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Community Associations Newsletter

Drone Regulation

By: Joseph Shannon, Esquire and Richard Mallory, Esquire

Drones are becoming a hot button topic for Community Associations and property owners alike. What some residents see as a fun and exciting way to view their community, others see as an improper encroachment on their privacy.

You need look no further than a recent case in Kentucky where a property owner shot down a drone flying over his property and ended up facing charges of wanton endangerment and criminal mischief. While it is clear that Community Association leaders and managers shouldn't head out with a shotgun in hand, there may be steps you can take to provide some level of protection to your association.

DRONE LEGISLATION

Though Congress authorized the domestic use of drones in the Federal Aviation Administration Modernization and Reform Act of 2012 (FMRA), they did place some restrictions on their use. Some of these requirements include weighing less than 55 pounds, remaining within the sight of the operator, and limitations on the maximum

heights and speeds at which they may be flown. The Federal Aviation Administration (FAA) published regulations requiring owners to register drones, the violation of which may subject owners to civil and criminal penalties. Additionally, the D.C. metro area is within a "Special Flight Rules Area" which has an outright ban on drones within 15 miles of Reagan National Airport, and additional restrictions on operation of drones within 15-30 miles.

Virginia passed drone legislation in 2013, which was limited to restricting use of drones by the Government/law enforcement. However, nothing in the statute prohibits private, commercial or recreational drone use. Attempts to amend the Virginia statute to authorize local governments to pass time/place/manner restrictions on drones have so far been unsuccessful.

In Maryland, legislation was introduced in 2014 to limit drone use by Government/law enforcement agencies, but failed to pass. There is similarly no drone legislation in D.C. as all of D.C. is located within a 15 mile radius of Reagan National Airport.

While the legislation does not provide community associations with clear guidelines for restricting drone use, that doesn't mean they are without recourse if they desire to do so. Each individual association should review their governing documents to see if they contain authority that would permit the Board to adopt rules and regulations prohibiting the use of drones upon the association's common area. Indeed, for those community associations that are located within 15 miles of Reagan National Airport, it is likely that such associations have the authority to ban the use of drones anywhere within the association.

It should also be noted that property owners can register their property as a no fly zone. This is a private service that registers addresses as no fly zones. Once registered, the services provide the address to cooperating drone manufacturers whose installed software purports to prevent drones from entering the corresponding airspace. Accordingly, a community association has the ability to register their common area as a no fly zone with the appropriate registration service.

If your community is experiencing an issue with drone use, we recommend contacting your legal counsel or an attorney at Rees Broome, PC in order to determine what remedies are available to you.