



## 2016 New Legislation Highlights:

### What To Look Out For And How To Prepare For It By Shani O. Zakay, Esq.

It's now 2016, and the new year brings with it new laws affecting community associations. Some changes are insignificant, and this article will not address them. Instead, this article summarizes those changes boards, associations, and their managers need to be prepared for. Here are your 2016 new legislation highlights:

#### **BACKYARD CLOTHESLINES**

Nobody likes to see a beautiful building-front ruined by ugly clotheslines, especially not in associations. Boards spend hours to make sure their community is aesthetically pleasing. Color schemes and design specifications can be quickly jeopardized when owners decide to hang their neon-yellow shirt and camouflage pants in their patio for everybody to see. Over the years, associations have enforced rules restricting and prohibiting owners and their tenants from hanging clothes (or anything else for that matter) in their yards, balconies and patios. "You have a dryer; use it!" That's been most board's mantra. But is the California legislature putting an end to it?

In the spirit of California's effort to "go green," the legislature decided to encourage residents to dry their clothes by hanging them rather than using an electric or gas dryer. To facilitate this objective, California passed Civil Code Section 4750.10. The statute originally proposed to prohibit associations from restricting owners' ability to hang their clothes in their exclusive-use-common-areas (patios, balconies, etc.). Thankfully, the statute ended up with a much narrower limitation, prohibiting associations from restricting owners' ability to hang their clothes in their "backyards." Front-yards, patios and balconies, it would appear, are still fair game.

You might ask then: What about a patio located in the owner's backyard? The new statute does not offer an answer to this question and other similar ones. That's where the Board needs to act. Now is the time to review your governing documents and make sure they clearly define "backyards," "patios," "balconies" and other important exclusive-use common areas. Defining those areas in your governing documents could help you narrow the application of the new statute, insure you can continue to enforce your clotheslines restrictions, and prevent disputes with owners.

#### **ARTIFICIAL TURF**

Speaking of "going green," the grass around your community may not be so green as California continues its battle with the current drought. Last year, the legislature recognized the drought and passed laws prohibiting associations from disciplining owners who replace their

green landscaping with drought-tolerant plants. Accepting owners' replacement of beautifully colorful landscaping with desert-like plants was a tough pill to swallow for some boards; but it was a necessary evil. The California legislature has now taken this approach one step further.

The new California Civil Code Section 4735 now also prohibits associations from restricting owners' ability to replace their real grass with artificial turf or other synthetic surfaces. In other words, if a member of your association decides to replace his front-yard grass with artificial turf, there is not much you can do about it. So what can you do?

Clearly this new statute does not mean owners are allowed to install anything they want. A front-yard artificial turf with the Miami Dolphins logo printed on it is probably not going to help maintain property values in the average neighborhood. This is, again, where the board needs to act. While the new law disallows complete prohibitions, it permits associations to regulate the installation of artificial turf and other synthetic surfaces. Color, height, form of installation, and drainage capabilities are only some of the factors the Board is allowed to regulate—and it should. A good artificial turf policy today can prevent a dispute with an owner tomorrow. Now is the time to adopt such a policy.

### **SWIMMING POOL REGULATIONS**

Having a swimming pool in your common area has always been considered a privilege and a selling point to potential buyers, helping the attractiveness of your community by offering a desirable recreational facility. A new California law might transform this privilege into a burden.

Effective immediately, the California Health & Safety Code Section that regulates public swimming pools applies to community association pools in communities with 25 or more units. While association pools are not open to the public, the California legislature now wants associations to maintain them as if they are. So how bad can that be? Pretty bad.

Associations with 25 units or more now must test and record chlorine and pH levels (among other chemicals) in their community pools every day. Tests currently performed by associations weekly and sometimes monthly are now required on a daily basis. You may not be excited about this new law, but your pool contractor probably is. With increased testing requirement, expect increased pool maintenance costs, and in turn, increased monthly assessments.

Next, the new law now requires associations to maintain safety and first aid equipment on the premises (life ring, rescue pole, etc.). If your pool does not already have the necessary equipment, plan on another pool-related expenditure in the very near future.

Who may enter the pool is also an area addressed by the code. The law now requires associations to prohibit anyone from entering the pool while having a "communicable disease in an infectious state...having symptoms such as a cough, cold sore, or nasal or ear discharge or while wearing bandages." This may require excessive policing by the association. But at a minimum, your swimming pool policy should be amended as soon as possible to reflect this prohibition.

Finally, being considered “public” for purposes of this code section, association swimming pools now must have at least one gate that allows for exiting the pool without using a key. That gate should be marked with a sign stating “EMERGENCY EXIT” and should be maintained as such.

Clotheslines, artificial turf and swimming pools may not present an issue for your association today. But acting today may prevent an issue in the future. Don’t wait to address these issues until it’s too late. 2016 is around the corner, and the time to prepare for it is now.