



# SHAW & LINES, LLC

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## How to Run a Legal, Smooth and Successful Annual or Special Meeting

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**This document is intended to provide general information. It does not and cannot provide specific legal advice. For additional information or answers to questions, you may contact Augustus H. Shaw IV, Esq. of Shaw & Lines, LLC at 480-456-1500 or send questions to [ashaw@shawlines.com](mailto:ashaw@shawlines.com).**

*This course is approved by Community Association Managers International Certification Board (CAMICB) to fulfill continuing education requirements for the CMCA® certification. [www.Camicb.org](http://www.Camicb.org).*

# LEGAL SERVICES

## GENERAL CORPORATE COUNSEL

Advising developers and community associations on forming corporations, funding reserves, compliance issues, and other general counsel matters.

## COLLECTING ASSESSMENTS

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We help review, interpret and negotiate contracts between vendors.

## PROPERTY TAXATION

Assisting planned community associations in reducing tax liability for common area property tax liens.

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Advising developers of community associations concerning applicable city ordinances, planning restrictions and similar land use issues.

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Representing Insurance Companies in defending claims against their insured.

## EDUCATING COMMUNITIES

Offering the Lunch & Learn Lecture Series and the Community Association Desk Reference Set for community association professionals to “be in the know” concerning changes in the law and effectively managing community associations.

## **Syllabus**

### **Learning Objectives:**

This seminar will discuss the laws that regulate Homeowner Association Member Meetings, both annual and special meetings. This seminar will also provide helpful tips on how to conduct efficient annual and special meetings of the Members.

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## **I. ANNUAL MEETINGS OF THE MEMBERS.**

Probably the most important meeting a homeowner's association (hereafter, "HOA") is required to conduct is the Annual Meeting of the Members. Not only do most HOA Governing Documents require HOAs to conduct Annual Meetings, Arizona law, at Arizona Revised Statutes §33-1248(B) (Condominiums) and Arizona Revised Statutes §33-1804(B) (Planned Communities), requires HOAs to conduct an Annual Meeting at least once per year.

### **a. How Often Should Annual Meetings Be Held?**

Pursuant to Arizona Revised Statutes §33-1248(B) (Condominiums) and Arizona Revised Statutes §33-1804(B) (Planned Communities), HOAs must hold an Annual Meeting at least once a year. Many HOA Bylaws also contain requirements for conducting an Annual Meeting.

### **b. What Are the Notice Requirements for an Annual Meeting?**

Annual Meeting notice requirements are usually discussed in the HOA's Bylaws. Arizona Revised Statutes §33-1248(B) (Condominiums) and Arizona Revised Statutes §33-1804(B) (Planned Communities) states a HOA must provide no fewer than ten (10) days nor more than fifty (50) day's notice.

The notice shall state the date, time and place of the Annual Meeting. The shall also state the purpose for which the Annual Meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, any changes in assessments that require approval of the unit owners and any proposal to remove a director or officer.

### **c. Purpose of an Annual Meeting.**

Annual Meetings are meetings of the Members. They are held to conduct the "business" of the Membership and allow the Membership to address their HOA. In most HOAs, Annual Meetings are conducted for three main purposes of, said purposes being:

1. To Conduct Member "Business";
2. To Elect Members to the Association's Board of Directors; and
3. To Allow the Members to Address their Association.

#### **1. Conduct Member "Business".**

Annual Meetings are forums where Member business may be conducted. Member business can take many forms, including:

- a. Approving the previous year's Annual Meeting Minutes (see the Section on Annual Meeting Minutes below);
- b. Electing Board Members;
- c. Amending of the Association Documents; and
- d. Authorizing Increases in the Annual Assessments of Special Assessments.

## **2. To Elect Members to the Board of Directors.**

By far the most important purpose of an Annual Meeting is to elect Members to the HOA's Board of Directors. Effectuating an election to the Board of Directors takes a great deal of forethought, especially in light of recent changes in the laws affecting HOAs found at Arizona Revised Statutes §33-1250 (Condominiums) and Arizona Revised Statutes §33-1812 (Planned Communities).

A successful and legal election to the Board starts at least two (2) months prior to the Annual Meeting. This is due, in large part, to the requirements of Arizona Revised Statutes §33-1250(C) (Condominiums) and Arizona Revised Statutes §33-1812(A) (Planned Communities). The Statutes require that the HOA send absentee ballots to all Members of the HOA. The Statutes state, in relevant part:

Notwithstanding any provision in the community documents, after termination of the period of declarant control, votes allocated to a unit may not be cast pursuant to a proxy. The association shall provide for votes to be cast in person and by absentee ballot and, in addition, the association may provide for voting by some other form of delivery, including the use of e-mail and fax delivery.

