

Security Camera Prohibitions in Homeowner Associations

Tuesday, September 15, 2020



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Chief Executive Officer

Future Community Services, Inc.

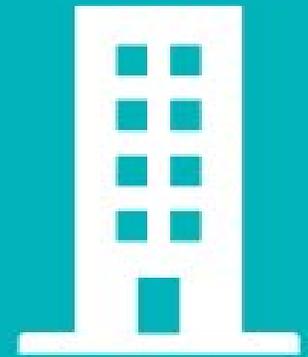


National and State

statistical review

FOR
2017

COMMUNITY ASSOCIATION DATA



U.S. community associations, housing units, and residents

| Year | Communities | Housing Units | Residents |
|------|-------------|---------------|-------------|
| 1970 | 10,000 | .7 million | 2.1 million |
| 1980 | 36,000 | 3.6 | 9.6 |
| 1990 | 130,000 | 11.6 | 29.6 |
| 2000 | 222,500 | 17.8 | 45.2 |
| 2002 | 240,000 | 19.2 | 48.0 |
| 2004 | 260,000 | 20.8 | 51.8 |
| 2006 | 286,000 | 23.1 | 57.0 |
| 2008 | 300,800 | 24.1 | 59.5 |
| 2010 | 311,600 | 24.8 | 62.0 |
| 2011 | 317,200 | 25.4 | 62.7 |
| 2012 | 323,600 | 25.9 | 63.4 |
| 2013 | 328,500 | 26.3 | 65.7 |
| 2014 | 333,600 | 26.7 | 66.7 |
| 2015 | 338,000 | 26.2 | 68.0 |
| 2016 | 342,000 | 26.3 | 69.0 |
| 2017 | 344,500 | 26.6 | 70.0 |

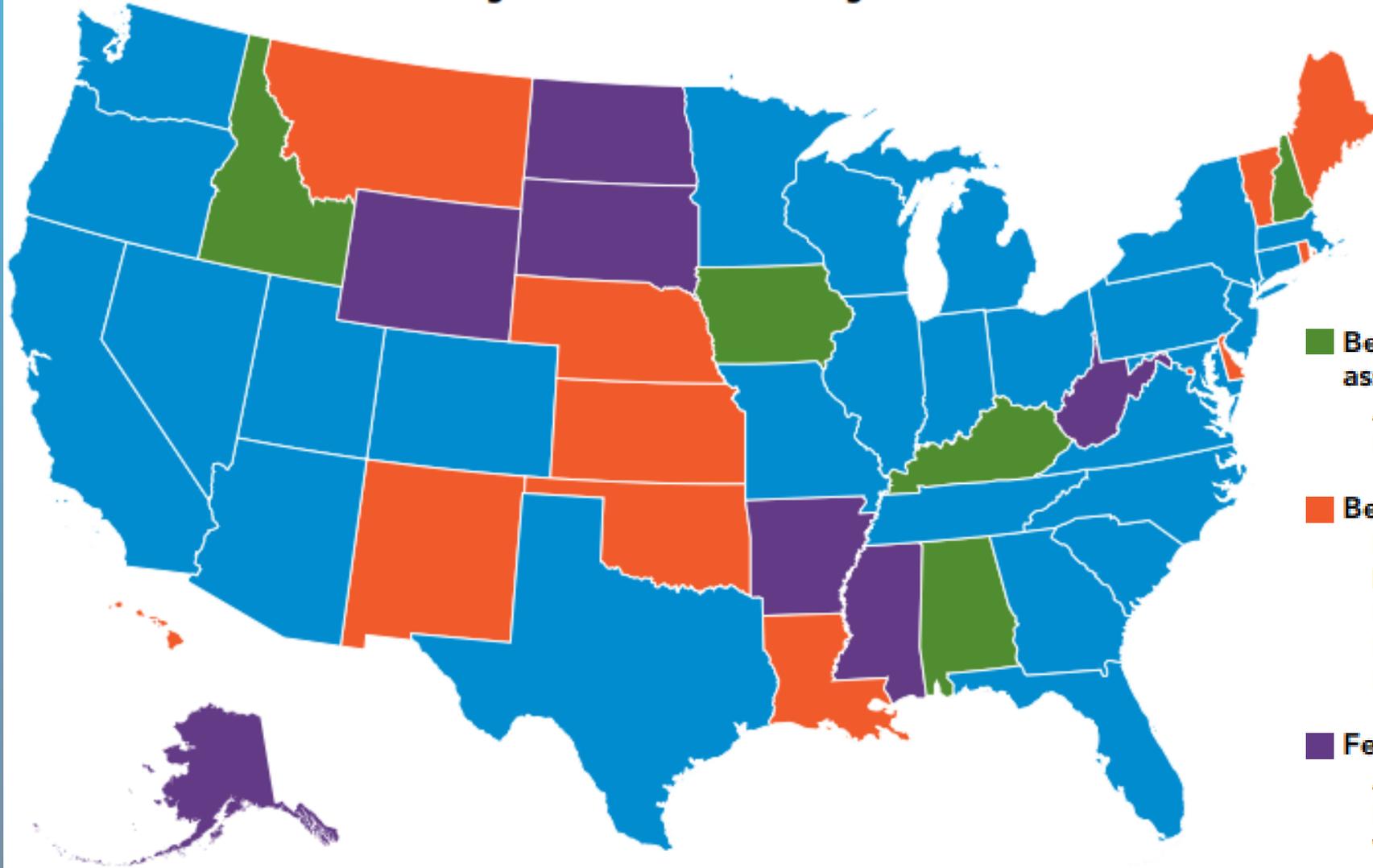
Homeowners associations account for about 54–60% of the totals, condominium communities for 38–42%, and cooperatives for 2–4%.

