



# COMMUNITY RESOURCE

INSIGHT & EDUCATION FOR COMMUNITY ASSOCIATIONS

MAY  
2019

*This Issue*

MESSAGE FROM  
THE PRESIDENT

CONGRATULATIONS  
CORNER



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and Flags**

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# Message

FROM THE PRESIDENT

**SUZANNE MURRAY** | CHAPTER PRESIDENT

CAI - Central Arizona Chapter

CAI is a wonderful and amazing organization. At both the national and local level, the association supports our community association industry in education, legislation and networking. Our members (you) are invaluable to our success. Our local chapter is currently the largest it has ever been and continues to thrive because of our dedicated members in the association community.

There are many ways for you as a member to get involved: attending luncheons, educational programs, teaching opportunities, events and serving on committees. If you have not had an opportunity to attend a luncheon or an event, I would encourage you to find some time to get involved. The education and networking component have proven to be invaluable for homeowners, managers and business partners. The Chapter has several committees that need volunteers for various opportunities to serve.

As we continue to educate our new and seasoned homeowners, managers and business partners involved in our community association industry, we promote better relationships and a sense of community. Through educational classes and opportunities our membership enhances their understanding and are updated on recent events and changes in the law for our industry.

In addition to the many classes provided by our CAI local and national level, there are also a number of educational materials and resources available on our Chapter website at [www.cai-az.org](http://www.cai-az.org) and the National CAI website at [www.caionline.org](http://www.caionline.org). Be sure to take advantage of your membership benefits by utilizing these resources.

*Suzanne Murray*

CMCA, AMS, PCAM

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CAL-AM Properties, INC

**Ms. Susan Fabian**

Westbrook Village Community Association

**Ms. Amber Orduno**

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### CMCA CERTIFICATION

**Mr. Michael Iglesias**

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### LSM DESIGNATION

**Mr. Ian Welsh**

Trilogy at Power Ranch



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# Board Responsibility



Our community is more than just a neighborhood. In many ways, it's a lot like a business. Collectively, our regular annual assessments amount to tens of thousands of dollars that need to be budgeted carefully and spent wisely. And our neighbors who have volunteered and been elected to serve on the association's board are responsible for making critical decisions—on our behalf—about managing the community and our money.

Our board also develops long-range plans—like when the parking lot will need to be repaved and when the elevators will need to be replaced—about the parts of the community that are shared property. The board must set aside funds so that these kinds of projects can be accomplished on schedule or even ahead of schedule in the event there's an unexpected breakdown.

The board also sends out requests for bids and contracts with vendors to do the work necessary to maintain our shared amenities. Board members decide who will do the best job of replacing the roof at the best price or who will be the most reliable company to hire to mow the grass and remove dead tree limbs.

The board's decisions can have a significant impact on the community's appearance and, consequently, on our property values. Regardless of our professional manager, the board ultimately is responsible for overseeing association operations. Be sure to communicate with the board regularly, observe board meetings, and attend annual meetings to elect responsible board members and to participate in the conversations about significant community issues.

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## Homeowner Help—All in One Place

The Internet is full of information for homeowners—if you can find what you're looking for. Google searches can pull up thousands of sites, most of them irrelevant, and it's your task to weed through them. Now there's a way around information overload. Community Associations Institute (CAI), a national membership group that works on behalf of communities like ours, has created a site specifically for homeowners and potential homebuyers.

The site includes links to several free CAI documents, including An Introduction to Community Association Living and Community Matters—What You Should Know Before You Buy. It also features links to a number of government and nonprofit websites on topics such as:

- Buying and selling a home
- Making home affordable
- Home foreclosure resources
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- Tax information for homeowners
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# Memorials and Flags

What are the laws everyone should be following?

BY ASHLEY MOSCARELLO, ESQ.

As the weather starts heating up, thoughts turn to summer, pool parties, fireworks, and celebrations. Many of the holidays we celebrate in the middle of the year center around remembrance and patriotism. That means that your neighbors in your community may be displaying flags, decorations, and signs. But what are the laws that everyone should be following when it comes to memorials and flags?

