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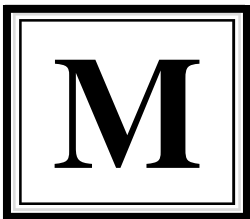
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Federal Pool Law Applies to Arizona Associations by Beth Mulcahy

On December 19, 2007 President Bush signed into federal law the Virginia Graeme Pool and Spa Safety ("Act"). *The Act sets safety standards for public and semi-public pools and spas and this applies to all community associations with pools. The law required compliance on or before December 19, 2008.*

The Act was named after the granddaughter of former Secretary of State James Baker who died in a tragic incident in June 2002 after the suction from a spa drain entrapped her under water.

Under the Act, all pool and spas must be enclosed by barriers that will effectively prevent children from gaining unsupervised entry to a pool area. States will also be required to adopt or modify existing regulations to provide that all pool and spas be equipped with anti entrapment devices on pool or spa drains.

The Act also specifies that spa drain covers must meet specific performance requirements and additionally, public pools and spas must have devices or systems designed to prevent suction entrapment.

A County Environmental Services Department remodeling permit may be required if an Arizona association plans to make changes to their pool or spa circulation system. Examples of changes that require owners to submit a permit request include installation of a balanced dual main drain or installation of a safety vacuum release system (SVRS). Please check with your local pool service company for assistance with this process.

The U.S. Consumer Product Safety Commission (CPSC) staff has prepared a guidance document that spells out the technical requirements of Section 1404 of the Act, "Federal Swimming Pool and Spa Drain Cover Standard". You can obtain a copy of this guidance document, by email to info@cpsc.gov, by telephone at 301-504-7909 or online at <http://www.cpsc.gov/BUSINFO/vgb/poolspa.aspx>.

Regardless of the state regulations that will be imposed in the coming months and years regarding pools and spas, associations must comply with the federal statute.

Weekly Summary of Proposed Arizona Community Association Legislation Available Online by Beth Mulcahy, Esq.

The 49th Arizona Legislature opened on Monday, January 12th, 2009. As in previous years, the Mulcahy Law Firm, P.C. will be monitoring the legislative session for any bills that may impact community associations and will post the information on our website.

Hot topics regarding community associations seen in previous legislative sessions have included for sale signs, solar energy devices, an association's right to foreclose for unpaid assessments, parking on association streets, an association's authority to adopt rules and regulations, and the requirements to amend an association's governing documents. The 2009 legislature has already proposed bills on these topics.

To review a summary of community association bills pending in this 2009 legislative session please visit our website located at www.mulcahylawfirm.net. From the home page, click on our "Publications" tab and scroll to "A Summary of 2009 Community Association Bills in Arizona Legislature". *This document will be updated by our office every week during the legislative session.*

Please visit our website located at www.mulcahylawfirm.net

New Filing Method for Annual Reports with ACC

by Beth Mulcahy, Esq.

As you may know, every year a non-profit Arizona corporation must file an annual report. If your community association is incorporated, your association will now receive a post-card notice several months before your corporation's annual report is due reminding you to file your annual report. In an energy and cost saving move, the State of Arizona will no longer be mailing your corporation's annual report form. The three available options to file your annual report are:

Option 1: File Electronically - File the annual report online

Please go to <http://starpas.azcc.gov>. Enter the file number, (indicated on the reminder notice, in the box under "Electronic Filings for Annual Report" and click "GO". On the next screen, select the box "E-File an Annual Report Online". Please follow all instructions.

Option 2: Print and Mail the Annual Report

You can print an annual report form from the corporation commission website. Please go to <http://starpas.azcc.gov>. Enter the file number, (indicated on the reminder notice), in the box under "Electronic Filings for Annual Report" and click "GO". On the next screen, select the box listed "Forms for Annual Reports to be printed and mailed". Follow all instructions carefully.

Option 3: Request the Annual Report Form - Annual Report mailed or faxed

If you need a form mailed to you or if you have any problems, please contact: ARRequest@azcc.gov or call 602.542.3285.

