



## **CAI Lawsuit: Corporate Transparency Act Challenge**

### **Frequently Asked Questions (Updated September 10, 2024)**

**Overview:** The Anti-Money Laundering/Corporate Transparency Act, enacted in 2021, requires entities to report business ownership information yearly to the Department of Treasury or face strict penalties. Community associations, also known as homeowners associations, condominium associations, and housing cooperatives, account for more than 365,000 nonprofit, local and volunteer-driven organizations throughout the United States. CAI believes the act unintentionally applies to community associations, and that community associations should be exempt from compliance with the act.

#### **What is the Corporate Transparency Act?**

The Corporate Transparency Act is a federal law enacted to combat money laundering, terrorist financing, and other illicit activities. It requires corporations, limited liability companies, and similar entities to disclose information about ownership to the Department of Treasury's Financial Crimes Enforcement Network.

#### **What are community associations?**

Community associations are nonprofit organizations or business corporations that manage and govern residential communities such as homeowners' associations, condominium associations, and housing cooperatives. They are typically managed by volunteer boards comprised of homeowners in the community. Volunteer boards are responsible for all operations and ensure the association is following the law and community governing documents.

#### **Why is the CAI filing a lawsuit against the Department of Treasury?**

CAI seeks an exemption for community associations from the CTA. CAI believes community associations should not be subjected to the same reporting requirements as corporations and LLCs because they operate differently and are nonprofit entities governed by homeowners.

Compliance with CTA will present a measurable, significant burden on volunteer leaders throughout the nation. Associations will be forced to collect personal information, turn it over to the federal government and update it on an ongoing basis to comply with current reporting requirements. The burden of reporting such information is likely to have a chilling effect on volunteerism. Association boards also will incur high administrative costs to comply with the law.

#### **Are any community associations currently exempt from the CTA?**

Yes. Community associations that hold an active 501(c)(4) IRS tax exemption are already exempt from filing. In addition, community associations with more than \$5 million in annual revenue and 20 or more employees qualify under the current exemptions.

#### **What are the penalties for a community association's noncompliance with the CTA?**



Noncompliance could result in civil penalties of \$500 per day and criminal penalties of up to \$10,000 and up to 24 months in prison for beneficial owners.

### **What specific exemption is CAI seeking for community associations?**

CAI is seeking an exemption excluding community associations from the CTA's beneficial ownership reporting requirements. This would relieve these entities from the burdensome task of reporting detailed ownership information to the Department of Treasury.

### **What are the main arguments in CAI's lawsuit?**

- **Exemption from the Corporate Transparency Act (CTA):** Community should be exempt from the CTA's reporting requirements, as they are nonprofit organizations under section 528 of the IRS code.
- **Improper Rulemaking Procedures:** FinCEN issued FAQs without following proper notice-and-comment procedures required by the Administrative Procedure Act, making these rules invalid.
- **Arbitrary and Capricious Action:** FinCEN's refusal to exempt community associations from the CTA is arbitrary and capricious, as it fails to consider the low risk of illicit financial activity by such entities.
- **Constitutional Violations:** The CTA violates their constitutional rights under the Fourth, Fifth, and Ninth Amendments by requiring invasive personal disclosures without adequate privacy protections or sufficient cause.
- **Freedom of Speech and Association Violation:** The CTA violates the First Amendment by burdening the right engage in protected speech and private association.
- **Overreach of Federal Powers:** CTA unlawfully usurps state authority to regulate corporate formation and governance, exceeding the federal government's constitutional powers.
- **Equal Protection Violation:** CTA discriminates against community associations by not exempting them as nonprofit organizations, unlike similar entities under section 501(c) of the IRS code.

### **When was the lawsuit filed?**

The lawsuit was filed September 10, 2024.

### **Why was the lawsuit filed in the U.S. District Court for the Eastern District of Virginia?**

CAI is pursuing this case in the U.S. District Court for the Eastern District of Virginia. It is the sensible venue as CAI is incorporated in the District of Columbia and headquartered in Virginia. The Eastern district is known for having a rapid docket process that allows it to hear cases more quickly than other federal courts and offers the potential for a faster resolution. Finally, the



Eastern district is accustomed to hearing federal statutory and constitutional challenges compared to other jurisdictions.