## FLAGS

In Arizona, associations (both planned communities and condominiums) are governed by specific rules on what the association can and cannot prohibit when it comes to flags. Specifically, A.R.S. Section 33-1261 (condominiums) and A.R.S. Section 33-1808 (planned communities) govern the display of flags.

Arizona law states that Associations (both condominiums and planned communities) may not prohibit Owners from flying certain flags. Specifically, an Association cannot prohibit (1) the American flag or an armed forces flag (Army, Navy, Air Force, Marine Corp. or Coast Guard), (2) the POW/MIA flag; (3) the Arizona state flag, (4) an Arizona Indian Nations flag, and (5) the Gadsden flag (the yellow “don’t tread on me” flag).

Since Arizona law notes those five specific flags, one can assume that associations can, in fact, have a ban on other flags, such as flags for certain sports teams or the “Thin Blue Line” police flags. Flags can be very meaningful and personal to the individual flying it, so associations should consider this fact when adopting rules and enforcing them.

Associations may adopt reasonable rules and regulations about the placement and manner of display of flags and may ensure that the flags are being displayed consistent with Federal Flag code, as applicable.

As a reminder for those who are unfamiliar, there are rules as to the proper etiquette for flying the American Flag specifically. Federal law sets out certain restrictions on the display and use of the flag by civilians, time and occasions for the display and how to respect the flag in the “Flag Code” (found at 4 U.S.C. 36). Generally, the Flag Code says that it is custom to only display the U.S. flag only from sunrise to sunset, but the flag may be displayed 24-hours a day if it is “properly illuminated” when it is dark outside.

The Flag Code also states that the American flag should not be displayed in inclement weather, and should “especially” be displayed on holidays such as Armed Forces Day, Memorial Day (half-staff until noon), Flag Day, Independence Day, Labor Day, state birthdays and on state holidays. No flag should be placed above or on the same level of the U.S. flag. The U.S. flag should always be displayed at the center and the highest point of a group of flags of States or other localities.

The Flag Code says the U.S. flag should not be draped over the hood, top, sides or back of a vehicle or boat, but can be “fixed” on the vehicle.

The U.S. flag should never be displayed with union down (which signals distress or extreme danger). The flag should not touch anything beneath it (the ground, floor, water, etc.) Although it is not very frequently followed (or seemingly enforced), the Flag Code also provides that the U.S. flag should never be used as clothing, bedding, or drapery, or as part of a costume or athletic uniform (except for patches).

## MEMORIALS

On the other hand, memorials are not governed specifically by statute in Arizona. Memorials can include several things,



including certain decorations or signs that owners place on their property. One notable example that caught the attention of the public locally last year was an owner who placed a large magnet on their garage door that paid tribute to the owner’s brother who served in the military.

State statutes set limitations on the regulations associations can have as to for sale, for rent, or for lease signs, or political signs. A.R.S. Section 33-1261; A.R.S. Section 33-1808. A “political sign” is defined in these statutes as a sign that attempts to influence the outcome of an election (including support or opposition for a particular ballot measure, specific public officer or proposition). More often than not, memorials or decorations do not fall into these categories for restrictions. For that reason, whether memorials and other decorations are allowed in a community will be dependent on that community’s specific rules and regulations and restrictions in the CC&Rs. Boards should balance the aesthetics of the community with allowing owners to show their support for things that mean a lot to people, like the military and first responders.

Associations should keep these restrictions and limitations in mind this upcoming summer and holiday season.

*Ashley Moscarello graduated summa cum laude with a Bachelor of Science degree in Justice Studies from Arizona State University in 2012, and attended law school in Chicago, Illinois. Ms. Moscarello graduated cum laude from Chicago-Kent College of Law in 2015 and upon graduation, re-joined her firm in Arizona where she represented homeowners associations and condominiums. Ms. Moscarello joined the Goodman Holmgren Law team in 2016 and continues to offer a full spectrum of legal services to homeowners associations and condominium associations.*



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# What Kinds of Flags and Signs Can I Display on My Property?

The answers may  
surprise you. BY ROD SAUAIA, ESQ.



