



Technology & Community Associations

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.

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TECHNOLOGY & COMMUNITY ASSOCIATIONS

Technology is an important part of our day to day lives. There are increasingly more technological advances available to community associations. The Arizona legislature has included the use of technology into new state laws. Online voting, association websites, online payments and virtual meetings have been created to make information, communication and accessibility easier for the association membership and board of directors.

VOTING BY EMAIL/FACSIMILE

Arizona law now allows members to submit votes for annual meetings and special meetings of the membership by email and fax (A.R.S. Sections 33-1812/Condo 33-1250). The law does not require an association to have a written policy regarding email/fax voting. However, our office recommends the board adopt a written policy regarding email/fax voting. For example, if members choose to email their ballots, we recommend members scan and email their ballot to the email address designated to receive the ballots. With fax voting, we recommend members fax their ballot to the association's designated number. It is important to note that an association is still required to allow votes to be cast in person and by absentee ballot at annual and special meetings of the membership. In addition, the association may provide for voting by some other delivery, including the use of email and fax delivery.

ONLINE VOTING

Pursuant to ARS Section 44-7007, electronic voting is permissible so long as the Association uses a platform that satisfies the following requirements regarding the electronic signature: (1) It was unique to the person using it; (2) it was capable of verification; (3) it was under the sole control of the person using it; and (4) it was linked to an electronic record to which it related in such a manner that, if the record were changed, the e-signature would be invalidated.

However, even if online voting is used, owners that want to vote in person should still be allowed to do so at the meeting if they so desire. Online voting can reduce the costs associated with designing, printing, mailing and tabulating ballots. It provides ease of use that can increase voter participation and therefore the likelihood of reaching quorum. Several companies now provide safe, secure and accurate online voting services designed specifically for community associations. Please contact our office for a list of these service providers. In general, members are assigned a registration code that allows them to access the online ballot on a secure site. The site can provide candidate biographies, photographs, and/or other supporting information. Some companies offer email announcements informing members when voting is closed and reminding members to vote online. They can also be a useful tool to electronically tabulate votes before an annual or special meeting of the membership. However in-person voting must still be allowed at the meeting.

Finally, while online voting is the more high tech online option, a lower tech online option is to allow members to return ballots via email.

BOARD MEMBER EMAIL COMMUNICATION

Online communication between board members can be considered board business if a business discussion occurs between a quorum of the board. The Arizona Open Meeting Law requires all board business (except executive sessions) to be open to all members of the association.

However, boards can conduct business outside of a board meeting via email in emergency circumstances (whereby the board cannot wait 48 hours to notice the meeting). All emails used for this purpose should be saved and kept with the association records. In the event of an emergency email meeting, only the emergency should be addressed and Arizona law requires that the board take minutes and that the minutes state the reason necessitating the emergency meeting. The minutes must be read and approved at the next regularly scheduled board meeting and the action taken in the emergency meeting should be re-affirmed at the next regular board meeting.

WEBSITES

Association websites are commonly used and provide easy and accessible community information and possible communication between the board of directors and association members. The association will want to determine what is public information and what is kept for members only. This is easily accomplished with a private login for association members only.

Listed below are some of the positive aspects of a community association website.

Provide notice of regular and special board meetings

A website allows for the board of directors to post the location (including a map), dates, times and agenda of upcoming meetings. According to Arizona's Open Meeting Law (A.R.S. Sections 33-1804/Condo A.R.S. 33-1248), there must be a 48 hour notice with date, time and location prior to all regular board meetings.

Post past meeting minutes online

The board can create an online login process that allows owners to login with a user name and password to retrieve copies of regular board meeting minutes (not executive session minutes). A community association website is a great way to share past meeting minutes, keeping the lines of communication open to people that were unable to attend the meeting in person.

Give updates regarding special events

A website can give association members an online calendar where community events and meetings are posted. It is the ideal vehicle for promoting tips and activities inside the community and also posting local theater, concerts and city sponsored events.

Inform members of rules and regulations and post documents, CC&Rs, Bylaws and forms

A website provides the membership with an up-to-date and specific list of association rules and regulations. This could help answer questions members may have regarding what they can and cannot do. In general, the type of records posted on the site should be limited to the governing documents and forms that can be downloaded and used by the members (i.e. architectural improvement request forms, change of address, suggestions/complaints).

Post an electronic newsletter

An association's website is a great place to post a newsletter for the membership and provide an archive of past newsletters and articles regarding the association. The website posting is easy to access, saves the money for printing and helps the environment.

Post general association contacts and information

A section can be created giving general information about the community to include, current association management and emergency numbers, community size, number of homes, general location, association activities, etc. This overview could allow potential buyers the opportunity to "get to know" the association. Pictures of the community and a listing of activities could also be included.

Online payments

Some associations allow owners to make assessment payments online through a secured site. This allows members to easily access their assessment statement and complete necessary payments through banking or the community secured website. Providing online payment options can help decrease delinquency rates.

Website concerns:

Websites need to be monitored

The association website is only effective if information is current, so the association should consider assigning a person to monitor and update the site on a regular basis. Additionally, if the site is interactive, allowing for the possibility for a chat room, the site would need to be constantly monitored for inappropriate material, not allowing abusive language, inappropriate postings, etc.

Membership Directory/Roster of Members

Some associations want an online membership directory/roster. If a membership directory/roster is created, we advise that all members be required to sign a release form allowing the association to post their email addresses, property and offsite addresses. Do not post any addresses of those who have not signed the form.

TECHNOLOGY AND MEETINGS

Technology is also adding more ways for neighbors, peers and committee members to communicate. Technology allows for meetings to not only be in person, but also via Skype, FaceTime, GoToMeetings or conference calls. These technological advances provide additional forms of communication between all facets of the association. A. R. S. Section 33-1804(D)(3) 33-1248(D)(3) permits any or all board of directors to participate in a regular or special meeting through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

The telephonic conference board meeting is especially effective when used by Arizona associations in the summer months. A board member can be out of state and not hinder the business of the association. Arizona Open Meeting Law (A.R.S. Sections 33-1804/Condo 33-1248) requires that all board meetings be in the State of Arizona.

There can be additional costs for the use of such videotelephony technology. For example, SKYPE, FaceTime, GoToMeetings and other types of videotelephony usually require additional applications, software and/or hardware (operating system, webcam, microphone, etc.) for use.

USE TECHNOLOGY EFFECTIVELY

The use of emails in community associations provides an effective and efficient way for the board of directors to communicate with the association's members. Associations can use Constant Contact to create meeting notices, keep members apprised of important events, burglaries etc. Facebook and Nextdoor are also good communication tools that can be used by the board to keep members informed. Properly used technology can support open communication and help create an atmosphere for less perceived secrecy and potentially fewer problems within the association.