### **What is preliminary injunctive relief and why is it being requested?**

CAI included a motion for preliminary injunctive relief. Preliminary injunctive relief is temporary relief that preserves the status quo until the court decides the merits of the case. This would delay the requirement for community associations to comply as the lawsuit goes through the court process.

### **What are the potential consequences if the lawsuit is unsuccessful?**

If the lawsuit is unsuccessful, community associations will be required to comply with the CTA's reporting requirements. This could lead to increased administrative costs and challenges for volunteer-run boards to collect and submit the required information.

### **How can community association members support the lawsuit?**

Members can support the lawsuit by:

- Staying informed about the case's progress.
- Donating to CAI's legal fund to help cover litigation costs.
- Contacting their local representatives to express support to exempt community associations from the CTA.

### **What is the expected timeline for the lawsuit?**

September 10, 2024 – Lawsuit filed

October 11, 2024 – CAI filed a notice of hearing on the motion for Friday, October 11. The court should hear our arguments on the motion. It is unlikely the court would rule or issue an opinion that day; it is more likely to be days or weeks following October 11. CAI's legal team will be making arguments urging a rapid response due to the pending deadline for compliance.

Updates on significant milestones and developments will be provided to members as they occur.

### **What results are expected from the lawsuit?**

CAI aims to achieve an exemption for community associations from the CTA's reporting requirements. The request for preliminary injunctive relief seeks to protect community associations from these requirements during the legal proceedings.

### **Where can I find more information about the lawsuit and the CTA?**

Members can find more information on [www.caionline.org/cta](http://www.caionline.org/cta). Updates on the lawsuit and detailed explanations will be regularly posted. Additionally, CAI's publications will provide ongoing coverage and analysis.

A link to the full complaint and motion for preliminary injunction may be found at the bottom of the web page – [www.caionline.org/cta](http://www.caionline.org/cta)



## **Should community associations be prepared to file by Dec. 31 if the lawsuit is not resolved or the law has not changed?**

Yes, community associations should be prepared to comply with the act and file the required beneficial ownership information by Dec. 31 if the lawsuit is not resolved or the law has not been amended. While the CAI is actively pursuing legal action to seek an exemption, it is prudent for associations to prepare to comply to avoid potential penalties and ensure they meet all legal requirements.

## **Does the law currently apply to community associations?**

As of now, the act applies to community associations. The CTA mandates all covered entities, including nonprofit organizations such as community associations, disclose their beneficial owners to the Department of Treasury's Financial Crimes Enforcement Network. However, CAI's lawsuit seeks to change this by obtaining an exemption specifically for community associations. Until a legal exemption is granted or the law is amended, community associations must adhere to the current requirements of the CTA.

## **What else is CAI doing to assist community associations on this matter?**

CAI has been actively advocating for an exemption for community associations or a one-year delay of the CTA with members of Congress. Visit [www.caionline.org/takeaction](http://www.caionline.org/takeaction) to contact your Members of Congress.

## **Are there other lawsuits arguing the validity of the CTA?**

Currently, there are the following pending CTA challenges nationwide:

- [Massachusetts](#): BECMA et al v Yellen (5/29/2024)
- [Texas](#): NFIB et al v Yellen (5/28/2024)
- [Maine](#): William Boyle v. Yellen (3/15/2024)
- [Michigan](#): Small Business Association of Michigan et al v. Yellen (3/1/2024)
- [Ohio](#): Robert J. Gargasz Co., L.P.A. et al v. Yellen (12/29/2023)
- [Alabama](#) (appealed): NSBA et al v. Yellen (11/15/2022)
- [Utah](#): Phillip Taylor and the nonprofits The People Restored, Ranchers Cattlemen Action Legal Fund United Stockgrowers of America, and Utah OSR Land Cooperative.
- [Oregon](#): Gerald Earl Cummings, II, Lindsay Berschauer, Tayler Hayward, Lisa Ledson, Katerina Eyre, Michael Firestone and Thomas Reilly



**What if I have additional questions?**

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**Resources**

[www.caionline.org/CTA](http://www.caionline.org/CTA)