Note: Non-profit corporations no longer have to attach financial statements or an affidavit of publication to their annual report if the annual report was due after Sept. 25, 2008. *If your association has annual reports from previous years that have not yet been filed, you will need to attach the financial statement or affidavit of publication if the due date for the annual report was on or before Sept. 25, 2008.*

Warning from the Arizona Corporation Commission:

There have been organizations who send out official-looking documents to advertise their services to Arizona businesses. These customer solicitations are in no way affiliated with Arizona Corporation Commission. These mailings generally offer a service and list a fee. Please be advised that you are not required to file with these organizations, nor are you required to pay the fee. These documents look very similar to Corporation Commission filing documents and often include the file number assigned to the business by the Corporation Commission.

If you believe you are a victim of fraud or if you have received this document please contact the Arizona Attorney General's Office in Phoenix by phone 602.542.5763 or online at www.azag.gov. Information was taken from the Arizona Corporation Commission website.

Associations Should Bank with FDIC Insured Institutions

by Beth Mulcahy, Esq.

The Federal Deposit Insurance Corporation (FDIC) is a United States government corporation created in response to the large number of bank failures during the great depression, and serves as a sort of safety net that guarantee deposits held by commercial banks.

The FDIC insures deposits received at an insured bank. This includes deposits into checking and savings accounts, money market deposit accounts, and certificates of deposit (CDs). FDIC insurance covers the balance of a depositor's account up to the insurance limit, including both principal and interest accrued up to the closing date of the affected bank. If you're not sure whether or not your bank is covered (most are), ask your banker and look for the FDIC sign in their window. You can obtain more information by going online to www.fdic.gov and clicking on the "Deposit Insurance" tab.

In Oct., 2008 a temporary law was signed increasing FDIC insurance coverage to \$250,000 per account. Please note, FCIC insurance will revert to old insurance coverage per account of \$100,000 on January 1, 2010. An account opened today would typically have a maturity date past January 2010 and should be opened with the \$100,000 insurance limit in mind.

What should you do if your association has more than \$100,000 in deposits and you want it all insured? It is wise to review all accounts. Associations often have a separate account to receive HOA fees and monthly assessments. This deposit account should stand alone in this function and be separate from any other income receiving accounts. One possibility to assure FDIC coverage would be to open accounts at multiple banks, as this would provide the association with as many \$100,000 limits as you have banks. Deposits in one insured bank are insured separately from deposits in another insured bank.

Now is an excellent time for association boards to review bank deposit accounts, bank ratings, banker relationships and to engage in dialogue to ensure all association accounts are necessary and fully insured.

Answers

Share your copy of Answers with your association's board!

Are Recording Devices Permissible at HOA Meetings?

by Beth Mulcahy, Esq.

I am not aware of any legal prohibition regarding taping members or board of directors meetings. However, it is a good idea for the board to notify residents if they are being taped prior to commencement of the meeting. The sole purpose of any recording by the board should be to accurately record the meeting minutes. Many association secretaries and secretarial services hired by associations to take meeting minutes, tape the meeting for the sole purpose of assisting with the written preparation of the minutes. It is important to note that the written meeting minutes (and not the tape of a meeting) are the official record of the meeting of the membership or the board meeting. I suggest that any tapes of meetings be destroyed after the meeting minutes are approved by the board of directors.

If the board decides to regularly tape-record the meetings for record keeping purposes (e.g. the secretary's transcription) it may also want to implement a record retention policy by which the tapes are destroyed after the information has been committed to writing in the form of meeting minutes. The board may need to permit member access to the tapes during the time between the meeting and the tapes' destruction.

Occasionally, owners ask the board for permission to tape the HOA meeting or owners "covertly" tape HOA meetings. It is my opinion that owners should *not be allowed* to tape meetings. I suggest that the board announce this policy at the start of each board meeting.

Answers

MULCAHY LAW FIRM, P.C.

BULLETIN BOARD

A Legal Seminar for Community Associations

May 14, 2009

10:00 a.m. - 1:00 p.m.

