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## Can a Homeowner or Board Member Make an Audio or Video Recording of our Next Board Meeting?

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Yes. The legal answer is simple because they “can” make recordings, but the political ramifications and the impact on the community make that answer challenging for many board members and managers that ask. Luckily, the issue does not end with the initial legal answer.

Other states have laws that directly authorize this kind of recording and a few other states actually prohibit such recordings without the permission of everyone in attendance. But let’s not kid ourselves: there is no express legal prohibition against making an audio or video tape of an association board meeting in Arizona. There is a criminal statute that prevents taping someone without warning them, but that statute only applies when that person is in a situation where they reasonably expect their conversation to be private. Most board meetings are conducted in public and/or open locations where homeowners have no “reasonable expectation of privacy”.

If it isn’t “illegal” to record board meetings then what can a board do if the audio or video recording is an unwanted intrusion on association business and it wants to control its meetings? Can the board do something to prevent audio or video recording at its own meetings?

The answer to this question is also yes. The board may write a policy or rule about how the association will conduct its meetings. It is within the board’s power to enact and enforce a policy to prohibit an audio or video recording of a meeting. The only exception to such a policy would be a disabled owner’s request for an accommodation. In these situations, an owner could receive special permission to record if the recording was necessary to accommodate the owner’s ability to participate in and/or memorialize open meetings.

Finally, in addition to its discretion and ability to control its own meetings, the board has legitimate reasons to be concerned about how it keeps records of its own meetings. In almost all associations, the board keeps minutes. Under the law, these minutes are the official record of association board meetings. The board’s need to control and maintain the accuracy of those official records supports the board’s decision to prohibit recording. Any other record of board meetings (1) could cause confusion (even if a board member did the taping)

unless promptly erased, and (2) could provide unwanted details outside the minutes of actions at the meeting that could be used against the association in some way in the future.

In sum, a homeowner or board member could make audio or video recordings because there is nothing in the law that legally prohibits the recording. However, an association board has the power and authority to institute a policy or pass a resolution to restrict or prohibit such recording at its own meetings. The law would then uphold the board's business decision.

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