Can I fly my Chicago Bears and Pittsburgh Steelers flags on the 50 foot flagpole in my yard? Can I place a 30 square foot sign advertising my garage sale on the common area entrance to my community? The answers may surprise you.

The Planned Community Act (A.R.S. § 33-1808) and the Condominium Act (A.R.S. § 33-1261) are the statutes that control the display of certain types of signs in community associations. These include political signs, “for sale”, “for rent” and “for lease” signs, open house signs, political signs and children’s cautionary signs. An association’s governing documents may lack restrictions regarding displaying flags and signs.

The statutes state that an Association shall not prohibit the outdoor display of the American flag, the POW/MIA flag, the Arizona State Flag, Arizona Indian Nation flag, and the Gadsden flag. See A.R.S. § 33-1808 & § 33-1261. Associations can adopt rules limiting the displaying no more than two flags at once and may limit the height of the flagpole to no more than the height of the rooftop of the member’s home. The rules cannot prohibit the installation of a flagpole in the front yard or backyard of the member’s property. What does this mean for the household with the Bears and Steelers fans? It means that unless an association’s documents prohibit the display of flags, the members can proudly display both of their respective team’s flags on the flagpole in the front or rear yard, provided that the flagpole does not exceed the height of the roof. If there is a flag restriction, and an association desires to regulate flags, then the association must adopt rules regarding the display of the POW/MIA flag, the Arizona State Flag, Arizona Indian Nation flag, and the Gadsden flag.

Additionally, under A.R.S. § 33-1808 and § 33-1261, an Association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member’s property, except that an association may prohibit the display of political signs earlier than seventy-one (71) days before the day of an election and three (3)

days after an election day. Finally, an Association may regulate the size and number of political signs that may be placed on a member’s property if the Association’s regulation conforms to any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. Id.

Under A.R.S. § 33-1808(F) and § 33-1261(C), members may also display a commercially produced for sale, for rent or for lease sign and size rider that are industry standard size, as well as an open house sign on their property. Associations cannot charge, require the use of certain signs or otherwise regulate the signs other than as specifically authorized in the statutes. If an Association violates one of these statutes (i.e. elects to charge and/or not allow an owner to display a lease or sale sign), the penalty is severe. An association or managing agent that violates these statutory provisions forfeits and extinguishes the lien rights authorized under A.R.S. §§ 33-1807 and 33-1256 against that member’s property for a period of six consecutive months from the date of the violation.

Finally, under A.R.S. § 33-1808(D) associations cannot prohibit the use of cautionary signs regarding children if the signs are used and displayed as follows: (1) the signs are displayed in residential areas only; (2) the signs are removed within one hour of children ceasing to play; (3) the signs are displayed only when children are actually present within fifty feet of the sign; (4) the temporary signs are no taller than three feet in height; and (5) The signs are professionally manufactured or produced.

What about the garage sale sign posted on the common area entrance to the community? Check your governing documents. If there is no prohibition, the sign may stay.

*Rod Sauaia is an associate at Maxwell & Morgan, P.C. Mr. Sauaia graduated from University of Colorado – Boulder in 2011 with degrees in Economics and International Affairs. Mr. Sauaia received his Juris Doctor from Sandra Day O’Connor College of Law – ASU in 2015. Mr. Sauaia focuses his practice on the representation of Arizona planned communities and condominium associations in general corporate issues, deed restriction enforcement, transactional matters and collection related litigation.*



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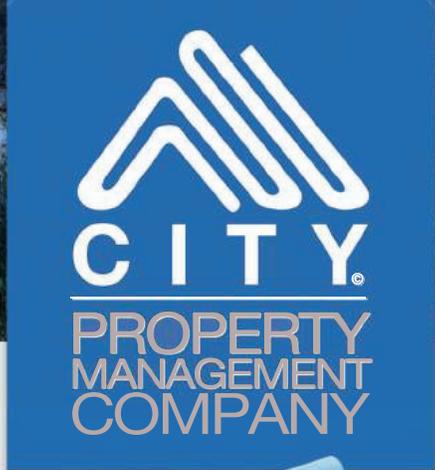
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