CAI estimates the number of U.S. community associations in 2018 is between 346,000 and 348,000.

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■ Community Associations by State, 2017



■ **Between 2,000 and 3,000 associations**

Alabama, Idaho, Iowa, Kentucky, New Hampshire

■ **Between 1,000 and 2,000 associations**

Delaware, District of Columbia, Hawaii, Kansas, Louisiana, Maine, Montana, Nebraska, New Mexico, Oklahoma, Rhode Island, Vermont

■ **Fewer than 1,000**

Alaska, Arkansas, Mississippi, North Dakota, South Dakota, West Virginia, Wyoming

**Total U.S. associations:
344,500**

Homeowner
Association
Condominium
Association
Property
Owners
Association
Community
Associations

Community Associations Remain Preferred Places to Call Home

2020 HOMEOWNER SATISFACTION SURVEY

National research and analysis for condominiums, homeowners associations, and housing cooperatives



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RESEARCH AND
TECHNOLOGY OFFICES
research

community
AND CUSTOMER INSIGHTS



Community Associations Remain Popular with American Homeowners

The results are in! For the eighth time in 15 years, Americans living in homeowners associations, condominiums, and housing cooperatives say they're overwhelmingly satisfied in their communities:

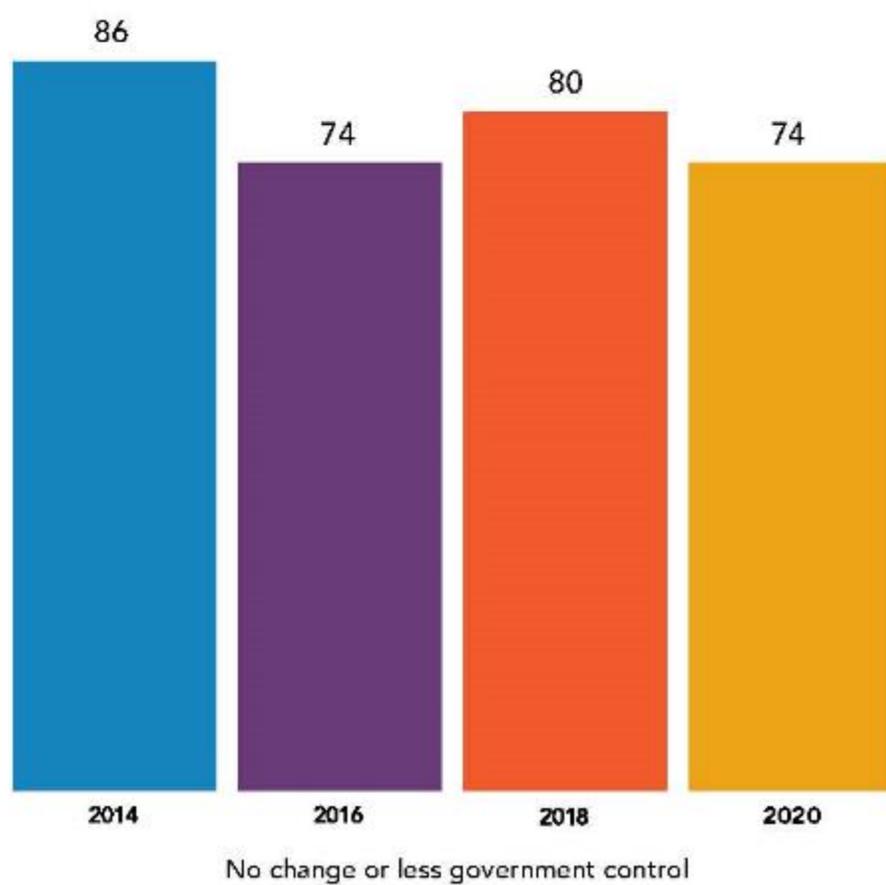
89% of residents rate their overall community association experience as very good or good (70%) or neutral (19%) *

