



## LEADERSHIP MONTHLY

A NEWSLETTER FOR ASSOCIATION OFFICERS AND DIRECTORS

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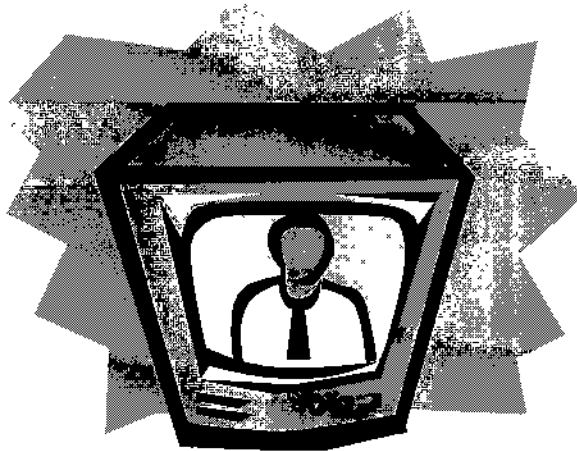
### **CAI WINS FIRST ROUND!**

On September 25, 1998, the Federal Communications Commission (FCC) released an Order addressing various Petitions for Reconsideration filed in response to the August 6, 1996, Over-the-Air Reception Devices (OTARD) Rule. The OTARD Rule preempts certain community association rules and restrictions impairing the installation, maintenance, or use of direct broadcast satellite (DBS), television broadcast, and multipoint distribution service (MDS) antennas. In a major victory for CAI members, the FCC adopted most of CAI's central antenna proposal and supported many CAI arguments in rejecting numerous proposals by telecommunications providers seeking to further restrict the rights of community associations. Among other things, the FCC ruled that:

- ◆ Associations may still enforce reasonable antenna rules and restrictions per the OTARD Rule;
- ◆ Associations must show a "legitimate" but not a higher "compelling" safety interest to adopt and enforce safety restrictions;
- ◆ Antenna disputes can still be adjudicated in local courts as well as at the FCC;
- ◆ Certain painting restrictions may still be enforced;
- ◆ A provider desiring that the Section 207 rules apply to an antenna other than DBS, television broadcast, and MDS antennas must show why that antenna should be included;
- ◆ Homeowners losing cases before the FCC or local courts have a 21 day grace period in which to comply with association restrictions before any fines or penalties may be imposed;
- ◆ Associations may not impose attorneys fees on homeowners while a rule or restriction is under evaluation by the FCC or a local court;
- ◆ The standard for determining whether costs relating to installation requirements are reasonable will be determined by comparing the cost of the equipment or services and how the association's rules or restrictions treat similar devices, such as air conditioners, patio equipment, etc.

