



Mulcahy Memo - Feb. 3, 2015

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

by Beth Mulcahy, Esq.

Dear Clients and Friends,

We hope that your 2015 is off to a great start!

February is an exciting time of the year for associations. Communities are at full capacity with all the "snow birds" in town to escape the ice, sleet and snow. Many associations also have their annual meetings during the next few months. With that in mind, we hope our article this month will assist you with conducting a successful annual meeting in 2015.

The Arizona legislature is currently considering numerous bills regarding community associations. While the legislature is in session, our firm prepares and posts a summary of these proposed bills, as they change, every week on our website. You can find the current summary on the Publications Tab under Legislative Updates. We also post frequent articles regarding the proposed legislation on our Answers Blog. Please check out these resources to get my take on what is happening at the Arizona Capitol.

If you are concerned and/or interested in the proposed bills and want to become involved with the legislative process, and specifically the community association bills, you can have your voice heard. Please go to our website, and scroll down to Legislative Updates. Our article, Find Your Legislators, will provide information on how to contact your representatives.

Our January Lunch with Mulcahy SOLD OUT, so please contact our office at 602.241.1093 or use the link below to register for our February Lunch with Mulcahy! We have a few openings left.

**Register for Lunch with Mulcahy Seminars
HOA Advanced Legal Issues...From the HOA Trenches to Lunch with Mulcahy**

Monday, February 9, 2015

11:30 a.m. to 1:00 p.m.

Doors open at 11:00 a.m.

Phoenix Airport Marriott Hotel

Maricopa Room

Please use the Ballroom Entrance located to the left of the main entrance. There is also a Ballroom Entrance on the far left (east) side of the building. Parking is available around the building. The hotel is centrally located at 1101 North 44th Street, Phoenix, Arizona 85008 (right off the Loop 202 at 44th Street, exit 2).

Did you know that our firm will be teaching fourteen (yes, 14!) classes on community association law around the Valley between now and June, 2015. Please check the Announcements section on the home page of our website for the dates, locations, subjects of our classes and how to register.

I hope you are enjoying this beautiful Arizona weather. Happy Valentine's Day!

Sincerely,

Beth Mulcahy, Esq.

Founder and Senior Partner



Beth Mulcahy, Esq.

Annual Meetings and Voting

By Beth Mulcahy, Esq.

The New Year typically means associations are preparing for and conducting their annual meeting. Under Arizona law, an association must conduct an annual meeting of the membership at least once a year and provide for voting in person, by absentee ballot, email or fax.

It is wise to check governing documents 60 days in advance of an annual meeting to establish a time line when nomination forms, absentee ballots and any other information should be sent to members. Most bylaws will state the requirements for the annual meeting to include the notice, quorum and voting requirements.

Voting in today's technological age may take more than one form. Currently several states have changed their laws to allow for online voting. Arizona addressed email and facsimile voting in 2014, with A.R.S. Sections 33-1250 (condominiums) and 33-1812 (planned communities) allowing for members to vote by email and facsimile. However, Arizona law has not addressed the issue of online voting. Arizona does not prohibit online voting (you must check your association documents to determine if the documents allow/prohibit online voting). Online voting can reduce the costs associated with designing, printing, mailing and tabulating ballots. It also 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.

Associations in Arizona are required to use an absentee ballot at meetings of the membership and/or the annual meeting. A mail-in ballot allows those who are unable to attend the annual meeting the opportunity to have their vote counted.

An absentee ballot is typically drafted after the nomination forms have been received and the deadline for nominees has expired. State statutes are specific as to the content of the absentee ballot. Arizona Revised Statutes Section 33-1250 (Condominiums) and Section 33-1812 (Planned Communities) state in part that any action taken at an annual, regular or special meeting of the members shall comply with all of the following if absentee ballots are used:

1. The absentee ballot shall set forth each proposed action.
2. The absentee ballot shall provide an opportunity to vote for or against each proposed action.
3. The absentee ballot is valid for only one specified election or meeting of the members, and expires automatically after the completion of the election or meeting.
4. The absentee ballot specifies the time and date by which the ballot must be delivered to the board of directors in order to be counted, which shall be at least seven days after the date that the board delivers the un-voted absentee ballot to the member.
5. The absentee ballot does not authorize another person to cast votes on behalf of the member.

Votes cast by absentee ballot including email and fax, are valid for the purpose of establishing a quorum.

On the ballot, clearly state the deadline for return and return location for a completed ballot.

You can find additional information regarding conducting the successful annual meeting in our "How to Conduct Successful Annual Meetings" Mulcahy Cheat Sheet.

Good Luck with your annual meeting!

If your association requires assistance with the annual meeting please contact Mulcahy Law Firm, P.C.

Our Website: www.mulcahylawfirm.net

***Our newsletter archive can be found on the Newsletter Tab of our website
Mulcahy Cheat Sheets can be found on the Publications Tab of our website.***