information from seven data sources grouped in two categories:

- Public Data: (1) Census data, (2) American Housing Survey (AHS), (3) State data, (4) Related housing industries data such as that from the National Association of Realtors (NAR), National Association of Homebuilders (NAHB), and
- FCAR and CAI Data: (5) FCAR data accumulated over time, (6) CAI data, also accumulated over time, and (7) Data provided by CAI members.

The public data is largely from the Census and the American Community Survey (ACS). This data has a lag time to publication, i.e., certain of the ACS 2016 data may not be available until late in 2017. Some public association data is available from individual states. This state data, also, may have a lag time from collection to publication. Usually, both the few states with association data and the ACS data lack specificity in critically identifying the three basic types of associations: condominiums, cooperatives and planned communities. Similarly, the public data may count certain association units, but not the entities (the associations) themselves. From a timing viewpoint, FCAR, CAI data and CAI member data are more readily available. Because of the timing issue, the *Fact Book* data generally may be one year ahead of public data.

Part Three: Chronological History of Federal Involvement in Community Associations

Introduction

Community associations are a significant part of U.S. Housing, see the [Community Association Fact Book 2016](#). Despite their apparent newness, community associations – condominiums, cooperatives and planned communities – have a long history in the U.S. Some of that history is covered in the aforementioned *Fact Book 2016*. The actual development of associations whether by enabling statute or conventional real estate transaction – this occurs at the state level.

This Part Three, however, presents additional association history by including dates and information about significant publications and events as well as important organizations involved in the development of U.S. real estate including associations. The cites and dates below therefore are meant to provide a general context in which associations have been developed with the primary focus on federal involvement.

This involvement has ranged from hearings, to studies and to advisories and to certain legislation. Further, federal activities have been largely indirect rather than direct. There are only five federal statutes that deal directly with associations and/or their members and that have a discernible impact:

- Federal taxation which effects all associations,
- Federal flood Insurance which impacts both associations and their members if the association is in a Special Flood Hazard Areas,
- FHA/VA mortgage insurance/loan guarantee programs that are still responsible for around 25% of all home mortgage closings,
- Federal legislation that establishes a rebuttable presumption of unconscionability in certain long term association contracts and the
- U.S. Census which counts and measures certain attributes of individuals in condominium associations, but does not count or measure the three basic types associations themselves.

**Part Three: Chronological History
of Federal Involvement in Community Associations**

Housing Data Resources – Historical Perspective:

[Historical Statistics of the United State Colonial Times to 1970, Part 1 & Part 2](#)

[Congressional Research Service, A Chronology of Housing Legislation and Selected Executive Actions, 1892 - 2003](#)

[200 Years of Census Taking: Population and Housing Questions, 1790 - 1990](#)

[Census Overview and Procedural History, 1790 -2010](#)

[Housing Characteristics in U.S. Tables – 60 Years of Decennial Censuses](#)

[Estimates of Residential Building, United States, 1840 - 1939](#)

[Housing and Home Finance Agency – Housing Statistics 1948](#)

[Census Atlas of the United States, 2000](#)

[HUD Housing in the Seventies](#)

[U.S. Department of Housing and Urban Development Major Legislation on Housing and Urban Development Enacted, 1932 - 2014](#)

[32 Years of Housing Data – American Housing Survey, 1973 - 2005](#)

[Condominium Homeownership in the United States: A Selected Annotated Bibliography of Legal Sources](#)

Part Three: Chronological History of Federal Involvement in Community Associations

1890 --- Real Estate Mortgages [here](#) “The Superintendent of Census was reluctant to enter upon such an extensive and cost investigation [of mortgages] as that of recorded debt upon the strength of suggestions offered by such investigations as had already been made. It was feared that the people regarded their debt, although evidenced by public records, as a part of their private affairs, and they would resent any inquiries in regard to it.”

1908 --- National Association of Realtors (NAR) [here](#) The National Association of REALTORS® was founded as the National Association of Real Estate Exchanges on May 12, 1908 in Chicago. With 120 founding members, 19 Boards, and one state association, the National Association of Real Estate Exchanges' objective was "to unite the real estate men of America for the purpose of effectively exerting a combined influence upon matters affecting real estate interests."

1919 --- Report of the U.S. Housing Corporation, Vol. II, Houses, Site Planning Utilities, [here](#) “The shortage of housing which the United States Housing Corporation was created to meet as a war-time emergency was not a new thing arising wholly by reason of the war. The war simply localized and aggravated a widespread, chronic, and steadily growing trouble of peace times, which still persists, and which the country must now face and deal with in general ways better adapted to the nature of American institutions than were some of the arbitrary methods of local relief adopted under the pressure of war.”

1920 --- Richard T. Ely founds [here](#) the *Institute for Research in Land Economics and Public Utilities*, an organization that emphasized “land economics” and planning that would eventually produce Helen Monchow’s influential 1928 book on deed restrictions and also serve to provide some of the intellectual underpinning for Hoover’s *The President’s Conference on Home Building and Home Ownership (1931/1932)*.

1920 --- Housing by Employers in the United States [here](#) ““Employers housing” is the term used to describe housing work done by employers in the interest of their employees. It is synonymous with the term “company housing.” The housing work must be incidental to the main business of the employer. The employer’s interest in the housing work must be that of an employer, and not primarily that of a real estate operator or builder....Altogether 213 companies were scheduled [for the Survey], which operated 423 different establishments, employing 462,991 men, of whom 160,645, or 34.4 percent, were accommodated in company houses.”

