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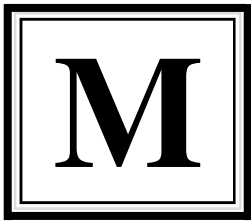
How to Effectively
Manage
Association Records

Qualities of a
"Superstar"
Community Manager

Did You Know?

A Legal Seminar for
Community Associations
March 2, 2007

◆ Your Invitation is
Enclosed!



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How to Effectively Manage Association Records

by Beth Mulcahy

A community association is a business, and, like any business, it generates volumes of documents and paperwork. Invoices, bank statements, minutes of board meetings, contracts, communications with owners and vendors, committee reports — the list is endless and the document management task can be onerous.

While not all association documents are of equal importance, for board members wrestling with mounds of paper, the distinction between what is essential and what is not essential can be unclear. However, Arizona law, the association's governing documents and good business practices dictate which records the association must preserve and for how long.

Community association records generally fall under two broad categories — financial and corporate — with retention requirements varying from "retain forever" to "dump at will," depending on the risks incurred by either preserving the documents or failing to do so.

Most Financial Records Should be Kept Forever

Most financial records should be kept permanently because they help chart the community's financial history and because they could contain information that would have a bearing on current decisions. This list includes the association's general ledgers, journals and cash books along with year-end financial statements, annual tax returns (and the worksheets related to them), audit reports and depreciation schedules.

Financial records that might be subject to an IRS audit or to an accounting-related challenge include: accounts payable and accounts receivable ledgers, expense records, canceled checks, electronic payment records, purchase orders and vendor invoices. These are examples of records that associations should preserve for at least seven years. Important financial documents, such as bank statements, deposit slips, budgets and petty cash vouchers should be held for at least four years.

Corporate History is Important

Vital corporate records, including some financial records, are part of the community's infrastructure and should be permanently retained. The association's governing documents — the CC&Rs (declaration of covenants, conditions and restrictions), articles of incorporation, bylaws, rules and regulations, deeds, easements, contracts and board resolutions fall into the "retain forever category". The historical perspective these documents provide is important because as the membership of a board changes, the association's collective memory remains in tact with these documents. Additionally, new board members need a basis for understanding the policies and procedures established by former boards and long serving board members have a written record to remind them of the reasons for previous decisions.

Associations should also retain most records related to former employees for at least seven years, with the exception of their medical records, which, some experts say, should be retained for at least 30 years. Seven years is also a good retention benchmark for expired contracts and old leases, insurance records, accident reports and settled insurance claims.

Minutes of board meetings should be retained as long as the policies and decisions they document can be challenged in court, if not forever.

Continued on next page

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Effective Records Management *continued*

A similar retention policy applies to the recommendations and actions of association committees and records documenting complaints filed by homeowners and how they were resolved.

Corporate records relating to individual units or unit owners should be retained in separate unit owner files. General correspondence with unit owners, copies of work orders, complaints and violation notices should all be retained until the expiration of the statute of limitations (six years) on any legal action they might trigger. Requests for architectural modifications, decisions on those requests and other documents related to them should become part of each unit's permanent record to provide the background information future owners will require.

Storage and Recovery of Documents

Boards should also establish and adhere to procedures for ensuring the safe storage and rapid recovery of all vital association documents. Among other measures, boards should:

- Regularly back up information contained in computer files;
- Maintain duplicates of computer files and paper records in a safe, off-site location; and
- Require all board members to be familiar with and able to implement the association's disaster recovery plan.

Records Requests by Members

Under Arizona law, all records of the association shall be made reasonably available for examination by any member or any person designated by the member in writing as the member's representative. Books and records kept by or on behalf of the association and the board may be withheld from disclosure to the extent that the portion

withheld relates to any of the following:

1. Privileged communication between an attorney for the association and the association;
2. Pending litigation;
3. Meeting minutes or other records of a session or an executive session board meeting;
4. Personal, health and financial records of an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association; and
5. Records relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of a contractor of the association who works under the direction of the association.

New Arizona Legislation

On September 21, 2006, a new law regarding examination of books and records by community association members went into effect. *Set forth below are several important aspects of this new legislation:*

1. Owners are now entitled to see association books and records pertaining to "contemplated" litigation;
2. An association cannot charge a member for making books and records available for review;
3. An association has ten (10) business days from a request by an owner or an owner's designated agent to make records available or copies of requested records; and
4. The association can only charge 15 cents per page for copies of records.