89% say members of their elected governing board "absolutely" or "for the most part" serve the best interests of their communities. *

74% say members of their community managers provide value and support to residents and their associations.

94% say their association's rules protect and enhance property value (71%) or have a neutral effect (23%); only 4% say the rules harm property values. *

Community Association Governance



The governance of community associations is subject to differing state laws and regulations. Would you like to see more or less government control of these associations, or would you prefer no change?

74%

of residents prefer either no change or less government control within their association

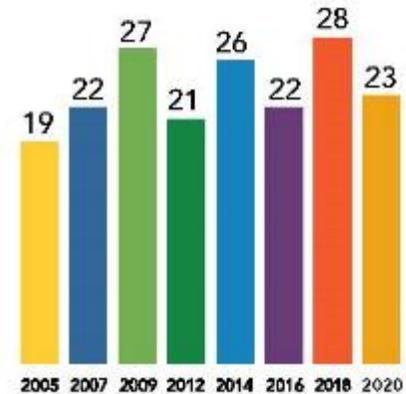
Do the rules in your community protect and enhance property values, harm them or make no difference?

94%

of residents say their association's rules protect and enhance property values (71%) or have a neutral effect (23%); only 4% say the rules harm property values



Protect and enhance



No difference

Utah Community Associations

facts & figures

» Approximately **680,000** Utahns live in **258,000** homes in **3,360** community associations. **68 MILLION NATIONALLY**

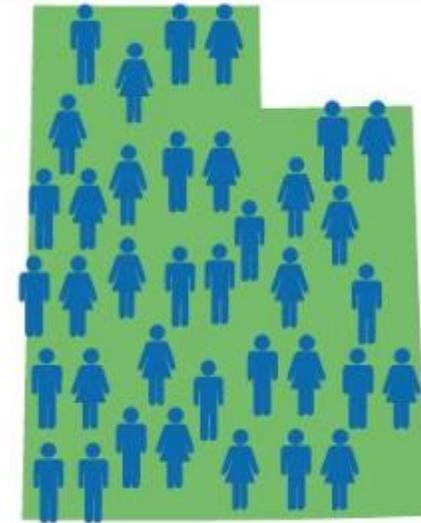
» These residents pay **\$922 million** a year to maintain their communities. These costs would otherwise fall to the local government.



» **23,000** Utahns are elected to their community association boards each year, providing **\$19 million** in service.

» Homes in community associations are generally valued at least **5–6%*** more than other homes.

» By **2040** the community association housing model is expected to become the most common form of housing.



Three Types of Community Associations:

