



*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.

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August, 2013

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

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 per cent, or any lower percentage specified in the bylaws, of the votes in the association.

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:

Unless an association's documents provide otherwise, an association must give notice to its members of meetings of the board of directors 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 and place of the meeting.

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.

Executive session:

Any portion of a meeting may be closed only if that closed portion of the meeting is limited to consideration of one or more of the following:

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.

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 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.

The law is in favor of open meetings:

Any person or entity that is charged with the interpretation of the open meeting law shall construe in favor of open meetings.

RULES FOR TAPE RECORDING AND VIDEO RECORDING OF ASSOCIATION MEETINGS

Pursuant to Arizona law A.R.S. 33-1804 / Condo A.R.S. 33-1248 owners attending open board meetings are allowed to tape and/or video record a meeting, subject to reasonable rules and regulations adopted by the board.

Our firm recommends that associations adopt 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:

Any owner intending to tape or video record a meeting must first provide the association written notice 24 hours prior to the start of the meeting;

- In order to prevent interruptions, all recording equipment must be in position 15 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;
- 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;
- Any owner recording a meeting must provide the association an unabridged copy of the recording within ten (10) days after the meeting;
- Any recording shall not be disseminated to members outside of the association without the written consent of the board;
- No recording of a meeting shall be posted, or otherwise made available on the internet, without the written consent of the board; and
- A non-member is prohibited from recording the meeting without the prior written request and approval by the board.

Acknowledgment form:

It is the firm's opinion that an association can require a homeowner to sign an acknowledgment form prior to recording a meeting which would acknowledge the following:

- A recording of a meeting is not the official record of the meeting, the approved meeting minutes are the official record of the meeting;
- The association does not make any representations as to the authenticity of the recording;
- Any recording shall not be disseminated to members outside of the association without the written consent of the board; and
- All rules and regulations adopted by the association will be adhered to during the recording of the meeting.

Association provided recording:

In addition to permitting homeowners to tape and video record meetings, the association might also consider recording all meetings and then providing a copy to members for a fee.