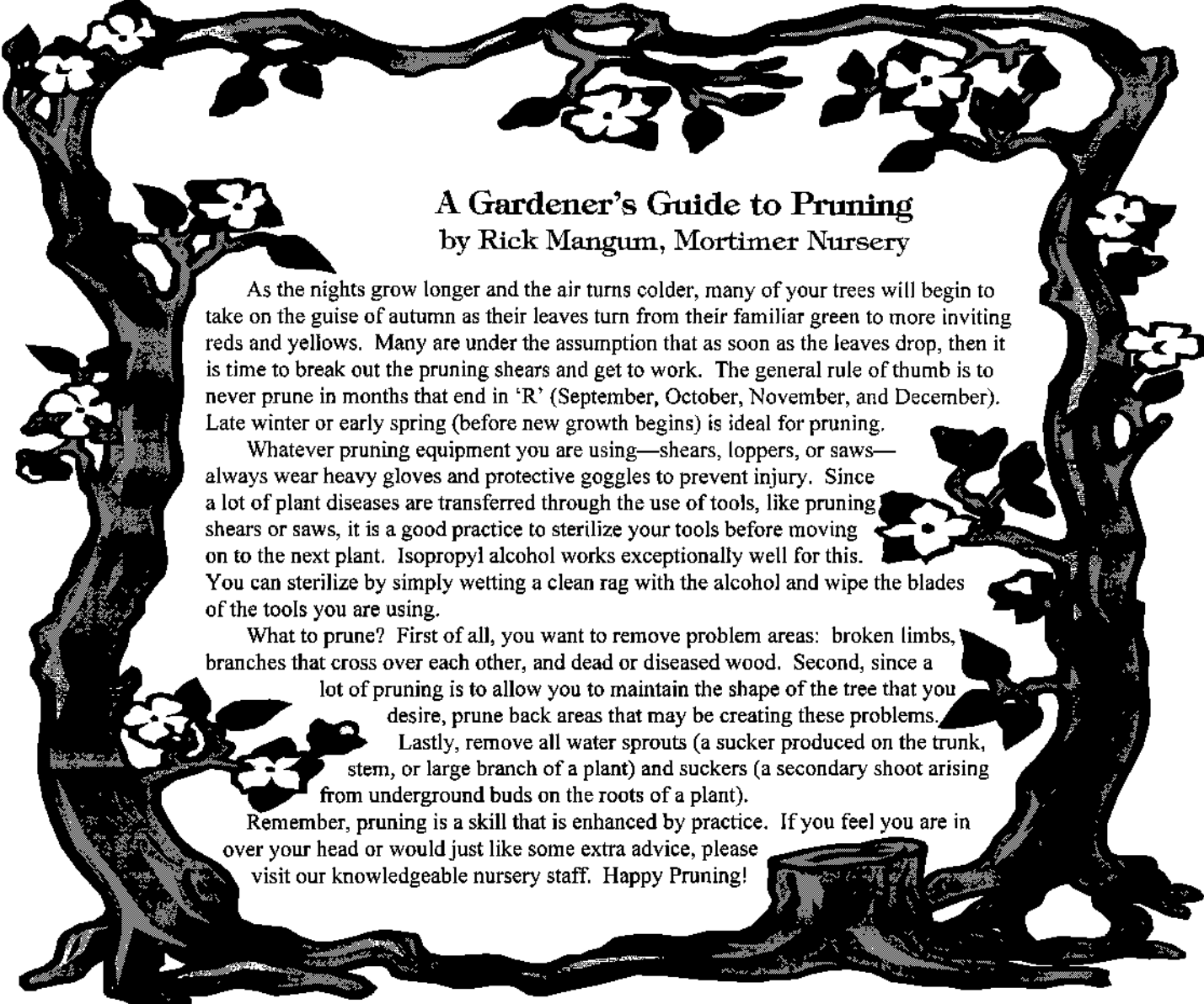
- ◆ An association filing a Petition for Declaratory Ruling against a particular owner must provide a copy of all filings to that owner. An association must also notify its members of any Petition or court action against an owner by placing notices in member mailboxes, on bulletin boards, in association newsletters, etc.

The Order clarifies that a tenant with an owner's permission to install an antenna on individually-owned or exclusive use areas may do so. It also states that individuals may install antennas on exclusive use property (including balconies and patios in condominiums and cooperatives) even if the association maintains that property. Moreover, the Order adopts a CAI proposal enabling an association to prohibit individual antennas provided that it makes programming available through a central antenna to any resident wishing to subscribe at no greater cost and with equivalent quality as would be available from an individual antenna installation. An owner must be able to receive the specific service desired and a requirement to use a central antenna must not unreasonably delay his or her ability to receive video programming.



Most aspects of the new rule issued through this Order will take effect 30 days after publication in the *Federal Register* (probably late October or early November). The portions of the rule dealing with service of petitions and pleadings will take effect 70 days after publication in the *Federal Register* following approval by the White House Office of Management and Budget. To prepare for these dates, CAI recommends that associations review the new rule immediately and amend their antenna restrictions accordingly.

Copies of the rule are available through CAI's FaxBack Service by calling 703-836-6904 and requesting document number 515. Questions about the rule may be directed to CAI's Government & Public Affairs Department (phone: 703-548-8600; fax: 703-684-1581; e-mail: g&pa@caionline.org).



## A Gardener's Guide to Pruning

by Rick Mangum, Mortimer Nursery

As the nights grow longer and the air turns colder, many of your trees will begin to take on the guise of autumn as their leaves turn from their familiar green to more inviting reds and yellows. Many are under the assumption that as soon as the leaves drop, then it is time to break out the pruning shears and get to work. The general rule of thumb is to never prune in months that end in 'R' (September, October, November, and December). Late winter or early spring (before new growth begins) is ideal for pruning.

Whatever pruning equipment you are using—shears, loppers, or saws—always wear heavy gloves and protective goggles to prevent injury. Since a lot of plant diseases are transferred through the use of tools, like pruning shears or saws, it is a good practice to sterilize your tools before moving on to the next plant. Isopropyl alcohol works exceptionally well for this. You can sterilize by simply wetting a clean rag with the alcohol and wipe the blades of the tools you are using.