Phoenix Public Library

Auditorium, First Floor
1221 N. Central Avenue
Phoenix, Arizona

ANNOUNCING:

FIRST FRIDAY Association Office Hours

Our attorneys will be available to answer phone-in questions regarding community associations between 9-10 a.m. on the first Friday of each month starting May 1, 2009

Call our firm between 9 - 10 a.m.

on the first Friday of the month to receive your *free* consultation regarding community associations.

Phone: 602.241.1093

Would you like to receive your *Answers* newsletter by e-mail?

Please go to our website to sign up for our *Answers* Newsletter and include your e-mail address.

Visit us at:

www.mulcahylawfirm.net

Beth Mulcahy is the founding attorney and partner of the Mulcahy Law Firm, P.C. Beth's legal practice focuses exclusively on the representation of over eight hundred (800) community associations throughout the State of Arizona.

After receiving a Bachelor of Arts degree in Political Science from Marquette University in Milwaukee, Wisconsin, Beth earned her *Juris Doctor* degree from Marquette University Law School where she was on the Dean's List and a member of the Marquette University Law Review. A native of Wisconsin, Beth is licensed to practice law in the State of Wisconsin and the State of Arizona.

As the former editor/author of a weekly question and answer column in The Arizona Republic, Beth addressed hundreds of questions on association governance. In her three years with the paper, she became known for providing information and answers that communicate a clear understanding of the subject matter. Beth's *Answers* publication and periodic legal seminars on community associations continue to provide education and information for the industry. She has also published articles in Managers Report magazine, Community Association Institute's (CAI) Journal of Community Association Law, Strictly Legal newsletter, Common Ground magazine and Arizona Community Association Journal. Beth is a member of the National and the Central Arizona Chapters of CAI, a nonprofit organization supporting the interests of community associations and the Arizona Association of Community Managers. Beth regularly speaks on the topic of community associations for seminars, conferences and workshops at state and national levels.

E-mail: bmulcahy@mulcahylaw.net

Kristen L. Rosenbeck graduated from Valparaiso University with a Bachelor of Arts degree in Biology where she actively supported her school as the Student Body President. Kristen graduated in the top third of her law class receiving her *Juris Doctor* degree from Marquette University in Milwaukee, Wisconsin in 2001. She maintains licenses to practice law in both the State of Wisconsin and the State of Arizona.

Kristen's legal practice focuses on the interpretation and enforcement of association documents and guidance on state and federal laws. She represents associations in general counsel matters, bankruptcy, collection of delinquent assessments and enforcement actions. Kristen also provides representation to office condominiums. Kristen is experienced in litigation and transactional law.

Kristen is a member of the National and the Central Arizona Chapters of CAI, a nonprofit organization supporting the interests of community associations, and the Arizona Association of Community Managers.

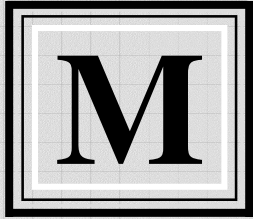
E-mail: krosenbeck@mulcahylaw.net

Answers is not intended to offer specific legal advice or responses to individual circumstances or problems. If legal advice is required, please consult individually with the Mulcahy Law Firm, P.C.

Questions may be directed to Beth Mulcahy, Esq.

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ANSWERS

for Community Associations

MULCAHY LAW FIRM, P.C.

Did You Know?

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Administrative Law Judge Matters Suspended

The 2006 Arizona Legislature enacted a law to provide an alternative forum for the resolution of disputes between homeowners and their homeowners associations. It gave administrative law judges jurisdiction to decide complaints after a petition for a hearing and a nonrefundable filing fee was paid.

On January 29, 2009, Maricopa Superior Court Judge Paul J. McMurdie entered an injunction prohibiting the Arizona Department of Fire, Building and Life Safety and the Office of Administrative Hearings from taking any action on pending matters regarding condominiums and planned communities in Arizona, or accepting any new petitions for the administrative adjudication of disputes between condominiums and planned communities and the homeowners in those associations.

