READERS QUESTIONS:

Hi Mr. Richardson,
I've been at meetings where you were a guest speaker and I have a question you can help me with. Is there any legal reason that prohibits a homeowner to allow the HOA to install video surveillance cameras to get images of the street/entrance areas?

Our neighborhood had a rash of burglaries and I looked into having the HOA pay for installing video cameras on our members garages to get images of people and cars coming in and out of the neighborhood. The only people that would have access to the images would be the homeowner, the Sheriff's Dept. and the HOA board. We would only look at the video when a crime occurred. Signs would be posted at the entrance area to notify everyone there is video surveillance. Your help is greatly appreciated.

Thank you,
J.L., Rolling Hills Estates

Dear J.L.:
Associations are required to take reasonable steps to deal with known safety issues within the association community. The definition of “reasonable” depends upon the facts and circumstances. If your board after careful discussion and input from appropriate expertise (management, or even better a security company), decides that surveillance would be appropriate, the board can make that decision.

It is important to make it clear in your posted notice not only that certain areas are under video recorded surveillance but that this is RECORDING and that nobody is actively watching the monitors. You don’t want somebody to have a false sense of security by standing near a camera, thinking someone is watching them.

Having very limited and controlled access to the video recordings is a good idea. If the cameras are to be installed on private residences and not in a common area, there should be a written agreement confirming the association permission to have the camera on someone’s garage.

Hoping this helps the insecurity situation to become much better,
Kelly

Dear Mr. Richardson:
I am a real estate agent and am selling a home with a small neighborhood association which has a community pool, which can only be used by the 14 association members.

I am wondering if this pool is being viewed as a “public pool” and hence subject to the new ADA requirements. Any direction you could give me would be very appreciated.

Thank you.
J.S., Covina

Dear J.S.:
The law on pools right now is somewhat confusing. For purposes of state and federal pool safety laws, even small private HOA pools are considered “public” pools and must comply. So, laws such as the federal Virginia Graeme-Baker Act of 2008 deems such a pool to be “public,” even though the pool is obviously not open to the public. California law has also for many years declared HOA pools to be “Public” pursuant to Title 22 California Code of Regulations 65503.

On the other hand, the Americans With Disabilities Act specifically applies to “Public Accommodations.” Most CIDs are not public accommodations, unless the association opens itself to the public in some manner.

The law which may apply is the Fair Housing law, which requires associations to cooperate with reasonable accommodations requests by disabled residents. If a disabled resident asks for a modification to the pool to enable use, and the modification is paid for by the resident and doesn’t adversely affect others, the association might be required to permit it.

Thanks for the question.
Kelly

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