



## ***Arizona's Open Meeting Law & Rules for Recording Association Meetings***

### **MULCAHY Community Association Cheat Sheet©**

BRINGING ANSWERS  
TO COMMUNITY  
ASSOCIATIONS

*This publication discusses significant  
points of law as they apply to community  
associations and is not intended to offer  
specific legal advice or responses to  
individual circumstances or problems.*

#### **MULCAHY LAW FIRM, P.C.**

3001 East Camelback Road  
Suite 130  
Phoenix, Arizona 85016  
Phone: 602.241.1093  
Toll Free: 877.206.7164  
Facsimile: 602.264.4663

**E-mail:**

[bmulcahy@mulcahylawfirm.com](mailto:bmulcahy@mulcahylawfirm.com)  
[www.mulcahylawfirm.com](http://www.mulcahylawfirm.com)

Copyright 2021-2022  
MULCAHY LAW FIRM, P.C.  
All Rights Reserved

#### **THE ARIZONA OPEN MEETING LAW A.R.S. 33-1804 / CONDO A.R.S. 33-1248**

#### **Board meetings are open to all members of the association:**

Notwithstanding any provision in the association documents, all meetings of the association, board of directors and regularly scheduled committee meetings are open to all members of the association, or any person designated by a member in writing as the member's representative, and all members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. The board may place reasonable time restrictions on those persons speaking during the meeting but shall permit a member or member's designated representative to speak before the board takes formal action on an item under discussion in addition to any other opportunities to speak. The board shall provide for a reasonable number of persons to speak on each side of an issue.

#### **Associations must give 48 hours' notice:**

An association must give notice to its members of meetings of the board of directors (after developer control ends) by newsletter, conspicuous posting or any other reasonable means at least 48 hours in advance of the meeting. The notice must state the date, time, purpose and place of the meeting. The notice of any meeting must state the purpose for which the meeting is called. Our firm suggests providing a detailed agenda with the notice of meeting to meet this requirement.

#### **Executive session:**

Any portion of a meeting may be closed if that closed portion of the meeting is limited to consideration of one or more of the topics in the list below. Before entering the executive session, the board shall identify the section below that authorized the board to close the meeting:

1. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment;
2. Pending or contemplated litigation;
3. Personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association, including records of the association directly related to the personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association;
4. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association; and
5. Discussion of a member's appeal of any violation cited or penalty imposed by the association except on request of the affected member that the meeting be held in an open session.

Before entering executive session, the board is required to identify the section above (1-5) that authorized the board to close the meeting. This should be verbally announced, placed on the agenda and included in the meeting minutes.

**Association meetings must be held in the State of Arizona:**

Notwithstanding any provision in the association documents, all meetings of the association and the board shall be held in the State of Arizona. A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, by a majority of the board of directors or by members having at least twenty-five percent, or any lower percentage specified in the bylaws, of the votes in the association.

**Agenda, emergency meetings, quorum:**

Notwithstanding any provision in the governing documents, for meetings of the board of directors all of the following apply:

1. The agenda shall be available to all members attending.
2. An emergency meeting of the board of directors may be called to discuss business or take action that cannot be delayed until the next regularly scheduled board meeting. The board may only act on emergency matters at the emergency meeting. The minutes of the emergency meeting shall state the reason necessitating the emergency meeting. The minutes of the emergency meeting shall be read and approved at the next regularly scheduled meeting of the board of directors.
3. A quorum of the board of directors may meet by means of a telephone conference if a speakerphone is available in the meeting room that allows board members and association members to hear all parties who are speaking during the meeting.
4. Any quorum of the board of directors that meets informally to discuss association business, including workshops, shall comply with the open meeting and notice provisions of this section without regard to whether the board votes or takes any action on any matter at that informal meeting.

**Arizona law is in favor of open meetings/ Be careful about using email and/or unanimous consent to make board decisions.** A quorum of the board should not be using email to discuss or make decisions on association business, and the use of unanimous consent in lieu of board meeting is potentially subject to legal challenge.

**RULES FOR TAPE RECORDING AND VIDEO RECORDING OF ASSOCIATION MEETINGS**

Associations must allow tape recording or videotaping open meetings:

Persons attending may tape record or videotape those portions of the meetings of the board of directors and meetings of the members that are open. The board of directors of the association may adopt reasonable rules governing the taping of open portions of the meetings of the board and the membership, but such rules shall not preclude such tape recording or videotaping by those attending. Boards can no longer require advance notice of audio or videotaping open board meetings. The board can pass a rule precluding those attending from audiotaping or videotaping an open board meeting if the board audio or videotapes the open board meeting and makes the unedited videotapes available to members on request without restrictions on its use as evidence in any dispute resolution process.

Our firm recommends that associations consider adopting reasonable rules and regulations regarding a homeowners' ability to tape or video record open board meetings.

**From the following list, select rules and regulations the board is comfortable with:**

- In order to prevent interruptions, all owner's recording equipment must be in position 5 minutes prior to the start of the meeting;
- Any recording equipment must not produce sound or distracting light emissions;
- All owners utilizing recording equipment must set up the recording equipment in the place designated by the association or in a location that doesn't disturb the board while the board is conducting the meeting.;
- All recording equipment is the responsibility of the owner, the association is not obligated to provide equipment;
- If any recording equipment fails, the association will not stop the meeting while the equipment is reset; and
- No recording of a meeting shall be posted, or otherwise made available on the internet, without the written consent of the board.