

Association of Condominium,  
Townhouse, and  
Homeowners Associations



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## Illinois Firearm Concealed Carry Act and Potential Effect on Community Associations

Kelly Elmore of Kovitz Shifrin Nesbit

On July 9, 2013, Illinois passed the Firearm Concealed Carry Act (FCCA)(PA 098-0063), now making it lawful for citizens to carry concealed handguns in the state. This law mandates that in 2014, the Illinois State Police must begin the process of accepting applications for licenses, allowing gun owners to carry concealed weapons in public. As this new law is implemented, many community interest associations may seek to develop their own set of rules, regulations and restrictions related to the carrying of concealed weapons on and around association property. While some of the specifics as to how the new law will be enforced remains to be seen, the following are some issues that associations may address in the coming months following implementation of the Concealed Carry law. It is important to note that as associations struggle with how to address the carrying of weapons on and around association property, association members should note that the power of the association to limit or restrict the carrying of weapons is, with limited exception, constrained to the association-controlled property, the common elements and limited common elements

### *Timeline for Implementation*

The FCCA amends the existing Firearm Owners Identification Card ("FOID") Act, extending the right to carry firearms to public places and store them in vehicles. Pursuant to the Act, the Illinois State Police was granted 180 days to promulgate the necessary rules for the state to carry out and enforce the new law. At the end of this deadline, the Illinois State Police must make concealed-carry license applications available to the public. As part of these procedures, the Police will establish a process for citizens to undergo background checks and training, and to obtain permits and licenses.

HAPPY THANKSGIVING

*Continued on page 4*



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While ACTHA encourages students to take the program in the classroom setting, we understand that this may not be the most convenient work method for everyone.

If taking Learn and Lead for certification purposes, the cost is \$100 for ACTHA members; \$150 for non-members. Once you begin the program you will have two years to complete the course. A short multiple choice and T/F test is offered after each course and requires a pass rate of 70%.

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# TIP OF THE MONTH

## Creating a Solid Vendor Relationship

What are the scariest or hardest things to deal with as Board Members and Managers? The unknowns. Specifically when needing work performed at the property. The board and managers need to rely on quality vendors for help, advice and skilled craftsmen to perform the needed tasks.

How do they create this relationship when there are so many vendors to choose from? They may turn to other association boards for references, organizations, like ACTHA, or other professionals such as managers. But how do they truly know what they are getting in the way of Factory Trained techs, Factory Certified techs and so on.

Here are some questions that we ask vendors that work for us:

*Can we get a sales representative come out to our facility to help us with a problem?*

If you cannot get the vendor to come out and meet with you then there is a good possibility that they do not want to create a truly and equally beneficial relationship. If you can get someone to come out, ask them to provide some references of other properties they service as well as vendor references. The vendor references are crucial because they will provide you with payment history of this perspective service provider. This is important. If the company offering to provide service to your property is not paying their bills they may not complete the work they were contracted to do.

*How long has your company been in business?*

It does not always matter, however time in the ranks always carries more experience and this may contribute to a better plan of action for the project you need completed.

*How long do your workers apprentice before they become full Journeymen?*

Again, there is nothing scarier than finding out that the contractor you hired to perform the work really did not know what they were doing.

*What certifications do you and your workers carry?*

Certifications do matter. We would not get into an aircraft unless the people working on it were certified to perform the proper maintenance.

*Do they carry workers compensation on their employees?*

Many companies carry contractors liability insurance but many smaller companies do not carry Workers Comp. This means that if one of their employees or subs gets injured on the work site they could sue the management company and the board. Scary stuff.

The above standards usually help create a good client/vendor relationship. Please remember that the lowest price does not guarantee the most important value which is customer satisfaction.

After the work is performed, pay the contractor in a timely manner.

Because this law has not yet taken effect, and the extent to which the law shall apply in associations has not yet been clarified, this article is not meant to provide legal advice regarding specific regulation of weapons on association property. Rather, this article merely serves to highlight issues that are likely to be addressed by associations after the law becomes effective.