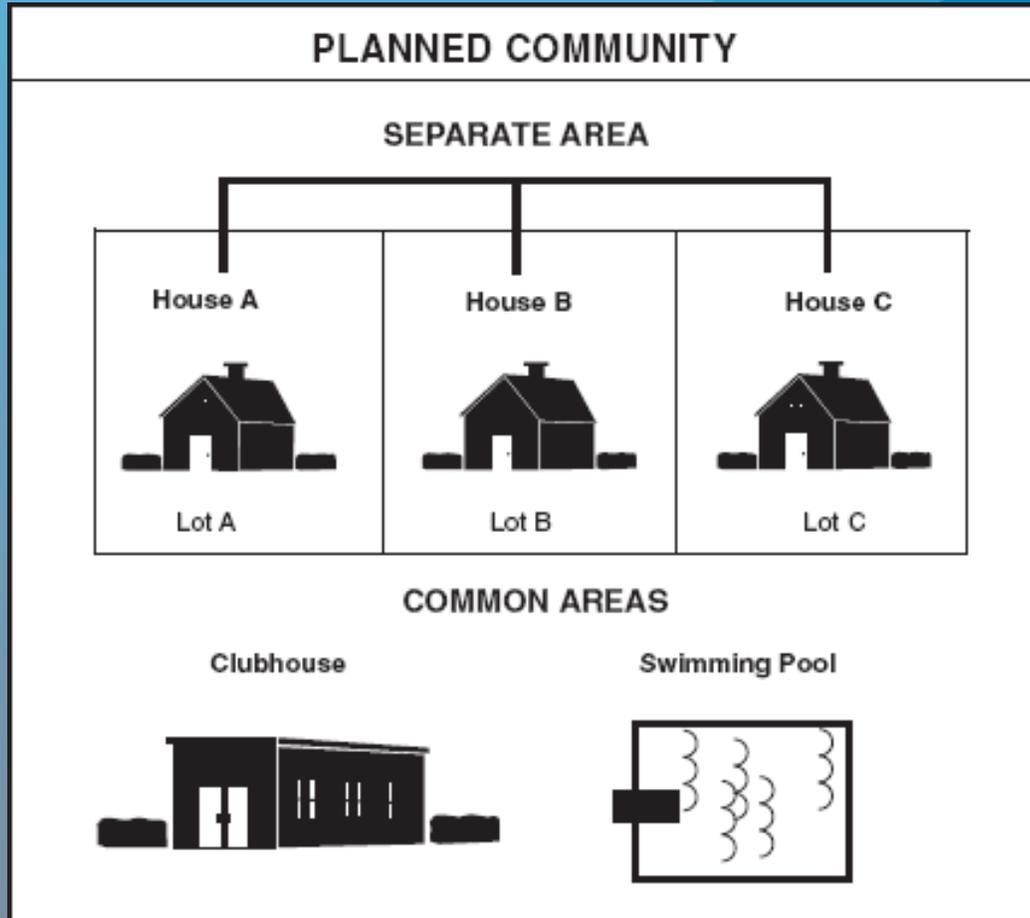
- 1. Planned Community (U.C.A. 57-8a)**
- 2. Condominium (U.C.A. 57-8)**
- 3. Cooperative (No Utah Code)**

What about Townhomes?

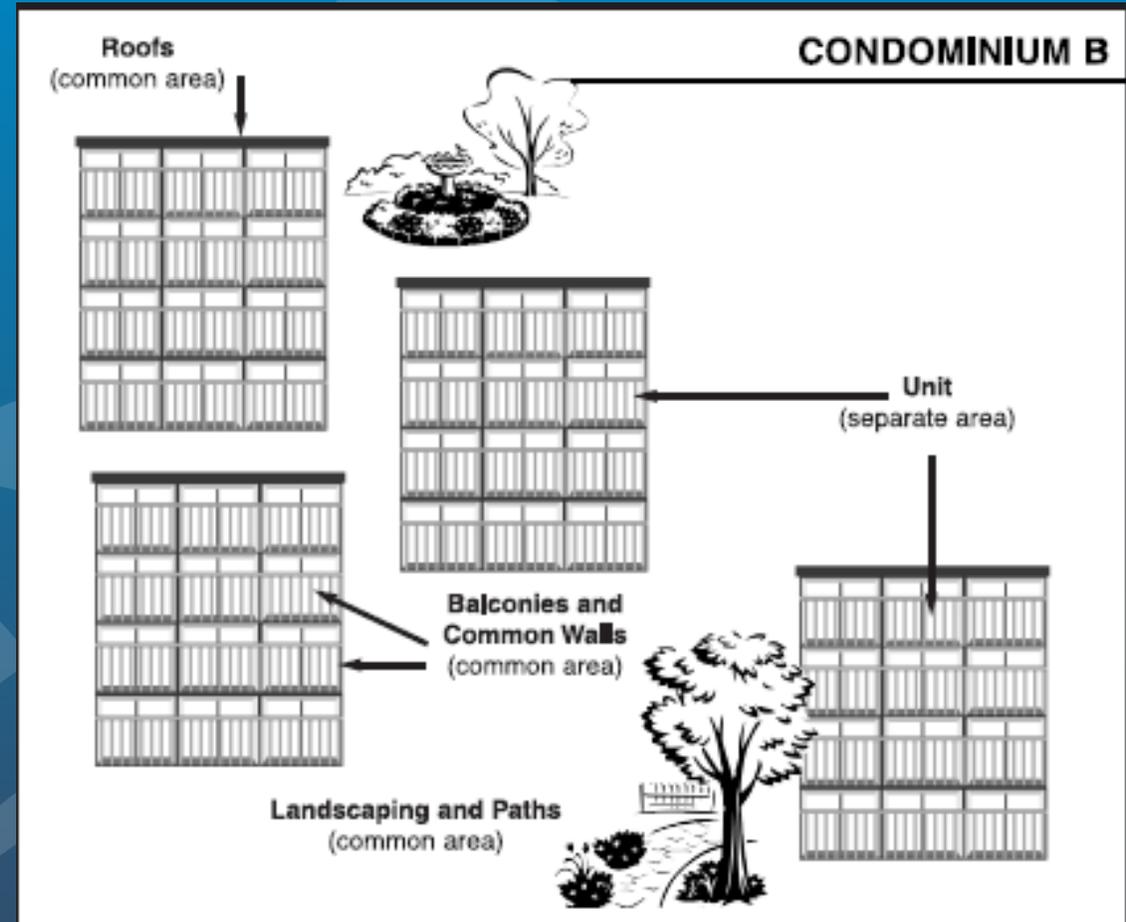
Either:

