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# Common Community Security Liabilities

BY BRIE  
SHOUPPE

**V**ideo surveillance at an entrance or around a community is easy to find, and visitor verification methods for gated communities continue to enhance those systems. No matter the system, any community employing or searching for a security method should have some understanding of the

liabilities. Although each situation is certainly unique, there are a few guidelines and rulings for a community to be aware of in relation to common systems in order to stay prepared for any incident that may arise.

When a community is interested in installing a camera system at an entrance or amenity, most will also consider additional signage. Not only do signs enhance a system as a deterrent, but in some cases, adequate signage is legally necessary. When an association is trying to determine if signs need to be posted, they first must consider if the area that will be monitored is public. Video is generally allowed in public places, and signs are not always required because there is not an expectation of privacy. However, if a level of privacy is expected, video surveillance may not be allowed, or signs may be needed when a system is used. In any instance, it is best to consult with an experienced vendor and/or attorney.

Many camera systems, like active video surveillance solutions, also include audio recordings. Any time audio recordings will be made, special care needs to be taken because of state-by-state “wiretapping” laws that may restrict the ability to make audio recordings. When signs are posted in a monitored area, they should include language specifically stating that audio is



## BRIE SHOUPPE, SR. BUSINESS DEVELOPMENT CONSULTANT FOR ENVERA SYSTEMS

Brie Shouppe is the Sr. Business Development Consultant for Envera Systems. She works closely with the sales and marketing departments to provide best-in-class service to the communities that Envera works with. Envera Systems is an all-inclusive security provider that focuses on the unique needs of communities through technology-based solutions. Using Virtual Guards located at Envera’s Central Station, Envera is able to provide Next Generation protection by verifying visitors, monitoring video, managing community databases, and more. Contact info: (855) 380-1274 or [www.EnveraSystems.com](http://www.EnveraSystems.com).

being recorded along with video. However, just like standard video surveillance, audio recording is sometimes allowed in public places if there is no expectation of privacy. The laws relating to audio recordings are complex, so it is always best to work with a knowledgeable provider and an attorney who have handled many similar scenarios.

Once a community installs a video surveillance system, it is important that the association know some of the legal requirements they may have to abide by. For instance, if the property manager and/or community become aware of an incident that happened in a monitored area, they may be legally required to retain footage of that incident. Of course, it is best to speak with the association’s attorney to confirm when a record must be retained since specific requirements for incident retention may be dependent on the nature of each individual situation.

Communities using video surveillance should also know the amount of storage their video recording device is able to hold. In most cases, a network video recorder or digital video recorder should have about 30 days of storage ability before old footage is replaced with new. It is generally expected that an association is able to obtain the footage needed in that amount of time. However, if a community uses a security provider for additional monitoring of video and for video retrieval services, the association should confirm if footage is also stored offsite and for how long. Additionally, an association using a vendor to access the watermarked video must request any clips within a reasonable amount of time. For example, requesting video (for the first time) of a situation that happened over a year ago is most likely not a reasonable expectation.

Another common system that communities, residents, and visitors should legally understand is driver’s license scanning. Driver’s license scanning is commonly used for visitor verification at gated community entrances. Many associations select this type of system for the enhancements that allow automatic verification for permitted guests, as well as the security benefits of having a record of each driver entering the community. On the other hand, visitors and other communities that are not familiar with the system sometimes see it as an invasion of privacy. That is why some states have laws in place to determine how a driver’s license can be scanned.

Florida, for example, has Statute 322.143 that prohibits “swiping”

of driver's licenses. Swiping is defined as "the act of passing a driver license or identification card through a device that is capable of deciphering, in an electronically readable format, the information electronically encoded in a magnetic strip or bar code on the driver license or identification card." Security providers in compliance with this law use scanning, instead of swiping, to legally capture the front of an ID without taking information from the magnetic strip and violating the law. Communities should only employ security vendors that have the experience and knowledge to comply with these regulations.

The law as it relates to a community's security system is not simple. While there are basic principles, rules, and expectations that associations and property managers should be aware of, it is always encouraged to consult experts when inquiring about and installing a new solution. This includes an experienced security vendor as well as an attorney familiar with the legal requirements for communities. When all parties are consulted accordingly, the association and vendors can feel confident in their agreement and what is expected of one another.

Please note, the author is not an attorney. An expert was consulted for verification of the items discussed. If you have security questions or concerns, please email [ask@enverasystems.com](mailto:ask@enverasystems.com). ■

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away, and the underlying conditions are revealed, whether "not that bad" or exactly "that bad."

By assuming "not that bad" from the beginning, the association may commit to a high unit cost and an inadequate budget, resulting in excessive change orders and financially unprepared owners.

## **A CASE STUDY IN RUSHING AND UNDERESTIMATES**

An iconic high-rise condominium in the heart of Miami Beach needed concrete restoration. The board members had a budget in mind based on the association's reserves and what they were willing to assess against the homeowners. The association hired an engineer to create specifications and estimate the quantity of work needed. This estimate was based on a limited inspection of the building and was significantly below what would be typical for a building of similar size and age. After reviewing the engineer's specifications and contractor bids, the board asked the engineer to further reduce quantities of work so bids would fit into the board's pre-established budget. Because the quantity estimates were so low, the contractor's price per unit was high. The contractor was hired based on these low estimated quantities.

The project commenced, and once the contractor had finished repairs on less than one tenth of the building's balconies, they had already reached 100 percent of the budgeted amount for most repair types. With 90 percent of the project left to go, the association had already spent nearly its entire project budget. Rushing and underestimates led to an association facing a new and unpleasant reality.

DSSC was hired to correct the project scope, develop a realistic budget, and rebid the project. Unit costs were renegotiated with the contractors based on new estimates. Alternate means and methods of repair were recommended in order to deliver the project within the client's new budget. Through these methods, DSSC was able to save this association more than \$1.1 million on what it would have otherwise paid under the previous contract and contracted unit costs. The board still had to pass another special assessment to cover the additional costs and scope of work, but this time the association was prepared for the reality of the project.

This is not an extreme case study. It happens all the time throughout Florida. Associations needlessly overspend millions of dollars by not giving the design, engineering, and planning process the time and attention needed to obtain realistic work estimates and budgets before beginning construction. Board members want to make the process easier on owners but often do them a disservice by leaving them under-prepared for reality.

Concrete restoration projects are complicated, expensive, and usually not optional. The best way to ensure your project's success is to slow down the process, take the time upfront to fully understand the complexities, get the right team in place, and make sure work estimates are accurate. This will save time, money, and stress for your association once construction begins. ■