Part Three: Chronological History of Federal Involvement in Community Associations

1923 --- Mortgages on Homes [here](#) “What does a mortgage on a home signify?....We have no recent statistics to indicate the cases which the mortgage indebtedness represents prosperity and in those in which it represents a decline in prosperity or even failure....It is frequently said that people are mortgaging their homes to buy automobiles....We have no data on this subject.” [Foreword by Richard T. Ely]

1928 --- The Use of Deed Restrictions in Subdivision Development, [here](#) by Helen C. Monchow, “The field of public control of land uses is a comparatively new activity in this country....But not until about 55 years ago did a development appear which may be said to be the forerunner of the modern highly restricted subdivision. At Riverside, Illinois, was developed a community which used the device of control by deed restrictions in the modern sense.” See [Riverside Illinois](#). See [National Register – Historic Suburbs](#), many began like Riverside. Monchow’s book was the first systematic look at deed restrictions as being an important element subdivision development. In many respects, community associations through the subdivision process are another extension of land development that began very early in this country’s history. See the *Fact Book 2016*.

1930/1944 --- The Veterans Administration was created in 1930. From a housing perspective, the Department of Veterans Affairs is better known for the GI Bill of 1944 [here](#) which is “said to have had more impact on the American way of life than any law since the Homestead Act of 1862.

1931/1932 --- President Hoover’s *Conference on Home Building and Home Ownership* [here](#) which designed to gather substantial information about housing. See Chapter 1 that includes a discussion of subdivision regulations. “The decisive step in the transition of land from purely rural or agricultural uses to urban uses is that of the subdivision of acreage land into urban building lots. The quality of life – that is, the general healthfulness and decencies of life of the people is as dependent upon the way the subdivision is laid out and upon the sanitary and other utilities installed in it as upon any other factor.”

Part Three: Chronological History of Federal Involvement in Community Associations

1931 --- Recent Trends in American Housing, Edith Elmer Wood, [here](#) “The crux of the housing problem is economic. Under the ordinary laws of supply and demand, it is unsoluble...The estimate that a third of our people are badly housed was arrived at by careful calculation...There has been a slow, but steady decrease in home ownership in the United States for some decades, and a slow, but steady increase in the proportion of mortgaged homes. The 1930 figures are not yet available.”

	Percent of Total Homes		Percent of Owned Homes	
	Rented	Owned	Free	Encumbered
1890	52.2	47.8	72.0	28.0
1900	53.9	46.1	68.7	31.3
1910	54.2	45.8	67.2	32.8
1920	54.4	45.6	61.7	38.3

1934 --- FHA was created [here](#) and “provides mortgage insurance on loans made by FHA-approved lenders throughout the United States and its territories. FHA insures mortgages on single family and multifamily homes including manufactured homes and hospitals. It is the largest insurer of mortgages in the world, insuring over 34 million properties since its inception in 1934.” In August 2012, GAO Report the 160 housing related programs [here](#) in various federal departments and follow-up Report on Housing Assistance by Agency [here](#), not all involving associations.

1936 --- Urban Land Institute (ULI) [here](#) The National Real Estate Foundation for Practical Research and Education—the predecessor to the Urban Land Institute—is chartered in Illinois, with Walter S. Schmidt as its first president. The name was changed in 1939 to ULI. The model is that of a real estate college—a school of urbiculture—that could stand as an objective and recognized source of research and education, governed by a board of real estate professionals. In 1947, ULI published *The Community Builders Handbook* [here](#) to facilitate larger more integrated residential development.

1938 --- Survey of Federal Legislation Affecting Private Home Financing Since 1932, E. S. Wallace, 1938 [here](#) “These developments focused attention on certain basic defects which had long existed in this portion of the credit system. The most important of these defects may be listed as follows:³ (i) the instability of real estate values, resulting from population movements and enhanced by the flow of speculative funds into and out of the real estate market, which has caused lenders to restrict their first mortgage loans to rather low percentages of appraised property values; (2) the

Part Three: Chronological History of Federal Involvement in Community Associations

unsatisfactory, costly, and frequently illegal system of second and third mortgages, resulting from the fact that many families attempting home ownership have not been able to provide from their own funds the difference between the amount of the first mortgage, thus restricted, and the cost of the home; (3) inefficient methods of appraisal” [A total of seven defects are listed.]

1938 --- Fannie Mae was created [here](#) according to its Charter, as amended through 2008, to:

- (1) provide stability in the secondary market for residential mortgages;
- (2) respond appropriately to the private capital market;
- (3) provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate- income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage
- (4) investments and improving the distribution of investment capital available for residential mortgage financing;
- (5) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and 12 U.S.C. 1716
- (6) manage and liquidate federally owned mortgage portfolios in an orderly manner, with a minimum of adverse effect upon the residential mortgage market and minimum loss to the Federal Government.

Fannie Mae purchases mortgages, including for homes in community associations, from approved lenders according to underwriting standards in a *Selling Guide* [here](#)

Note on Fannie Mae, Freddie Mac and Ginnie Mae: It will be helpful to briefly view all three entities in a narrative based on chronology. Over the course of several years, Fannie Mae, Freddie Mac and other entities were either created or underwent several changes or both.

- 1954, Fannie Mae went from being a government agency to becoming a public-private mixed ownership entity often referred to as a Government Sponsored Enterprise (GSE, or “Enterprise”).
- 1968, Fannie Mae was reorganized as a for-profit shareholder owned corporation that was removed from the federal budget and funded itself through the stock and bond markets.
- 1968, HUD was given regulatory authority over Fannie Mae.

Part Three: Chronological History of Federal Involvement in Community Associations

- 1968, Ginnie Mae was created to purchase mortgage debt from FHA, VA and other federal entities. Ginnie Mae securities are the only MBS (mortgage backed securities) backed by the full faith and credit of the U.S. government.
- 1970, Freddie Mac is created to help thrifts (S&Ls) to manage interest rate risk.
- 1989, the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) placed Freddie Mac on the same footing as Fannie Mae, as a GSE.
- 1992, the Office of Federal Housing Oversight (OFEO) was given certain regulatory authority over both Fannie Mae and Freddie Mac.
- 2008, the Housing and Economic Recovery Act created the Federal Housing Finance Agency (FHFA).
- 2008, Fannie Mae and Freddie Mac are placed in conservatorship by the FHFA where both remain as of this Chronological History.
- See also [Federal Housing Finance Agency Timeline](#)

1941 --- Cooperatives and the Income Tax, Israel Packel, 1941 [here](#) “The courts have had the occasion to consider the exemption status of housing cooperatives, a form of consumers' cooperative. In *Garden Homes Company v. Commissioner* 29 exemption was claimed by such an organization as a (i) building and loan association, (2) consumers' cooperative, (3) municipal agency or (4) civic organization. The cooperative was denied the exemption on the first three grounds, but it was held to be exempt on the fourth ground. It should be noted, however, that in that case the City of

Milwaukee had a real interest in the enterprise. In the more recent case of *Amalgamated Housing Corporation v. Commissioner*, a limited dividend housing cooperative was held to be non-exempt and the contention that it was a civic organization was rejected.”