- a. Planned Community (57-8a)**
- b. Condominium (57-8a)**

Planned Community

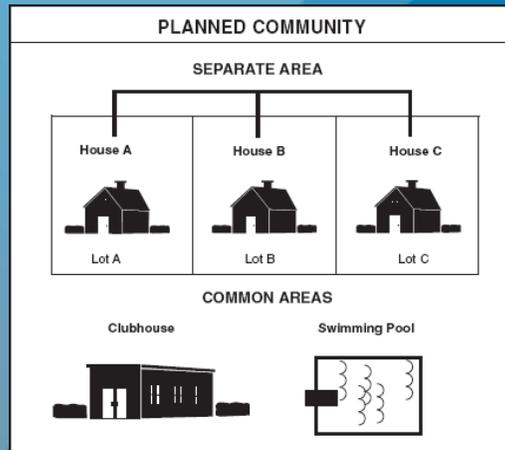


Condominium

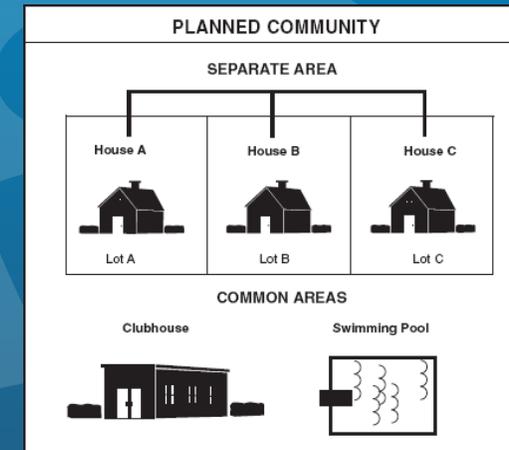


Types of Community Associations:

Planned Community – Single Family Detached



Planned Community – Townhomes



1. Owner owns & maintains exterior
2. Association controls exterior modifications

1. Owner owns exterior and
 - a. Owner maintains exterior; or
 - b. Association maintains exterior
2. Association controls exterior modifications

Types of Community Associations:

57-8a

Planned Community

57-8a-217. Association rules, including design criteria -- Requirements and limitations relating to board's action on rules and design criteria -- Vote of disapproval.

(3)(a) Subject to Subsection (3)(b), **a board may adopt a rule without first giving notice** to the lot owners under Subsection (2) **if there is an imminent risk of harm** to a common area, a limited common area, **a lot owner**, an occupant of a lot, a lot, or a dwelling.

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(3)(a) A rule criterion may not abridge the rights of a lot owner to display **religious and holiday signs**, symbols, and decorations inside a dwelling on a lot.

(b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.

(4)(a) A rule may not regulate the content of **political signs**.

(b) Notwithstanding Subsection (4)(a):

(i) a rule may regulate the time, place, and manner of posting a political sign; and

(ii) an association design provision may establish design criteria for political signs.

Types of Community Associations:

Planned Community

57-8a

57-8a-218. *continued*

(6)(a) **A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot**, to the extent that the activity is in compliance with local laws and ordinances.

(b) Notwithstanding Subsection (6)(a), **a rule may prohibit** an activity within a dwelling on an owner's lot if the activity:

(D) **creates unsightly conditions visible from outside the dwelling;**

(13) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of **common areas**;

(14) A rule shall be **reasonable**.

