



# Mulcahy Memo – September, 2018

Published for clients and friends of the Mulcahy Law Firm, P.C.

by Beth Mulcahy, Esq.



Dear Clients and Friends,

We hope you had a great summer! Time is flying by... school is back in session and cooler temperatures are *hopefully* on the horizon soon!

Many association boards are starting planning their 2019 budgets. Our Mulcahy Memo article this month provides an overview of the budgeting process and gives 9 tips to help simplify the budget process and preparation for associations. Please scroll down to the bottom of this email to read the full article.

## **Back by Popular Demand- Our Fall Class Schedule Released!**

Over the past year, Mulcahy Law Firm, P.C. has provided free education regarding the legal aspects of running a community association to over 600 board members and managers in Arizona!

Due to the popularity of these classes, Mulcahy Law Firm, P.C. will be offering nine additional free classes on community association law before the end of November, 2018 in different locations around the valley. For a listing of all upcoming Mulcahy classes, please click on this link:

[Fall Class Schedule](#)

Many of these classes fill-up quickly so we encourage board members and managers to sign-up for these classes early.

## **Summary of 2018 Legislation regarding Community Associations**

As you may know, due to all of the other serious issues facing the Arizona Legislature this year, very few community association bills were passed in 2018. In total, there were only eight bills that were signed into law that will directly impact Arizona community associations. To view our summary of the 2018 legislation affecting community associations, please click on this link:

[2018 Legislative Update](#)

**Arizona Corporation Commission changes:**

The Arizona Corporation Commission recently reformatted its website and moved to "strongly recommending" (but not mandating) online filing. Please be advised that any Arizona community association, which is incorporated as a non-profit corporation, is legally required to file an annual report with the Corporation Commission. Additional Corporation Commission filings may also be needed in connection with changes to the statutory agent, articles of incorporation and/or other any other necessary corporate changes.

Hard copies of the Corporation Commission forms can still be accessed via the following link:

**[Arizona Corporation Commission](#)**

However, based on the Corporation Commission's recommendation, I would advise all board member and community managers to familiarize themselves with the new website and online filing protocols. Please feel free to contact our firm for assistance with corporate filings or if you have any questions.

**Board Member Boot Camps**

**A reminder!** Our firm is now offering board member boot camps. Many of our clients are taking advantage of this personal education time with our firm to answer their questions and help their boards be more effective. Each program is offered at hourly rate and covers a variety of topics, including board of director duties, compliance with Arizona and federal laws, potential pitfalls and Q&A. The boot camp can be held at a location chosen by the board or at our office. We can tailor the session to fit your board's desires as we understand that each board is unique and has different needs. For more information, please contact Beth Mulcahy, at 602.241.1093 or [bmulcahy@mulcahylawfirm.com](mailto:bmulcahy@mulcahylawfirm.com).

**Free CCR review:** Did you know that Mulcahy Law Firm, P.C. offers a complimentary 15-minute review of an association's documents to determine the amendment procedure/requirements for each document and gives a brief summary of what should be amended and projected costs to amend the documents? If your board is interested in this complimentary document review, please contact Beth Mulcahy, Esq. at 602.241.1093 or [bmulcahy@mulcahylawfirm.com](mailto:bmulcahy@mulcahylawfirm.com).

Also, don't forget to "like" and follow Mulcahy Law Firm, P.C. on [Facebook](#) so you don't miss any of our important updates on Arizona community association law.

Thank you!



Sincerely,  
Beth Mulcahy, Founder and Senior Partner  
Mulcahy Law Firm, P.C.



## **Now is the time to Start Planning your 2019 Association Budget!**

***By: Beth Mulcahy, Esq.***

Most community association documents require an associations' board of directors to adopt a budget for each fiscal year and early to late fall is typically the time of year devoted to that process. Because the management company is familiar with all aspects of the association, they usually prepare the budget for the board's approval. However, an association's finance committee should be encouraged to help with the process. Whether the manager, a committee or a combination thereof develops the budget, it requires time and research to complete the process.

The association budget is broken down into two documents: (1) operations and (2) reserves. The operations budget consists of daily and monthly expenditures such as landscape maintenance, insurance, legal fees, water, social programs, etc. The reserve budget is money reserved for large capital expenditures such as painting, roofs, common area improvements, etc. Both operations and reserves should be addressed annually and budgeted appropriately. In my opinion, the board of directors has a fiduciary duty to review the operating budget of the association and provide annual reports if requested.

As the general counsel attorney for over 1,000 community associations in Arizona, I am often asked for tips on budget preparation. Set forth below are 9 steps to help simplify the budget process and preparation:

1. Review last year's budget and records and compare the differences between what was budgeted and what was actually spent. Review each line item in the budget. Is there a difference between what was budgeted and what was expended? Why is there a difference?
2. Evaluate the needs of the community for the upcoming year. Does the annual assessment need to be raised because of an increase in delinquencies and cost of living? Are there new expenditures for any of the line items in the operational budget that will benefit the community?
3. Assess the needs of the community for the future. What long term or capital projects need to be addressed in the reserve budget? When was the last reserve study conducted? Considering the cost

of living increases, should a new reserve study be conducted? Does a larger percentage of the annual assessment need to be directed to the reserve budget?

4. Ask questions of the association's vendors. Are there potential cost increases or added services a vendor might deem necessary for the association? Are proposed cost increases necessary?
5. Review and analyze the association's contracts. Are changes in services needed that may require an increase or decrease in the contract amount? Does the association need to get three bids to determine value received?
6. Receive and analyze information from the vendors with regard to the budget.
7. Plan for the miscellaneous. Surprises are not fun in the operational budget. Consider including a line item for a reasonable amount of money to handle the unexpected.
8. Budget the line item amount taking all research and information gathered into account.
9. Prepare for the budget presentation to the board and homeowners. Have backup information available and reasons as to how and why each line item was established.

In a planned community the budget must be approved by the board, but there is no requirement that the budget be approved by the membership prior to the start of the fiscal year (unless the governing documents require this, which in my experience would be unusual). The Arizona Condominium Act (A.R.S. Section 33-1243) requires that the board of directors provide (typically by mail) a summary of the proposed condominium budget to all unit owners within thirty days after adoption. The unit owners in accordance with the procedures set forth in A.R.S. 33-1243 (D) shall ratify any budget or amendment, unless the board of directors is expressly authorized in the declaration to adopt and amend budgets from time to time. If ratification is required, the board of directors is required to set a date for a meeting of the unit owners (not fewer than fourteen nor more than thirty days after mailing the summary) to consider ratification of the budget. The budget is ratified whether or not a quorum is present, unless a majority or any larger vote of the unit owners as specified in the declaration rejects it at that meeting. If the proposed budget is rejected, the periodic budget last ratified by the unit owners will be continued until such time as the unit owners ratify a subsequent budget proposed by the board of directors.

If you have questions and need answers on budgeting questions or you'd like to request a copy of a sample budget, please contact Beth Mulcahy, Esq. at 602.241.1093 or [bmulcahy@mulcahylawfirm.com](mailto:bmulcahy@mulcahylawfirm.com).