What to prune? First of all, you want to remove problem areas: broken limbs, branches that cross over each other, and dead or diseased wood. Second, since a lot of pruning is to allow you to maintain the shape of the tree that you desire, prune back areas that may be creating these problems.

Lastly, remove all water sprouts (a sucker produced on the trunk, stem, or large branch of a plant) and suckers (a secondary shoot arising from underground buds on the roots of a plant).

Remember, pruning is a skill that is enhanced by practice. If you feel you are in over your head or would just like some extra advice, please visit our knowledgeable nursery staff. Happy Pruning!

### BE A GOOD NEIGHBOR

- ⇒ Love thy neighbor.
- ⇒ Respect thy neighbor.
  - ⇒ Curb thy dog.
- ⇒ Don't play the stereo too loud.
  - ⇒ Park in your own space.
  - ⇒ Don't be a six-car family.
  - ⇒ Clean up after yourself.
  - ⇒ Take care of your property
- ⇒ Help form a neighborhood watch.
- ⇒ If there is a problem, talk about it — direct conversation is more effective than sending a letter or banging on a wall.

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## OPENING MEETING LAW

### *Arizona Association Statutes, Condominium Act*

#### § 33-1248 Meetings

- A. Notwithstanding any provision in the declaration, bylaws or other documents to the contrary, all meetings of the association and board of directors are open to all members of the association and all members so desiring shall be permitted to attend and listen to the deliberations and proceedings provided, however, that for regular and special meetings of the board, association members who are not board members may not participate in any deliberation or discussion unless expressly so authorized by a vote of the majority of a quorum of the board, except that any portion of a meeting may be closed only if the portion of the meeting is limited to consideration of one or more of the following:
1. Employment or personnel matters for employees of the board or the association.
  2. Legal advice from an attorney for the board or the association.
  3. Pending or contemplated litigation.
  4. Pending or contemplated matters relating to enforcement of the association's documents or rules.
- B. A meeting of the association shall be held at least once per year. Special meetings of the association may be called by the president, by a majority of the board of directors or by unit owners having twenty-five per cent, or any lower percentage specified in the bylaws, of the votes in the association. Unless otherwise provided in the articles or the bylaws of the association, not fewer than ten nor more than fifty days in advance of any meeting of the unit owners, the secretary shall cause notice to be hand-delivered or sent prepared by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting of the unit owners shall state the time and place of the meeting. The notice of any special meeting of the unit owners shall also state the purpose for which the meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, any changes in assessments that require approval of the unit owners and any proposal to remove a director or officer. The failure of any owner to receive actual notice of a meeting of the unit owners does not affect the validity of any action taken at the meeting.
- C. Unless otherwise provided in the articles or bylaws of the association, for meetings of the board of directors that are held after the termination of declarant control of the association, notice to unit owners of meetings of the board of directors shall be **GIVEN AT LEAST FORTY-EIGHT HOURS IN ADVANCE OF THE MEETING** by newsletter, conspicuous posting or any other reasonable means as determined by the board of directors. An affidavit of notice by an officer of the association is prima facie evidence that notice was given as prescribed by this section. Notice to unit owners of meetings of the board of directors is not required if emergency circumstances require action by the board before notice can be given. Any notice of a board meeting shall state the time and place of the meeting. The failure of any unit owner to receive actual notice of a meeting of the board of directors does not affect the validity of any action taken at that meeting.



You can access the Arizona Statute 33 on the internet via the Arizona State Legislature Website: <http://www.azleg.com>

## LEGISLATIVE UPDATE SEMINAR

Date: November 7, 1998  
9:00 a.m. to 11:00 a.m.

Call for Reservations:  
520-776-4479 or 800-447-3838

To Be Held at:  
The Prescott Resort Conference Center  
1500 Highway 69 — Prescott, Arizona

PLEASE JOIN THE HOAMCO STAFF AND LEARN ABOUT:

- ◆ What your association needs to know about the new non-profit act that goes into effect January, 1999.
- ◆ What to expect in the upcoming legislative session and how you can make a difference.
- ◆ Find out what CAI's legislative action committee is doing to protect your rights as a homeowner.

**FEATURED SPEAKER**  
Scott Carpenter, Esq.  
Zemp, Kapsal, Carpenter & Hazelwood

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