The difficulty in complying with Arizona Revised Statutes §33-1250(C)(Condominiums) and Arizona Revised Statutes §33-1812(A) (Planned Communities) and effectuating an election to the Board of Directors lies in the dilemma of producing the required absentee ballot. This is why it is important to begin the planning process for an Annual Meeting at least sixty (60) days prior to the Annual Meeting.

Effective planning of an election to the Board of Directors begins sixty (60) days from the date of the Annual Meeting with the production and sending of a "Board Member Nomination Form" to all members. The Board Member Nomination Form requests that Members nominate themselves or other Members to run for the Board of Directors. The Board Member Nomination Form also provides the Member with an opportunity to provide qualifications concerning their election to the Board.

The Board Member Nomination Form should require that the Form be returned by no later than thirty (30) days from the date they are sent. Also, all names returned on the Board Member Nomination Form should be included on the absentee ballot and the Board Member Nomination Form should be sent with the absentee ballot.

Once the return time for the Board Member Nomination Form has expired, the absentee ballot may be drafted. As stated above, the Board Member Nomination Form should be sent with the absentee ballots in order to provide as much information concerning the candidates as possible.

When drafting an absentee ballot, a HOA must keep the requirements of Arizona Revised Statutes §33-1250(C) (Condominiums) and Arizona Revised Statutes §33-1812(A) (Planned Communities) in mind.

### **3. To Allow Members to Address Their Association.**

It is very important to remember that the Annual Meeting is a meeting of the Members; meaning that the Members should be provided with an opportunity to address their Board of Directors and other Members of the Association.

Many HOAs attempt to limit who may speak at an Annual Meeting. A good policy to have is to let all Members who wish to speak have the opportunity to speak but limit how long they may speak. I usually suggest no more than 5 minutes per person but this timeframe may be less depending on the number of Members who desire to speak.

#### **d. Annual Meeting Do's and Don'ts.**

Conducting an Annual Meeting can be a daunting task. If, however, the HOA is prepared, conducting an effective Annual Meeting can be relatively easy. Below are a few Do's and Don'ts concerning Annual Meetings.

#### **1. Do Create an Annual Meeting Agenda.**

Effective Annual Meetings start with the Annual Meeting Agenda. Annual Meeting agendas will vary depending on the HOA, but a standard Annual Meeting Agenda should contain the following:

- I. Call to Order;
- II. Approval of the Last Annual Meeting's Minutes;
- III. Introduction of the Board of Directors;
- IV. President's Report;
- V. Treasurer's Report;
- VI. Election of the Board of Directors;
- VII. Member Questions and Comments;
- VIII. Adjourn.

#### **2. Do take and Ratify Annual Meeting Minutes.**

Arizona Revised Statutes §10-11601 requires HOAs to make a record of and keep annual meeting minutes. As such, it is important that HOAs take Annual Meeting Minutes. This should be done by the Secretary of the Association, or any other designated officer for the Board.

It is equally important that HOAs ratify Annual Meeting Minutes. Annual Meeting Minutes may only be ratified by the Members of the HOA. As such, most Annual Meeting Minutes will be ratified at the next Annual Meeting of the Members.

#### **3. Do not Restrict the Participation of Members at the Annual Meeting.**

As stated above, the Members of the HOA have the right to address the HOA at the Annual Meeting. As such, it is important that time is reserved to allow the Members to address the HOA at the Annual Meeting

#### **4. Do Allow a Qualified Person to Conduct the Annual Meeting.**

Whether it be the HOA President, HOA Manager or HOA Attorney, make sure that the Annual Meeting is conducted by someone who is qualified to conduct the Meeting. Annual Meetings are difficult to conduct and can get out of hand. Having someone who has conducted Annual Meetings in the past and who is well qualified to conduct the Annual Meeting will make the Annual Meeting run more smoothly.

#### **5. Keep all Election Related Materials**

Pursuant to Arizona Revised Statutes §33-1250(C)(7) (Condominiums) and Arizona Revised Statutes §33-1812(A)(7) (Planned Communities), Ballots, envelopes and related materials, including sign-in sheets if used, shall be retained in electronic or paper format and made available for member inspection for at least one year after completion of the election.

### **III. SPECIAL MEETINGS OF THE MEMBERS.**

Special Meetings of the Members are another form of Member meeting. Special Meetings of the Members are unique because they vary depending on the purpose of the Special Meeting of the Members.

#### **a. Common Purposes for Special Meetings of the Members.**

Special Meetings of the Members may be called for a number of reasons, such as:

- 1) To authorize a Special Assessment or Increase in the Annual Assessments.
- 2) To authorize amendment of the Association's Governing Documents.
- 3) To Remove Members of the Association's Board of Directors.