Hopefully, these tips will assist your association when determining which records to maintain or toss and will provide boards with tools to effectively manage an association's records.

Answers

Qualities of a "Superstar" Community Manager

by Beth Mulcahy

Community managers have one of the most difficult jobs in America. They wear numerous hats, are responsible for endless tasks and are required to keep the many different personality types living in the community happy. *Set forth below are tips on how to be an outstanding community manager:*

Communicate, Communicate, Communicate

- Listen to homeowners who have concerns or problems with the association;
- Return/respond to phone calls/e-mails within 24/48 hours (if possible);
- Notify the board immediately regarding important information about their association; and
- Apologize and make the necessary corrections when mistakes happen.

Oversee Maintenance and Repairs of Common Areas

- Conduct inspections (weekly if possible); and
- Investigate maintenance problems in a timely manner (i.e. floods/leaks).

Create a Strategy for the Annual Meeting

- Calendar key dates (notice calling for volunteers for the board, notice of meeting, date, etc.);
- Use mail-in or absentee ballots;
- Compute quorum or any other special voting requirements prior to the meeting;
- Determine whether cumulative voting can be used and whether delinquent owners can vote;
- Reserve and confirm location prior to meeting date; and
- Bring a sign-in sheet with names of all owners, returned mail-in or absentee ballots, pens, unused ballots, calculator, association documents, tally sheet and the list of delinquent owners to the annual meeting.

Monitor Association Insurance

- Calendar renewal date(s) at least 90 days before the renewal date;
- Investigate other insurance policies, prices and coverage at least 60 days prior to expiration of policy;
- Review insurance provisions in association documents to ensure that the association has proper insurance coverage; and
- Report insurance claims promptly.

Carefully Monitor Delinquencies

- Create monthly status reports.

Pay Association Bills on Time

- Create a list of all association bills and due dates; and
- Promptly review, get approval for and pay all bills.

File the Association's Annual Report with the Arizona Corporation Commission Annually

Keep your Boards out of Trouble with Good Advice

- Comply with federal and state laws; and
- Consult with an attorney when necessary.

Obtain 2-3 bids from Contractors for Capital Improvement Projects in the Association

- Use licensed and bonded contractors when appropriate.

Maintain Accurate and Complete Association Records

- Lot/Unit files;
- Correspondence files; and
- Meeting minute books.

Be Professional when your Relationship Ends with the Association

- Don't burn bridges or sabotage;
- Help the new management company with the transition; and
- Move on – there is plenty of work for everyone! *Answers*

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BULLETIN BOARD

A Legal Seminar for Community Associations

*Presented by:
Beth Mulcahy*

**March 2, 2007
9:30 to 11:30 a.m.
Registration 9:00 a.m.**

**Phoenix Public Library
Auditorium**

*Library doors will open at
8:30 a.m.*

Seating is limited!

Please submit your registration by February 23, 2007.

You may register:
Online at

www.mulcahylawfirm.net
click on the seminar tab,
complete and submit the form

OR

Fax your registration to
602.264.4663

OR

Mail your registration to

MULCAHY LAW FIRM, P.C.
3001 E. Camelback Rd., Ste. 130
Phoenix, Arizona 85016

*Our seminars fill quickly!
Save the date and
register now!*

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 Chapter 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.

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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.

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Christi Klein graduated from Purdue University with a Bachelor of Arts degree in English in May, 2003. Christi received her *Juris Doctor* degree from Valparaiso University School of Law in May, 2006. During her undergraduate and graduate studies, Christi studied abroad in Cambridge, England and Galway, Ireland and was active in the Valparaiso Sports Law Clinic (which is the first clinic in the country to provide pro bono legal service to amateur athletes), the Sports and Entertainment Law Society and the Valparaiso Law School newspaper.

Christi's practice focuses on the representation of community associations with an emphasis on litigation, enforcement of restrictive covenants and collection of delinquent assessments. Christi is currently awaiting her bar admission with the State Bar of Arizona.

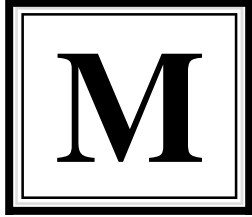
E-mail: cklein@mulcahylaw.net

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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E-mail: bmulcahy@mulcahylaw.net



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Seminar Invitation Enclosed!