The State of Arizona has 30 days from the final entry of Judge McMurdie's order (which was entered on March 4, 2009) to appeal his decision to the Arizona Court of Appeals. Pending Administrative Law Judge matters will be suspended and the Arizona Department of Fire, Building and Life Safety will be prohibited from taking any new cases.

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Please join the
MULCAHY LAW FIRM, P.C.
for
A Legal Seminar for Community Associations

Thursday, May 14, 2009

Registration: 10:00 a.m. - 10:30 a.m.
Seminar: 10:30 a.m. - 11:45 a.m.
Extended Question and Answer: 11:45 a.m. - 12:30 p.m.

Phoenix Public Library Auditorium
First Floor
1221 N. Central Avenue
Phoenix, Arizona 85004
(map on reverse side)

Topics

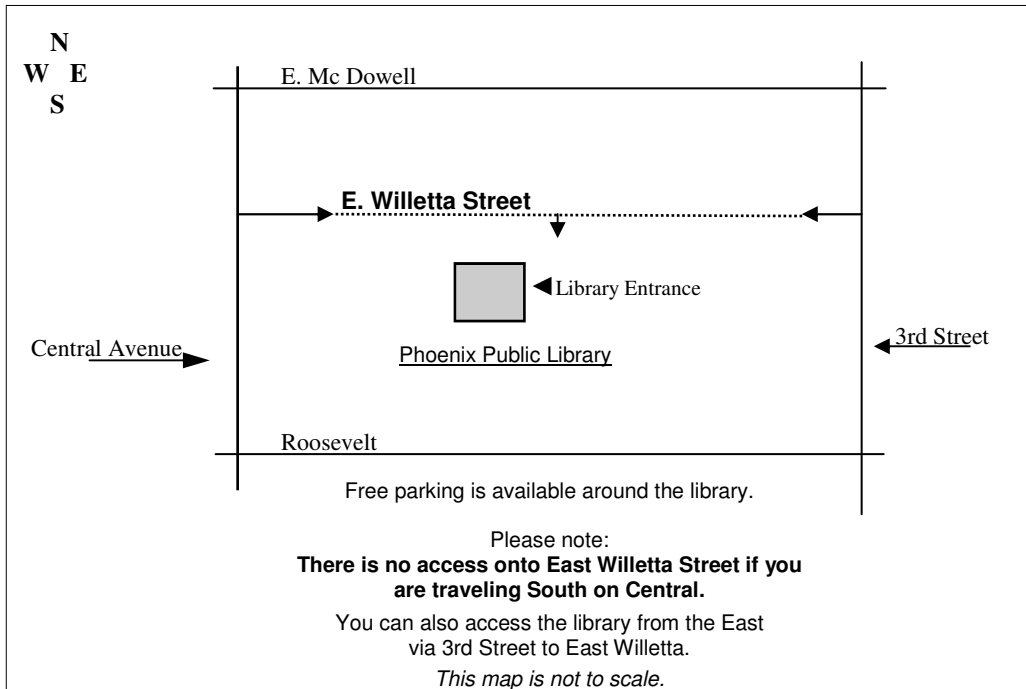
How to Run an Association in Tough Economic Times
What Board Members and Managers Need to Know about Community Association Law

There is no charge for this seminar. Seating is limited. To reserve a place, please R.S.V.P. by Thursday, April 30, 2009 by e-mailing, faxing or mailing the completed attached registration. You may also register online at www.mulcahylawfirm.net

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Registration form on reverse side

Please direct all questions to Mulcahy Law Firm, P. C., Phone: 602.241.1093



Registration Form

Please complete a registration form for each person attending (please copy the form below as needed) and fax, e-mail or mail by Thursday, April 30, 2009 to the respective address listed below.

Alternatively, you can register online at www.mulcahylawfirm.net by submitting the registration form found on the seminar tab.

Name

Address

City Zip

Association Name

Association Type (please circle) Planned Community Condominium

Phone Number e-mail Address YES

Please check yes to have your e-mail address placed on our e-Answers newsletter list.

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