#### **b. Who May Call A Special Meeting of the Members?**

The question of who may call a Special Meeting of the Members is usually answered in the Governing Documents of the HOA. Usually, the Board of Directors or a certain number of Members may call a Special Meeting of the Members.

Arizona Revised Statutes §33-1248(B) (Condominiums) and Arizona Revised Statutes §33-1804(B) (Planned Communities) states that Special Meetings may be called by the president of the HOA, by a majority of the board of directors of the HOA or by unit owners having at least twenty-five percent of the votes in the association.

#### **c. Notice Requirements for Special Meetings of the Members.**

Special Meeting notice requirements are usually discussed in the HOA's Bylaws. Arizona Revised Statutes §33-1248(B) (Condominiums) and Arizona Revised Statutes §33-1804(B) (Planned Communities) states not a HOA must provide no fewer than ten (10) days nor more than fifty (50) day's notice.

The notice shall state the date, time and place of the Special Meeting. The shall also state the purpose for which the Special Meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, any changes in assessments that require approval of the unit owners and any proposal to remove a director or officer.

**1. Special Meeting of the Members to Authorize a Special Assessment or Increase in the Annual Assessments.**

Generally, the HOA's CC&Rs will dictate how Special Meetings of the Members may be called to vote on a special assessment or increase in the annual assessment of the HOA. Voting and quorum requirements concerning this type of Special Meeting of the Members will also generally be found in the HOA's CC&Rs. Additionally, any Special Meetings of the Members must be conducted using absentee ballots pursuant to Arizona Revised Statutes §33-1250(C) (Condominiums) and Arizona Revised Statutes §33-1812(A) (Planned Communities).

**2. Special Meeting of the Members to Amend the Association's Governing Documents.**

Pursuant to most HOA Governing Documents, Special Meetings of the Members may be called to vote amending certain provisions of the HOA's Governing Documents. Voting and quorum requirements concerning this type of Special Meetings of the Members should also be generally found in the specific HOA Governing Document that is being amended. Additionally, any Special Meetings of the Members must be conducted using absentee ballots pursuant to Arizona Revised Statutes §33-1250(C) (Condominiums) and Arizona Revised Statutes §33-1812(A).

**3. Special Meeting of the Members to Remove Members of the Association's Board of Directors.**

Arizona Revised Statutes §33-1243(H) and Arizona Revised Statutes §33-1813(A) provides for the procedures concerning a Special Meeting of the Members to remove Members of the HOA's Board of Directors.

It is important that a HOA follow the quorum requirements of Arizona Revised Statutes §33-1243(H) and Arizona Revised Statutes §33-1813(A). It is equally important that the HOA carefully study Arizona Revised Statutes §33-1243(H) and Arizona Revised Statutes §33-1813(A) in order to abide by its provisions.

**IV. Annual Meeting Do's and Don'ts.**

Conducting an Annual Meeting can be a daunting task. If, however, the HOA is prepared, conducting an effective Annual Meeting can be relatively easy. Below are a few Do's and Don'ts concerning Annual Meetings.

**1. Do Create an Agenda.**

Effective Special Meetings start with the Agenda. Agendas will vary depending on the subject of the Special Meeting.

**2. Do take and Ratify Meeting Minutes.**

Arizona Revised Statutes §10-11601 requires HOAs to keep Special Meeting minutes. As such, it is important that HOAs take Special Meeting Minutes. This should be done by the Secretary of the Association, or any other designated officer for the Board.

**3. Do Allow a Qualified Person to Conduct the Meeting.**

Whether it be the HOA President, HOA Manager or HOA Attorney, make sure that the Special Meeting is conducted by someone who is qualified to conduct the Meeting.

**4. Keep all Election Related Materials**

Pursuant to Arizona Revised Statutes §33-1250(C)(7) (Condominiums) and Arizona Revised Statutes §33-1812(A)(7) (Planned Communities), Ballots, envelopes and related materials, including sign-in sheets if used, shall be retained in electronic or paper format and made available for member inspection for at least one year after completion of the election.

**SHAW & LINES, LLC**  
COUNSELORS TO COMMUNITY ASSOCIATIONS

## “DOING BETTER WHAT IS ALREADY BEING DONE.”

Shaw & Lines, LLC is an award winning law firm that focuses its practice to Homeowner Association Law, General Real Estate Law, Bankruptcy, Fair Housing and General Business Law. The Firm was founded and continues to operate on the goal of promising and providing efficient, competent and quality legal services to its clients. Shaw & Lines, LLC distinguishes itself by efficiently and effectively “doing better what is already being done.”

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