1942 --- Section 216 of the Internal Revenue Code (IRC) [here](#) was adopted in 1942 that allowed income tax deductions and real estate tax deductions for housing cooperatives.

1942 --- Emergency Price Control Act of 1942 [here](#) precipitated numerous rental to cooperative conversions to avoid rent control.

1942 --- National Association of Home Builders (NAHB) [here](#) founded, as a breakaway from the National Association of Real Estate Boards.

1940 -1942 --- Mutual Ownership Defense Division [here](#) created war time housing in a cooperative form and, later, in **1949 --- Lanham Act** facilitated the conversion of public housing to housing cooperative [here](#).

Part Three: Chronological History of Federal Involvement in Community Associations

1940 - 1942: Audubon Park [here](#) is created by the Mutual Ownership Defense Housing Division.

1949 and 1950 --- Cooperative Housing in the United States [here](#) “After the end of World War II the severe housing shortage in this country led to an increased interest in cooperative housing as one means of solving the problem. This gave further impetus to a movement which began in the United States about a third of a century ago among people who held that by joining together in the purchase of land and the construction of houses they could obtain dwellings of good quality at less cost than those being provided in other ways. As things have worked out, some housing cooperatives have been outstandingly successful and have accomplished everything their sponsors hoped for. Others, however, have proved to be disappointing, either falling by the wayside or failing to attain the original objectives.”

1949 --- Housing Act of 1949 [here](#) Short Title and Declaration of National Housing Policy. Section 2 of the act establishes national housing objectives and the policies to be followed in obtaining them. The declaration states that:

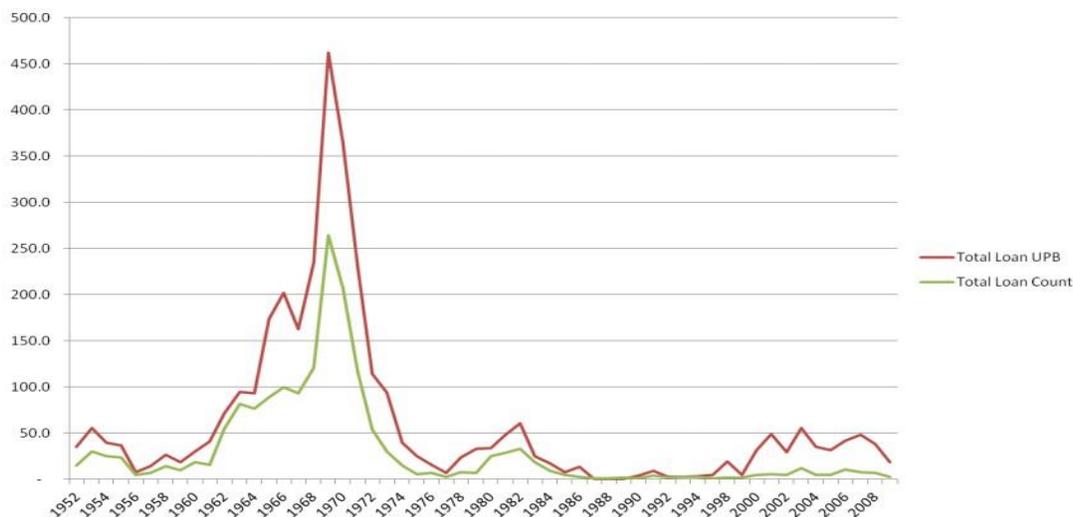
“the general welfare and security of the Nation and the health and living standards require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities, and to the advancement of the growth, wealth, and security of the Nation.”

1950 --- Housing Act of 1950 (Public Law 81-475, April 20, 1950) “SEC. 213. (a) In addition to mortgages insured under section 207 of this title, the Commissioner is authorized to insure mortgages as defined in section 207 (a) of this title (including advances on such mortgages during construction), which cover property held by- "(1) a nonprofit cooperative ownership housing corporation or nonprofit cooperative ownership housing trust, the permanent occupancy of the dwellings of which is restricted to members of such corporation or to beneficiaries of such trust; or "(2) a nonprofit corporation or nonprofit trust organized for the purpose of construction of homes for members of the corporation or for beneficiaries of the trust ...”

Part Three: Chronological History of Federal Involvement in Community Associations

1951 --- National Housing Act created mortgage insurance under **213** for the development of housing cooperatives [here](#). Eventually, the various National Housing Acts added other sections which could be used to create housing cooperatives such as **202** [here](#), and **221(d)(3)** and **221(d)(4)** both [here](#). Beginning in the 1950s through the mid-1970s, FHA mortgage insurance programs played an important role in the growth of housing cooperatives.

FHA insured Coop Volume 1952 - 2008



1958 --- New Housing and Its Materials, 1940 1956 [here](#) “About 97 percent of the single-family houses started in 1956 were completely detached, surrounded by their own plots of ground (table 1). The remaining small fraction of row and semidetached houses were concentrated in a few cities in the northeastern and southern regions. Although no strictly comparable figures are available for earlier periods, the 1950 Census of Housing indicates that the proportion of semidetached and row houses built in the 1940’s was higher than in recent years—probably in excess of 10 percent. The wartime controls in effect—particularly in the first half of the 1940s—resulted in more compact, row-house neighborhoods to conserve materials not only in the houses themselves but also in the extension of utilities, streets, and auxiliary community facilities..... Since 1949 and 1950, when the record volume of FHA-underwritten rental and cooperatively owned housing swelled the count of units started in private multifamily buildings to approximately 200,000 a year, the trend in this type of residential construction was generally downward to a low of 113,000 units in 1956. This volume was in sharp contrast with annual building programs of 350,000 or more.”