Types of Community Associations:

Planned Community

CC&R's

ARTICLE X. ARCHITECTURAL CONTROLS

10.2. **Architectural Controls.** No landscaping, grading, excavation, building, fence, wall, residence, or other structure, **or alteration of any kind**, shall be commenced, erected, maintained, improved, altered, or made until the plans and specifications, have been approved in writing by the ACC.

Types of Community Associations:

Planned Community

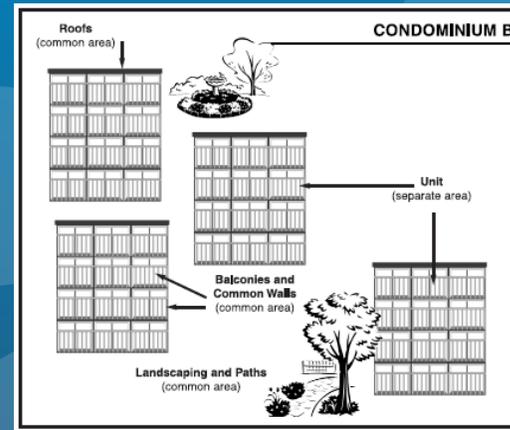
CC&R's

ARTICLE 10.5. VARIANCES

10.5. **Variances.** The ACC may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines when circumstances such as topography, natural obstructions, **hardship**, **aesthetic** or environmental consideration may require. Such variances must be in writing and must be signed by all of the members of the ACC (or Board if acting as the ACC). **If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted.** The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations.

Types of Community Associations:

Condominium – Stacked or Townhome Style



1. Association owns & maintains exterior
2. Association controls exterior modifications

Types of Community Associations: Condominium 57-8

57-8-7. Common areas and facilities.

(5) Each unit owner may use the common areas and facilities in accordance with the purpose for which they were intended **without hindering or encroaching upon the lawful rights of the other unit owners.**

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) **regulate the use**, maintenance, repair, replacement, and **modification** of common areas and facilities;

(6) A rule shall be **reasonable.**

57-8-10.7 Board action to enforce governing documents - - Parameters.

(1)(b) The **association of unit owners may not be required to take enforcement action** if the management committee determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances.

(ii) **the covenant, restriction or rule in the governing documents is likely to be construed as inconsistent with current law;**

Types of Community Associations: **Condominium**

57-8

57-8-35. Effect of other laws -- Compliance with ordinances and codes -- Approval of projects by municipality or county.

(1) **The provisions of this chapter shall be in addition and supplemental to all other provisions of law**, statutory or judicially declared, provided that wherever the application of the provisions of this chapter conflict with the application of such other provisions, this chapter shall prevail . . .

Types of Community Associations: **Condominium**

CC&R's

ARTICLE 9.17. ARCHITECTURAL CONTROL

No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without the prior written approval of the Board or any committee established by the Board for that purpose. By way of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, repairs, excavation, patio covers, screens, windows, doors, fences, window air conditioners, fireplaces, skylights, storage buildings, solar collectors, shade screens, awnings, window coating or tinting, decorative alterations, or other work that in any way alters the exterior appearance of the Property. The Board may designate the design, color, style, model, and manufacturer of any exterior improvement or alteration that is acceptable. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

Types of Community Associations: Condominium CC&R's

ARTICLE 9.24. VARIANCES

Variations. The Board of may, in its sole discretion, upon a showing of extenuating circumstances, **grant variations** from the Restrictions set forth in this Article if the Board determines in its discretion: (a) either (i) that a Restriction would create an unreasonable hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such Restriction obsolete; and (b) that the activity permitted under the variance will not have any substantial adverse effect on the Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance .shall.be unenforceable-and without any effect-whatsoever unless reduced to writing and signed by every member of the then existing Board. The Board Members and the Board of Directors shall not have any right or authority to deviate from this Declaration except as specifically provided for in this provision. No Owner or any other person may rely upon any permission to deviate from this Declaration by anyone including any Board Member or the entire Board, unless it is reduced to writing and signed as required in this provision.

