

# Legal Considerations HOAs Must Know for Audio and Video Surveillance Systems

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Resident safety and the implementation of proper security measures by homeowners associations can bring significant value to existing and potential residents. Many associations turn to surveillance systems to help bolster security for residents. Estimations are that most people are caught on camera at least 70 times every day without ever knowing or acknowledging this reality; this includes video surveillance systems installed in communities by HOAs or residents. Surveillance systems provide great value in various industries, but in homeowner associations, they pose specific liability and legal concerns that deserve legitimate consideration.

Generally, there is no requirement that HOAs install security cameras as an HOA is not the ultimate guarantor of safety for a community. However, if security surveillance systems are on the docket for installation, HOAs should exercise care and review their governing documents and legal ramifications to ensure the risks are not extravagant. If an HOA's

governing documents do not require security provisions, associations installing security cameras may create a duty to the residents or imply a guarantee of safety where none would otherwise exist. HOAs must avoid unintentionally increasing their liability for third-party criminal acts by creating an expectation of security by installing surveillance systems.

If a surveillance system is installed, the HOA's intent must be made explicitly clear to community members. Additionally, if installing the video systems is not intended to provide security, there should be clear communication to residents that the cameras are not providing security service. The most appropriate way to disseminate this information is to have written policies delineating the limited purpose of the surveillance equipment, as well as postings around the community that the equipment is not monitored for security purposes. However, these stipulations will not absolve the HOA from liability should an incident occur.

Local and state laws concerning surveillance systems vary by state, but in Colorado, privacy laws prohibit anyone from visually recording another individual without consent in situations where a person has a reasonable expectation of privacy. There are areas that automatically create an expectation of privacy such as bathrooms, locker rooms and conference rooms and should absolutely not have audio/visual surveillance equipment.

Conversely, if audio surveillance systems are installed, there are certain stipulations HOAs need to be aware of. For instance, Colorado is a one-party consent state, meaning someone can record their conversations without telling others. However, it is illegal to record a private conversation in which the person recording is not a participant. If audio and video surveillance systems are located in public areas, there are generally exceptions to this rule, but it is vital to seek legal advice before installing any form of surveillance system in a community.

Another facet HOAs need to have a firm understanding of is resident-owned surveillance systems. Residents who wish to install a surveillance system are subject to the community's governing documents. This especially resonates in condominium or townhome communities where exterior maintenance obligations are the responsibility of the HOA, and general external modification is prohibited. Just as the rules need to be delineated for an HOA installing security systems, rules for residents installing personal surveillance equipment need to clearly annotate specifications on the size, location and placement of these devices. As with all rules and laws related to surveillance systems, careful review, understanding and communication of these stipulations will ensure risk is properly mitigated and HOAs can smoothly operate their communities with little disruptions and maximum safety precautions.

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