Part Three: Chronological History of Federal Involvement in Community Associations

1959 --- Advisory Commission on Intergovernmental Relations (ACIR). Congress establishes the Advisory Commission on Intergovernmental Relations (ACIR), with members from various branches of government. Serves primarily as a research agency and think tank in area of intergovernmental relations. In 1989, ACIR publishes “Residential Community Associations: Private Governments in the Intergovernmental System.” [here](#)

1960 --- House Subcommittee on Housing of the Committee on Banking and Currency held at the request of Puerto Rico to discuss condominiums.

1961 --- National Housing Act of 1961 [here](#) provided for mortgage insurance for condominium units in 234(c) [here](#). An important element of this 1961 Act is that in order to be eligible for the mortgage insurance the given state in which the housing was located had to have a condominium act. By the end of 1961, 31 states had what is now termed a First Generation Condominium Act. FHA insures mortgages made by approved lenders. Eventually FHA condominium criteria became consolidated into the **2009/2011 FHA Condominium Approval and Processing Guide** [here](#) See other FHA Condominium Mortgage Letters and References [here](#)

1962 --- Condominium, Frank So, American Planning Association [here](#) “A significant increase in interest by builders and public officials in the “condominium” has taken place in the past year. Principle interest has come about with the passage of Section 234 of the National Housing Act (Public Law 87-70, 87th Congress). See Herbert J. Friedman, [Community Apartments: Condominium or Stock Cooperative](#), 1962. See Robert G. Natelson, [Comments on the Historiography of Condominium: The Myth of Roman Origin](#) (1987)

1962 --- On November 20, 1962, President Kennedy signed into law Executive Order 11063 [here](#) prohibiting segregation in the sale, leasing, or rental of federally owned or operated properties, as well as those provided with federal funds.

1963 --- Senate Hearing To Provide for the Creation of Horizontal Property Regimes in the District of Columbia (September) [here](#) The Hearing requests that a bill be reintroduced to allow for the creation of condominiums in the District of Columbia.

1964 --- National Housing Act created FHA 234(d), created mortgage insurance for the development of a condominium project as a whole [here](#). See also HUD Handbook 4580.1 (1973) [here](#).

Part Three: Chronological History of Federal Involvement in Community Associations

1965 --- HUD [here](#) is created. Housing and urban policy achieve cabinet status when the Housing and Home Finance Agency is succeeded by the Department of Housing and Urban Development. Robert Weaver becomes HUD's first Secretary and nation's first African-American cabinet member.

1968 & 1970 --- Title IV and Title VII, respectively of the Housing & Community Development Acts, created the New Communities Program responsible for “New Towns” such as The Woodlands and others [here](#); the Program was terminated in 1983 [here](#).

1968 --- Interstate Land Title Full Disclosure Act [here](#) with registration, as of July 21, 2011, transferred to the Consumer Finance Protection Bureau. “**Who is covered?** Individuals who are developers of land and other individuals offering 25 or more lots for sale and using any means or instruments of interstate commerce (including the mails).” This includes units in community associations.

1968 --- Ginnie Mae is created. While Fannie Mae was created in 1938, the Housing Act of 1968 split the corporation in two and created Ginnie Mae. Unlike Freddie Mac and Fannie Mae, Ginnie Mae (collectively, the GSEs) has explicit government backing and purchases mortgages from FHA, VA, Dept. of Agriculture’s Rural Housing Development Program and HUD’s Office of Public and Indian Housing. Also, unlike the GSEs, Ginnie Mae does not have Project Standards (like Fannie Mae) or Collateral Policy (like Freddie Mac). Fannie Mae Single Family Underwriting Guidelines for community associations can be found [here](#)

1968 --- Fair Housing Act. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability. In addition to the Act (both before and after), there are other similar statutes and Presidential Executive Orders [here](#)

1970 --- Department of Veterans Affairs authorized loans on condominium units [here](#). VA underwriting guidelines for common interest communities, condominiums and planned unit developments in the *Lenders Handbook - VA Pamphlet 26-7*, Chapter 16 [here](#). See also Department of Veterans Affairs [38 CFR 36.4360 - Condominium loans - general](#).

Part Three: Chronological History of Federal Involvement in Community Associations

1970 --- Freddie Mac was created according to its Charter [here](#)

- (b) It is the purpose of the Federal Home Loan Mortgage Corporation—
- (1) to provide stability in the secondary market for residential mortgages;
 - (2) to respond appropriately to the private capital market;
 - (3) to provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and
 - (4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.

Similar to Fannie Mae (both as GSEs), Freddie Mac buys loans from approved lenders. If the home is in a community association, then Freddie Mac underwrites the loan according to its *Seller/Sevicer Guide* [here](#)

1970 --- FHA Planned-Unit Development with a Homes Association [here](#) which in very summary form is based on the Urban Land Institute's "The Homes Association Handbook" (Technical Bulletin 50) 1964/1966. TB 50 is one of the seminal publications dealing with community associations. The author of TB 50, Byron Hanke, became one of CAI's founders. Later in 1975, Professor Jan Z. Krasnowiecki published ***Townhouses with Homes Associations: A New Perspective*** [here](#)

1970 --- Census Overview and Procedural History, Chapter 15 Population and Housing Items [here](#)

"This question [relating to Tenure] was asked for all occupied units. There was a corresponding item on tenure in the previous censuses of housing, and also on the decennial census population schedules for 1890 through 1930. Cooperative and condominium units first were shown as a separate category in 1970; previously they were not distinguished from conventionally owned units...."A cooperative or condominium" was to be marked if the cooperative or condominium was owned outright or was being bought, even if mortgaged or not fully paid for. The owner or co-owner had to live in the unit, but did not have to be the head of the household. Cooperative

Part Three: Chronological History of Federal Involvement in Community Associations

or condominium ownership covered single-family houses, row houses, townhouses, etc., as well, as apartments. A cooperative was defined as housing owned by a corporation of tenants, in which the individual tenant is a shareholder in the property with a piece of the total ownership, and is entitled to occupy an individual housing unit. A condominium was defined as housing in which the buyer is enabled to own an apartment or house in a project of similar units. The owner receives his own deed and/or a mortgage on his unit, and also holds a common or joint ownership in all common areas and facilities that serve the project--land, roofs, hallways, entrances, elevators, etc.”