Variance/Exception

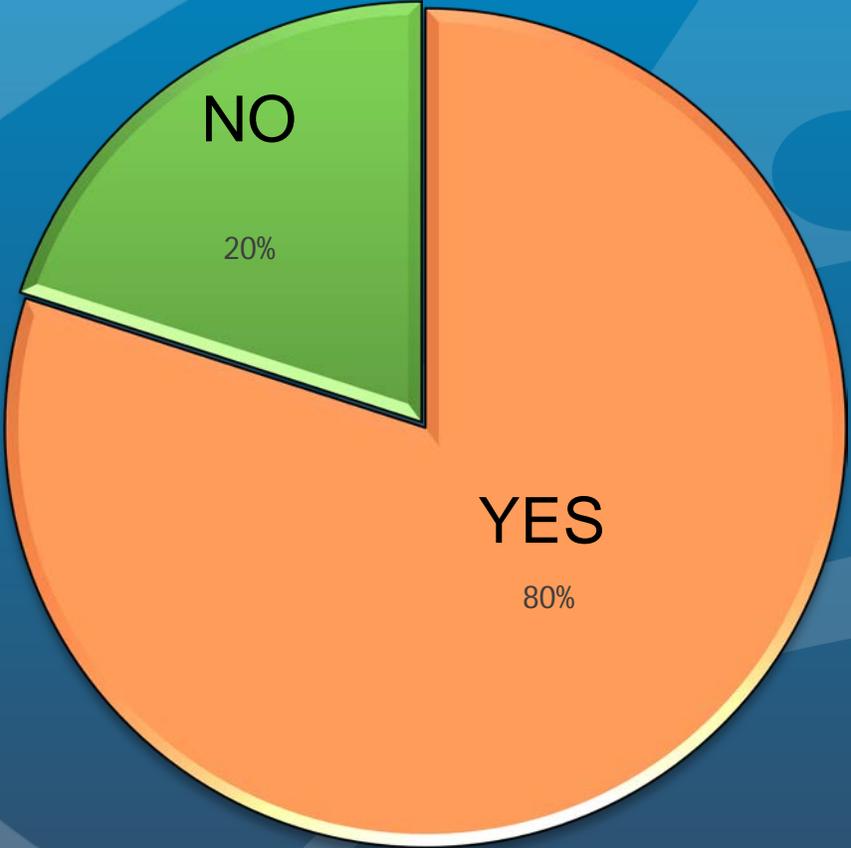
Make every effort
to approve a
variance if the
request is
reasonable.



Allowing variances:
wise or unwise?

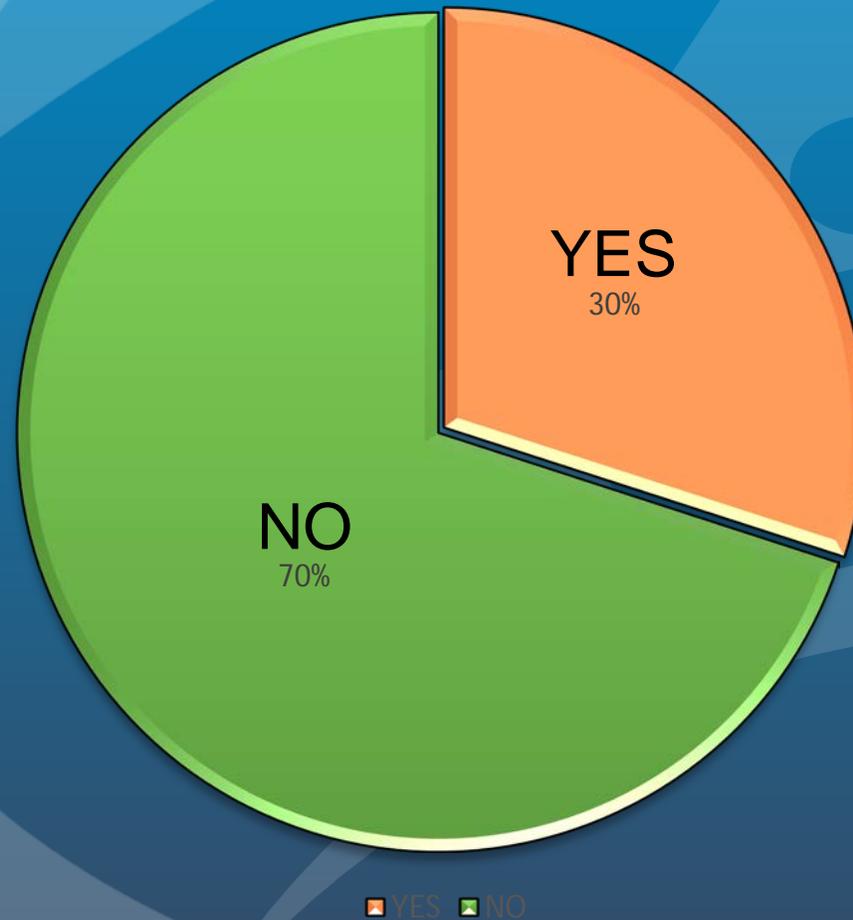


Does your association use security cameras/surveillance video in common areas?