ANSWERS for Community Associations

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TYPICAL DUTIES AND RESPONSIBILITIES OF ASSOCIATION BOARD MEMBERS

Almost all community association board members are volunteers. Boards are responsible for the maintenance, repair and replacement of the association's common elements and the operation and management of the association's business affairs. The board's powers and duties are usually outlined in the association's documents. Under Arizona law, board members have a fiduciary duty to act in good faith and in the best interests of the association. Set forth below are the typical duties and responsibilities of association board members:

- Attend and participate in board meetings;
- Enforce association documents;
- Collect assessments;
- Maintain the business records of the association;
- Create a budget and determine assessments rates;
- Know and understand federal and state laws regarding community associations;
- Appoint committees and delegate responsibilities to them;
- Utilize an attorney, certified public accountant, insurance agent and/or other professionals for the association;
- Obtain adequate insurance coverage for the association;
- Use sound fiscal judgment;
- Oversee vendors (i.e. management company, landscapers and handymen)
- Enter into contracts on behalf of the association;
- Oversee association funds and financial records for the association; and
- Establish a reserve fund for long-term capital improvements.

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You are invited to a
Legal Seminar for Community Associations

presented by:
Beth Mulcahy, Esq.
Mulcahy Law Firm, P. C.

Friday, March 2, 2007

Library Doors will open at 8:30 a.m.

Registration: 9:00 a.m. - 9:30 a.m.

Seminar: 9:30 a.m. - 11:00 a.m.

Question and Answer: 11:00 a.m. - 11:30 a.m.

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

There is no charge for this seminar. Seating is limited. To reserve a place, please R.S.V.P. by Friday, February 23, 2007 by e-mailing, faxing or mailing the attached registration. You may also register online at www.mulcahylawfirm.net by submitting the form found on the seminar tab.

Seminar Topics

The Top Ten Things You Need to Know About Community Association Law

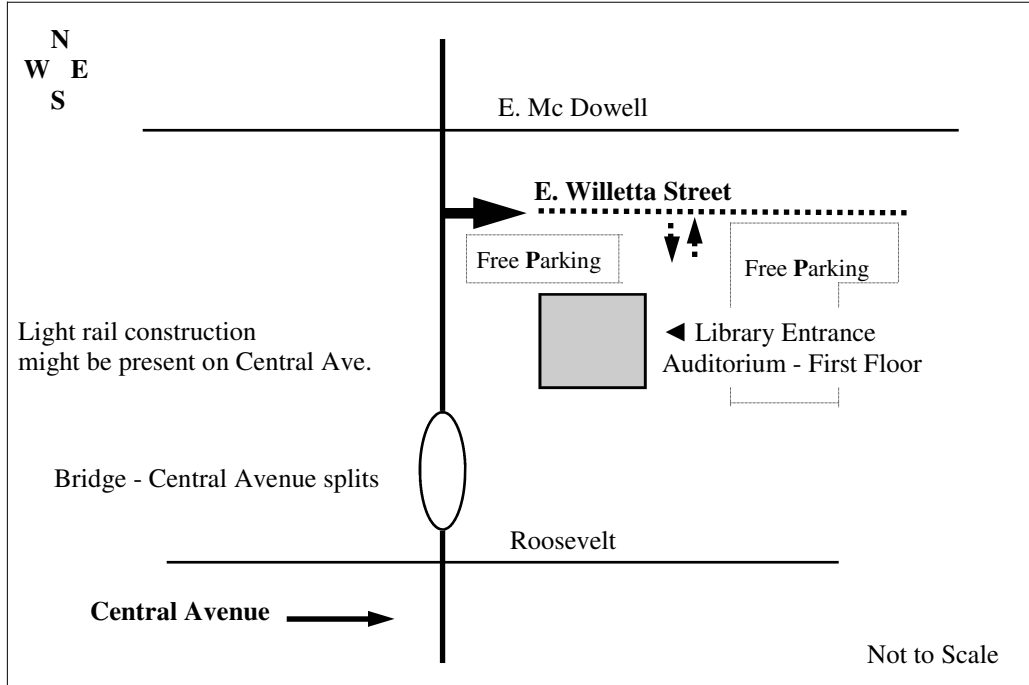
Secrets for Collecting Delinquent Assessments

Insurance Issues for Community Associations

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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 February 23, 2007 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

Phone Number..... E-mail Address

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