1970 --- Census Subject Report – Cooperative and Condominium Housing [here](#) and [here](#) “This report from the 1970 Census of Housing presents data on owner- occupied cooperative and con- dominium housing units crossclassified by various housing and household characteristics. Data are shown for the United States by inside standard metropolitan statistical areas (SMSA's), regions, and selected States and SMSA's.” The Subject Report on “Cooperatives and Condominiums” begins on p.211/720.

► **1973 --- Community Associations Institute (CAI) [here](#), an international, nonprofit 501(c)(6) organization** was created in 1973 to provide education, resources and advocacy to America’s community association industry. In 1975, the Foundation for Community Association Research [here](#) was created as a 501(c)(3) organization devoted to association research and scholarship.

1973 --- Annual Housing Survey Questionnaire [here](#) The Survey asks four questions of individuals that own or are considering buying a unit in a cooperatives and condominium association. The Survey does not record or tabulate data about the associations themselves. From 1974-1983 results of the National AHS were released as a series of 6 reports. The first AHS condominium unit and cooperative unit data was released in 1975. In 1984, the Survey was renamed as the American Housing Survey.

1973 --- SEC Public Release NO 33-5347 “Offer and Sales of Condo or Units in a real estate development” In a “News Digest” form [here](#)

1974 --- Fannie Mae begins purchasing condominium unit and planned community unit loans [here](#)

1974 --- Equal Credit Opportunity Act [here](#). This statute, together with other prior social and eventual legal changes, allowed women and minorities to gain better access to mortgage credit thereby helping to make homeownership in community associations increasingly possible and popular.

Part Three: Chronological History of Federal Involvement in Community Associations

1975 --- House of Representatives Hearing on Federal Trade Commission Decision to Terminate Investigation of Condominiums (April) [here](#) “This hearing is concerned with the adequacy of the Federal Trade Commission’s response to allegations of unlawful consumer practices in the condominium industry.”

1975 --- HUD Condominium/Cooperative Study (July) [here](#) (3 printed volumes) and, while not legislation, this Study represent one of the two empirical studies HUD has done to try to understand associations.

1975 --- United Housing Foundation v. Forman (April) [here](#) the U.S. Supreme Court ruled that shares in a housing cooperative were not securities and while technically not a federal action it is still important.

1975 --- Senate Hearings on Condominium Consumer Protection Act of 1975 (October) [here](#) The Senate hearings make reference to the *HUD July 1975 Condominium/Cooperative Study* cited above, but mistakenly dates the three volumes as August 22, 1975. “The legislation we are considering today, S2273, is designed to clear up the condominium problems and abuses that we found in our hearings and you [HUD Secretary Carla Hills] found in your study....The major change is that we take HUD out of the business of registering condominiums altogether. Instead, the bill calls for HUD to set minimum standards for consumer protection and disclosure in condominium sales and conversions, but leaves enforcement of the law to the States or, alternatively, to individual action through the courts.”

1976 --- Congressional Report on Condominium Development and Sales Practices (July) [here](#) Despite the Reports brevity (25+pages), the Report essentially restated the findings in the *1975 HUD Condominium/Cooperative Study* (cited above). Further, the Report made recommendations for federal legislation none of which came to pass with the exception of the *1980 Condominium and Cooperative Conversion Protection and Abuse Relief Act* (cited below).

1976 & 1997 --- Internal Revenue Code (IRC) Section 528 [here](#) which provided for federal taxation of condominiums and planned communities was created. Cooperatives were under IRC Section 277 until 1998. Timeshare associations were added to IRC 528 in 1997. See Community Association Taxation [here](#).

1978 --- Fair Debt Collection Practices Act (FDCPA) [here](#). The Fair Debt Collection Practices Act (FDCPA) (15 USC 1692 et seq.), which became effective in March 1978, was designed to eliminate abusive, deceptive, and unfair debt collection practices. It also protects reputable debt collectors from unfair competition and encourages consistent

Part Three: Chronological History of Federal Involvement in Community Associations

state action to protect consumers from abuses in debt collection. Over time, FDCPA has been applied to association assessments and the practitioners who assist associations to collect assessments.

1978 --- Lien Priority Article by Henry A. Judy, General Counsel of Freddie Mac and his principal outside counsel, Robert L. Wittie, article entitled “*Uniform Condominium Act: Selected Key Issues*,” that appears in 13 Real Property & Trust Journal 437 (1978) [here](#) that provides the rationale for community association lien priority. See Joint Editorial Board for Real Property Acts July 2016 [Comments on Lien Priority](#)

1978 --- Senate Hearing Condominiums and the Older Purchaser (November) [here for Part 1](#) and [here for Part 2](#) The hearing gathered information about a variety of issues faced by older purchasers in condominiums especially ones caused by developers.

1979 --- Congressional Hearing on Condominium Housing Issues (June) [here](#) This hearing received testimony (and some supporting documentation) from a number of association professionals and some association members number of witness. The Senate bill that became the *Abuse Relief Act of 1980* (cited below) is included in the material. Also some of the material was used in the *1980 HUD Study on Conversions* (also cited below).