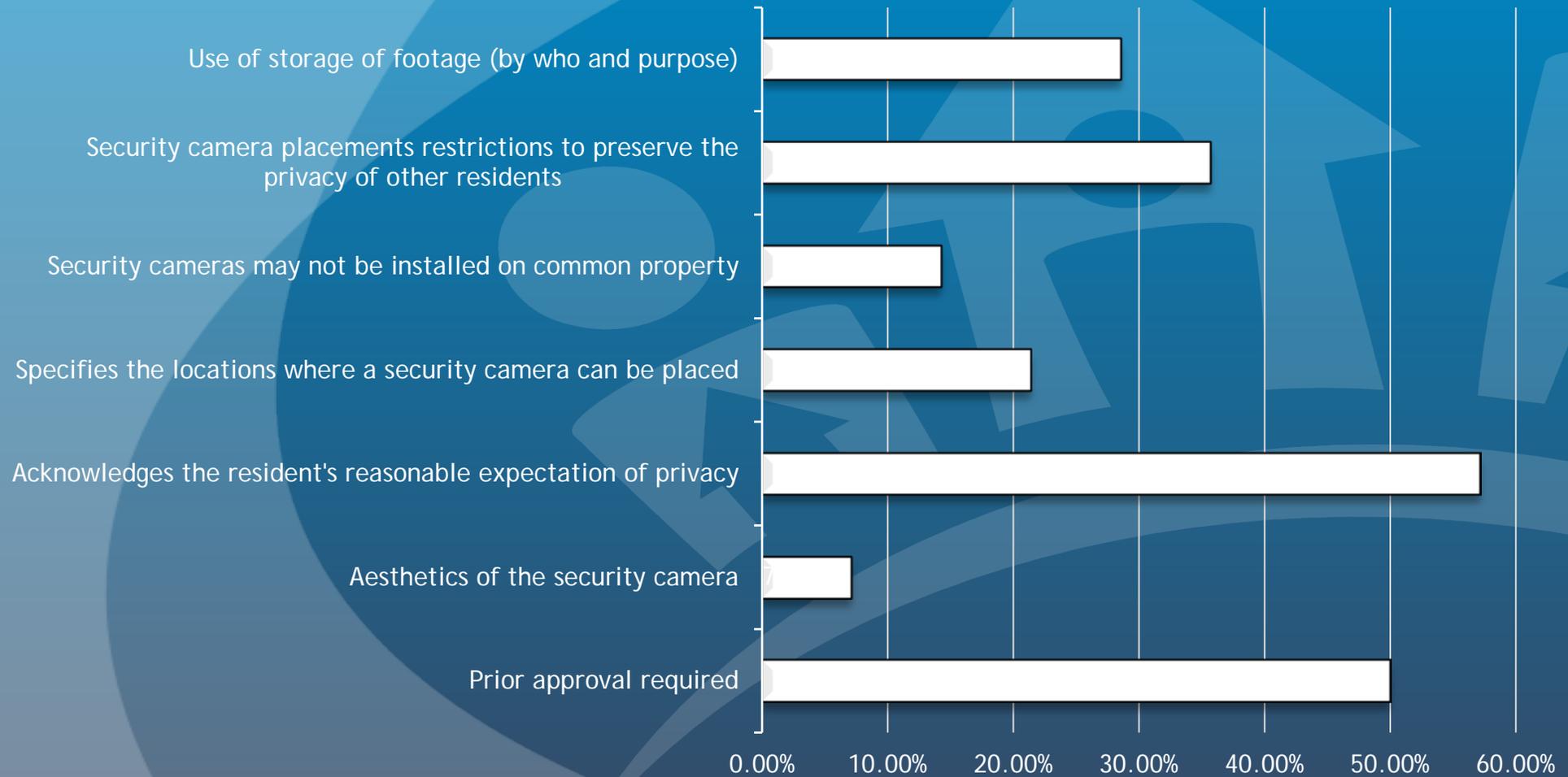


■ YES ■ NO

Do your association governing documents regulate the use of security cameras by residents?



What regulations are in place if your community's governing documents regulates the use of security cameras?



RECOMMENDATIONS

1. Stakeholders Meet;
2. Privacy & Prior Contract Concerns Addressed;
3. Draft language:
 - A. Doorbell Cameras allowed without Association approvals;
 - B. All other security cameras approved through normal Association procedures