

CARPENTER HAZLEWOOD, PLC

Attorneys at Law

www.carpenterhazlewood.com

PHOENIX AREA OFFICE:

1400 E. Southern Avenue, Suite 640

Tempe, AZ 85282-8010

480-991-6949

480-991-7040 fax

STATEWIDE:

800-743-9324

800-743-0494 fax

scott.carpenter@carpenterhazlewood.com

james.hazlewood@carpenterhazlewood.com

ANNUAL AUDIT, REVIEW OR COMPILATION

A.R.S. § 33-1243(J) [Arizona Condominium Act] and A.R.S. § 33-1810 [planned community statutes] require all condominiums and planned communities to conduct an annual formal review of a community association's finances. The following requirements must be completed:

1. The Board of Directors must provide for an annual:
 - a. Financial Audit;
 - b. Review; or
 - c. Compilation.
2. The Financial Audit, Review or Compilation must be completed no later than 6 months after the end of the community association's fiscal year; and
3. Once completed, the Financial Audit, Review or Compilation must be made available to the owners upon request within 30 days after its completion.

There is an exception. If any provision of the governing documents requires an annual audit by a certified public accountant, the above requirements in the statute need not be met. So, if the governing documents require an annual audit by a CPA, the community association should honor that requirement in the documents. Otherwise, the community association needs to comply with the statute.

But what if the governing documents require an audit every other year? Or what if the governing documents require an annual audit but by a "public accountant", not a "certified public accountant"? Does that mean that provision of the governing documents can be ignored in favor of the cheaper annual "compilation"? The statute does not answer these questions.

It is generally believed that the intent of the legislature was that if the governing documents require a more strict financial review than the statute, the stricter review would be required. In other words, the statute was intended to require an annual inquiry into the community association's finances if the governing documents required no annual inquiry. Some community associations may use the statute to claim that they are relieved from an expensive audit every other year because the statute says the only exception to the required annual "audit, review or compilation" is if the documents require an annual audit by a CPA. But taking that position is outside of what was intended by the Legislature.