1980's ---Bureau of Labor Statistics adds community association management to its *Occupational Outlook Handbook* [here](#)

1980 --- Urban Neighborhood Community Association Project: An Action Manual (HUD) produced by CAI for HUD [here](#) [NTIS Accession Number: PB81136954]

1980 --- HUD study “The Conversion of Rental Housing to Condominiums and Cooperatives” [here](#) which is the second study. Basically, the Study found that conversion was a change in tenure, but not a loss of housing in the same sense as demolition and other forms of destruction.

Part Three: Chronological History of Federal Involvement in Community Associations

1980 --- CONDOMINIUM AND COOPERATIVE CONVERSION PROTECTION AND ABUSE RELIEF ACT, [here](#)

Quoting next from the Act cited above, in 1980, Congress found that:

- (3) certain long-term leasing arrangements for recreation and other condominium- or cooperative-related facilities which have been used in the formation of cooperative and condominium projects may be unconscionable; in certain situations State governments are unable to provide appropriate relief; as a result of these leases, economic and social hardships may have been imposed upon cooperative and condominium owners, which may threaten the continued use and acceptability of these forms of ownership and interfere with the interstate sale of cooperatives and condominiums; appropriate relief from these abuses requires Federal action; and
- (4) there is a Federal involvement with the cooperative and condominium housing markets through the operation of Federal tax, housing, and community development laws, through the operation of federally chartered and insured financial institutions, and through other Federal activities; that the creation of
- (5) many condominiums and cooperatives is undertaken by entities operating on an interstate basis.

1983 --- Rural Housing Amendments of 1983 [here](#) Beginning with rural electrification in the 1930's Depression, various agencies that eventually became the U.S. Department of Agriculture (USDA) became engaged in rural development. Today, the [Rural Housing Service](#) offers a variety of programs to build or improve housing and essential community facilities in rural areas. See [USDA Handbook HB 1-3555](#) for the development of condominiums and planned unit developments.

1988 --- Fair Housing Act Amendments of 1988 [here](#)

1989 --- ACIR Publication, the Advisory Commission on Intergovernmental Relations (ACIR) publishes "Residential Community Associations: Private Governments in the Intergovernmental System?" [here](#) See **ACIR July 1989 Residential Community Associations Questions and Answers for Public Officials** [here](#)

1991 --- HUD, Keating Memorandum on Fair Housing Occupancy Standards [here](#) This statement of policy advises the public of the factors that HUD will consider when evaluating a housing provider's occupancy policies to determine whether actions under the provider's policies may constitute discriminatory conduct under the Fair Housing Act on the basis of familial status (the presence of children in a family).

Part Three: Chronological History of Federal Involvement in Community Associations

1994 --- House of Representatives Hearing Credit Available for Condominium and Cooperative Purchases (1994) [here](#) As a result [of the bad economic conditions], we had a situation where people who had made every payment on their house, on their condominium, or on their coop, were denied access to credit.....Banks in many cases are no longer the vehicles that actually provide credit, but are actually just paperwork passers that end up shipping the loans off to the secondary market, which is backed up by the full faith and credit of the tax payers of the United States.”

1994 --- The Residential Condominium Association Building Association Policy (RCBAP) [here](#) was created by FEMA for exclusively insuring only condominium associations under the National Flood Insurance Program (NFIP).

1996 --- U.S. Tax Court found that IRC Sub-Chapter T applied to housing cooperatives as the result of Thwaites Terrace v. Commissioner [here](#).

1999 --- Tax Exemption, the Internal Revenue Service adopts Revenue Ruling 74-99 which provides for the possible tax exemption of planned communities under IRC 501(c)(4) [here](#) with further IRS clarification in Revenue Ruling 80-63 [here](#)

2000 --- Title 24, § 982.628, Housing Choice Voucher Program [here](#) permitted the use of Section 8 in condominiums and cooperatives.

2001 --- Federal Communication Commission’s OTARD Rule of 2001 [here](#) which restricted an association’s ability to regulate the use and placement of satellite dishes.

2002 --- Intrawest No-Action SEC Letter – How to market a condominium unit for sale without running afoul of the SEC [here](#)

2005 - Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("the Act" [here](#)), community associations can expect to collect more delinquent common assessments than they did under the old law. In large part, this is because the Act makes it more difficult for anyone to eliminate their personal obligation to pay debts through bankruptcy ("discharge"). The Act makes all post-petition common assessments non-dischargeable.

2005 --- Freedom to Display the American Flag Act of 2005 [here](#) which provided that “A condominium association, cooperative association, or residential real estate management association may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the

Part Three: Chronological History of Federal Involvement in Community Associations

flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.”

2007 --- IRS creates Form 1120(c) for housing cooperatives [here](#).

2007 --- Mortgage Debt Relief Act of 2007, Section 4 [here](#) Federal legislation modified the 80/20 Rule that applied to cooperatives (in Section 216 of the Internal Revenue Code) providing more flexibility in financial management [here](#).

2008 --- Federal Housing Finance Agency (FHFA) was created as part of the Housing and Economic Recovery Act of 2008 (HERA) [here](#). “The Act gave FHFA the authority necessary to oversee vital components of our country’s secondary mortgage markets – Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. In addition, this law combined the staffs of the Office of Federal Housing Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the GSE mission office at the Department of Housing and Urban Development (HUD).” The conservatorship of the GSEs gives the FHFA a prominent role in community association housing. FHFA’s one direct action in 2008 has involved “transfer fees” [here](#).

2008 --- HERA [here](#) transfers authority for FHA condominium unit mortgage insurance from Sec. 234 of the National Housing Act (12 U.S.C. 1715y) to Sec. 203(b) of the Act (12 U.S.C 1709), putting condominium unit mortgages under the same statutory framework as FHA's single family mortgage insurance program and the Mutual Mortgage Insurance Fund.

2009 --- Federal Financial Institutions Examination Council (FFIEC) [here](#) Interagency Task Force on Flood Insurance FAQs provides detailed information dealing with condominium flood insurance requirements and the NFIP [here](#)

2009/2011/2016 --- FHA creates Condominium Processing and Approval Guide with additional information in Mortgagee Letter 2012-18 and related links all [here](#)

2010 --- Consumer Financial Protection Bureau was created in 2010 as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 [here](#). The full impact of the Bureau is still unfolding although the requirement for disclosure of community association fees has become part of required disclosure in the purchase of a home [here](#).