### *Restrictions on Concealed Carry*

Many association members have already begun to question whether or not the carrying of concealed weapons may be regulated, at least in part, on association property. As an initial note, any restrictions on the ability of an owner's carrying of a concealed weapon may not infringe upon the rights provided by the FCCA. However, the Act itself contains specific restrictions on areas where people may not carry concealed weapons, which may provide some detail and direction for associations. Some prohibited areas included in FCCA include schools, government buildings, hospitals, colleges, public transportation, as well as many bars and other types of public facilities. In addition to these establishments, the FCCA also contains a provision allowing other private businesses to prohibit firearms on their property by posting official signs at the entrances to their buildings, premises or properties. Thus, it is clear that the law intends to restrict the carrying of concealed weapons in places where children are present, educational facilities, and places where primarily alcohol is served.

Given these parameters, many associations may consider the restriction of weapons from events in the common areas of the property where children are likely to be present, such as community events and summer pool parties. In addition, associations may contemplate restrictions on the carrying of weapons at events on association common area property where alcohol is served, such as holiday parties or adults-only association events.

In addition, an association may seek further regulation of concealed weapons at regularly scheduled meeting events, such as monthly board

meetings and the association annual meeting when the election is conducted. Given the often highly charged nature of these types of meetings and the potential for conflict among association members and residents, it is likely that this may be one area where associations primarily seek to regulate the carrying of concealed weapons.

While it may go without saying, although an association may seek to regulate the carrying of weapons on common areas of association property, the FCCA makes clear that associations cannot seek to regulate the possession of a firearm by an owner within that unit owner or homeowner's own residence.



*"Parking Included"*

Notably, the FCCA not only allows for the carrying of concealed weapons on certain property in Illinois, but this new law expressly allows gun owners to store weapons in their vehicles. Further, the FCCA allows firearms to be carried near a vehicle for the purpose of storing or retrieving the firearm from the vehicle's trunk. Given this provision in the law, associations must be careful when seeking to regulate the carrying of weapons in parking garages or parking lots in the association so as not to violate the FCCA.

### *Types of Signage*

In those associations where the owners decide to restrict or limit of the carrying of concealed weapons, within the parameters set by the FCCA, associations will next need to review the FCCA to determine whether and what type of notice or signage must be posted in order to restrict the carrying of weapons. Currently, the FCCA states that signs stating that the carrying of a firearm is prohibited "shall be clearly and conspicuously posted at the entrance of a building, premises or real property. It is anticipated that contained within the rules published by the Illinois State Police, these specifications will be provided which may then provide additional guidance and information to those associations which do seek to prohibit the carrying of weapons on certain areas of the property.

*Enforcement*

In addition to the enactment of lawful rules and regulations restricting the carrying of concealed weapons, association members must also consider corresponding enforcement issues that a Board of Directors will face when seeking to enforce such restrictions. Like any rule or amendment, simply because a Board of Directors has promulgated a rule or amendment to the condominium documents restricting the carrying of concealed weapons does not mean that such rules or amendments will be followed once they are in place. Given the nature of a concealed weapon is just that- *concealed*- an association may have difficulty detecting violations. It may be helpful for the association to establish a clear procedure for members of the community to report suspected violations, as well as set forth the remedies that will result if the Board determines that a violation has occurred.

The impact of the new law on community associations and the ability to regulate firearms is unclear at this time, especially in condominium associations where unit owners own a percentage of the common elements. Undoubtedly, the enactment of the law may cause many associations to adopt new policies seeking to regulate or restrict the carrying of weapons on association property. However, until such time as the Illinois State Police provides further guidance and clarification as to exactly how the FCCA is going to be implemented and enforced, associations should proceed cautiously in beginning to develop restrictions.

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## Question of the Month

*By: Steven Wellhouse, Attorney*

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**Q.** Can an association buy a unit for taxes? The unit's owner died without a will and the unit has been vacant for years as it goes through probate. The association would like to purchase the unit for a variety of reasons.

**A.** The association can buy the unit "for taxes," as could another individual or entity. The association would be required to follow the procedures specified in the Association's governing documents including the declaration and bylaws.



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