Part Three: Chronological History of Federal Involvement in Community Associations

2010 --- The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 [here](#) mandates that lenders qualify consumers for mortgage loans on the basis of their ability to pay all monthly mortgage-related obligations, including community association regular and special assessments. The requirement to include association assessments in the loan underwriting process was codified in the joint agency Qualified Residential Mortgage rule and the Consumer Financial Protection Bureau's Qualified Mortgage rule.

2011 --- Fannie Mae Cooperative Share Loan Eligibility [here](#)

2012 --- Biggert-Waters Flood Reform Act of 2012 [here](#) impacts many commercial and residential property types, but Section 100214 deals with the payment of condominium claims. Regulations have not yet been written for this Section.

2013 – American Disabilities Act – Pool Accessibility Guidelines [here](#)
For those associations with pools that provide a “public accommodation”, they are required to comply with the new pool accessibility modifications which must be made to applicable swimming pools and spas no later than January 31, 2013.

2013 --- S 1480 introduced in the U.S. Senate [here](#) a bill “To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance for condominiums and housing cooperatives damaged by a major disaster, and for other purposes.” This bill did not pass.

2014 --- On March 21, 2014, President Obama signed into law the [Homeowner Flood Insurance Affordability Act](#). According to FEMA, this “law repeals and modifies certain provisions of the Biggert-Waters Flood Insurance Reform Act, which was enacted in 2012, and makes additional program changes to other aspects of the program not covered by that Act. Many provisions of the Biggert-Waters Flood Insurance Reform Act remain and are still being implemented.”

2015 --- In March, CAI provided an extended discussion of the [Federal Disaster Policy and Community Association Homeowners](#) making clear three points: (1) Community associations are an important part of U.S. housing, (2) FEMA has the authority under the Stafford Act to extend aid to association homeowners, and (3) that FEMA's continued refusal to provide that assistance not only harms those homeowners and their associations and prolongs recovery, but also harms the larger community in which those associations are located. See [CAI Public Policies](#) for the full range of topics.

Part Three: Chronological History of Federal Involvement in Community Associations

2015 --- H.R. 3863, the Disaster Assistance Equity Act of 2015 [here](#) is introduced in the U.S. House of Representatives to qualify certain community associations to participate in FEMA's Public Assistance Program and permit condominium associations to use FEMA's Individuals and Household Assistance Program to fund repairs to common property.

2015 --- Condominium Unit Exemption in ILSA [here](#). Effective March 25, 2015, the sale of condominium units will no longer be subject to the registration requirements of the Interstate Land Sales Full Disclosure Act (ILSA) under a new exemption.

2015 --- Consumer Financial Protection Bureau [here](#) mortgage disclosure regulation, Know Before You Owe, becomes effective, requiring lenders to disclose community association costs and fees to borrowers early in the home loan shopping process. See CAI guidance to community associations [here](#).

2015 --- Federal Housing Finance Authority (FHFA, [here](#)) asserted that attempts by community associations to use legally permitted lien priority to collect delinquent assessments that mortgage lenders had refused to collect – that these efforts by homeowner boards of directors threatened the safety and soundness of the country's financial system. FHFA did not similarly comment on whether the 14+ million foreclosure filings and 7+ million actual foreclosures triggered by poor mortgage lender underwriting and the chronic use of securitization – whether these foreclosures, in fact, did threaten the safety and soundness of the financial system. See CAI's response and related information on lien priority [here](#).

2016 --- Department of Labor Administrator's Ruling on Joint Employment (1-2016) [This Ruling was [withdrawn](#) on June 7, 2017.] Through its enforcement efforts, the Department of Labor's Wage and Hour Division (WHD) regularly encounters situations where more than one business is involved in the work being performed and where workers may have two or more employers. More and more, businesses are varying organizational and staffing models by, for instance, sharing employees or using third-party management companies, independent contractors, staffing agencies, or labor providers. As a result, the traditional employment relationship of one employer employing one employee is less prevalent. WHD encounters these employment scenarios in all industries, including the construction, agricultural, janitorial, warehouse and logistics, staffing, and hospitality industries.

Part Three: Chronological History of Federal Involvement in Community Associations

2016 --- The Urban Homesteading Assistance Board (UHAB) [here](#) (2-2016) provides an initial recounting of limited equity housing cooperatives. UHAB’s “current research effort has been using the 425,000 unit figure as a benchmark to which we can compare the co-op data we have been collecting. Thus far we have accounted for just under 300,000 units of the 425,000 estimated to have been produced, 160,000 of which are still limited-equity. In the document below, we further explain and visualize our findings. This previous research has been very useful as a guide for our current work in more precisely counting the number of housing co-ops that remain limited-equity today. What we have found is that the difference between the limited-equity co-op units accounted for in previous research and the units found in our current research is attributed to three factors.”

Limited Equity Housing Co-op Program	Previous Research	Current Research	Limited Equity Co-op Units Remaining Year 2016
HUD-Insured and assisted	148,000	148,000	35,000 (35,000 additional remain as NOAH*)
Lanham Act	35,000	7,000	7,000
Former public housing	20,000	7,200	1,200
Farmers home	5,000	75	75
Mitchell-Lama (NY)	60,000	41,699*	36,295
State housing finance agencies	45,000	334	334
United Housing Foundation (NY)	40,000	41,118*	30,651
Tenant self-converted/UHAB	50,000	33,000	33,000
CDBG/LIH tax-credit	7,000	40	40
Mutual Housing	15,000	7,000	7,000
ROCUSA	Did not exist	10,000	10,000
TOTAL	425,000	295,182	155,071
		*Co-op city counted for UHF, not Mitchell Lama	*NOAH (Naturally Occurring Affordable Housing)

2016 --- Homeowner Tax Relief – Community Association Assessments (3-2016)

[here](#) If enacted, the proposed deduction will be available for single filers with an adjusted gross income of \$100,000 or less. Additionally, the deduction will be available for joint filers with an adjusted gross income of \$150,000 or less, and on a sliding scale for taxpayers above the established adjusted gross income limits. The deduction will be available to homeowners in all forms of community associations (planned community, condominium association, housing cooperative) and available only for a primary residence. This bill recognizes the financial inequity facing homeowners in a community association as they pay property taxes and community assessments and receive many

Part Three: Chronological History of Federal Involvement in Community Associations

municipal services from their community association not the municipality.

2016 --- Discriminatory Housing Practices Under the Fair Housing Act (9-2016), [here](#) This final rule amends HUD's fair housing regulations to formalize standards for use in investigations and adjudications involving allegations of harassment on the basis of race, color, religion, national origin, sex, familial status, or disability. The rule specifies how HUD will evaluate complaints of quid pro quo ("this for that") harassment and hostile environment harassment under the Fair Housing Act. It will also provide for uniform treatment of Fair Housing Act claims raising allegations of quid pro quo and hostile environment harassment in judicial and administrative forums.

2016 --- FHA Proposes New Approval Process for Condominiums (9-2016) [here](#) In response to changing conditions in the condominium market, the Federal Housing Administration (FHA) proposed new regulations governing the approval process for condominium developments. FHA proposes to reinstate single unit approvals in unapproved condominium developments and to require condo projects to recertify their approval status every three years rather than the current two-year requirement.

2016 --- Federal Flood Risk Management Standard (FFRMS, 10-2016), [here](#) Between 1980 and 2013, the United States suffered more than \$260 billion in flood-related damages. On average, more people die annually from flooding than any other natural hazard. Further, the costs borne by the Federal government are more than any other hazard. Flooding accounts for approximately 85% of all disaster declarations. With climate change, we anticipate that flooding risks will increase over time. In fact, the [National Climate Assessment \(May 2014\)](#) projects that extreme weather events, such as severe flooding, will persist throughout the 21st century. The new federal flood risk standard requires all future federal investments in and affecting floodplains to meet the level of resilience as established by the Standard.

2016 --- Agencies Propose Rules for Private Flood Insurance (OCC, 10-2016) [here](#) Specifically, the proposed rule would require regulated lending institutions to accept policies that meet the statutory definition of private flood insurance in the Biggert-Waters Act and permit regulated lending institutions to accept flood insurance provided by private insurers that does not meet the statutory definition of "private flood insurance" on a discretionary basis, subject to certain restrictions.

2016 --- FHA Mortgagee Letter 2016-15, Owner Occupancy Requirements in FHA Insured Condominiums, [here](#) (10-2016) The purpose of this Mortgagee Letter (ML) is to modify the Condominium Project Approval and Processing Guide, attachment to ML 2011-18 (as modified or extended by MLs 2012-18, 2014-17, 2015-27 and 2016-13) in

Part Three: Chronological History of Federal Involvement in Community Associations

order to implement the HOTMA requirements and establish the required occupancy percentage that must be met for purposes of FHA project approval. Further, this ML establishes requirements for conditions under which an individual condominium project could be approved at a lower percentage. The policies referenced above are superseded to the extent they conflict with the policies in this ML.

2016 --- Stewart E. Sterk, *Cardozo Law Review*, “*Maintaining Condominiums and Homeowner Associations: Ending the Free Ride*” [here](#) (10-2016) “As a policy matter, associations liens should enjoy complete priority over mortgage liens. As a matter of fairness, priority for association liens prevents banks from free riding on maintenance expenditures made by non-defaulting unit owners and ensures that all units bear their fair share of maintenance expenditures. From an efficiency perspective, banks are in a far better position to account for potential economic downturns than are associations. Moreover, giving associations priority over banks solves what is otherwise a difficult collective action problem in situations where multiple banks hold mortgages on different underwater units within a single common interest community.”

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Note: This *Chronological History of the Federal Involvement in Community Associations* was created by Clifford J. Treese and dated as of June 2017. Assistance was provided by Dawn M. Bauman, Sr. Vice President, Government Affairs, Community Associations Institute (CAI), Scott Canady, Principal at Tambala Strategy, and Douglas M. Kleine, CAE, Professional Association Services.



About Community Associations Institute (CAI)

Since 1973, Community Associations Institute (CAI) has been the leading provider of resources and information for homeowners, volunteer board leaders, professional managers, and business professionals in nearly 350,000 community associations, condominiums, and co-ops in the

United States and millions of communities worldwide. With nearly 35,000 members, CAI works in partnership with 63 affiliated chapters within the U.S, Canada, United Arab Emirates, and South Africa, as well as with housing leaders in several other countries including Australia, Spain, Saudi Arabia, and the United Kingdom.

A global nonprofit 501(c)(6) organization, CAI is the foremost authority in community association management, governance, education, and advocacy. Our mission is to inspire professionalism, effective leadership, and responsible citizenship—ideals reflected in community associations that are preferred places to call home. Visit us at www.caionline.org and follow us on Twitter and Facebook @CAISocial.

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The Foundation provides authoritative research and analysis on community association trends, issues and operations. Our mission is to inspire successful and sustainable communities. We sponsor needs-driven research that informs and enlightens all community association stakeholders—community association residents, homeowner volunteer leaders, community managers and other professionals and service providers, legislators, regulators and the media. Our work is made possible by your tax-deductible contributions.

Your support is essential to our research. Visit foundation.caionline.org or e-mail foundation@caionline.org.

For suggestions, additions, or updates to this Chronological History of Federal Involvement in Community Associations, please e-mail foundation@caionline.org.



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The statistical information in this report was developed by Clifford J. Treese, president of Association Data, Inc., in Mountain House, Calif. A member of CAI almost since its inception, Treese is a past president of CAI and the Foundation for Community Association Research. We are grateful for his continuing support of both organizations.

Additional statistical information published by the Foundation for Community Association Research is available at foundation.caionline.org.

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