

Gun Laws Uncertain For Wisconsin Condominiums

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Practice Area: Community Associations

Associations wishing to consider Wisconsin's New Concealed Carry law must deal with unclear legislation and the not unusual situation that lawmakers did not consider unique aspects of condominium ownership. This is a review of how the new law applies to condominiums, the decisions that are available for the board of directors, and finally, our advice.

There is probably no question that a condominium homeowner with a proper permit, like any other Wisconsin homeowner, may carry a concealed weapon between his car and his home. But what decisions are available to a board of directors which seeks to consider a prohibition of weapons for meeting rooms, pool areas and other common amenities? May a board determine that weapons are not allowed at an annual meeting? May the Association (by a majority or super-majority of its members) ban weapons in the common elements? The new law overlooked these questions, we think.

Here is our take:

- The Legislature intended to give property owners and occupants a choice. Doing nothing means properly credentialed people can carry. Posting a conspicuous notice means guns are not allowed.
- The choice was given to property owners or occupants. Every condominium member owns an undivided interest in the common areas.
- As a general matter, the law provides that you can't prevent a property owner from carrying on his property. Our interpretation, then, is that a Board, and perhaps even the membership, cannot, pursuant to the Concealed Carry law, post a prohibition against members carrying on the common elements. This means that a democratic community of condominium owners can ban breeds of dogs it finds intimidating, or glass bottles at the pool, but it can't prevent guns and stun guns.
- While we realize that there are differing opinions on the wisdom of posting a "no carry" sign, we do not believe anyone intended to deprive condominiums the ability at least to consider the issue.
- "We did not consider this," a key player in the legislation told us. It is not unusual to follow a major piece of legislation with a follow-up corrective bill. The apparent inability of boards and associations to make a decision on carrying concealed weapons is now being considered as a possible subject for correction. "We put that on our list," our correspondent stated.

Meanwhile, there are some not-very-helpful arguments going around:

Some counsel that condominiums should allow guns because there is a provision that gives the owner immunity for making that choice. But that immunity is imperfect, at best. The property owner is given immunity from the "decision" not to post against guns. But there may be not immunity for an icy step outside a meeting room. A person slips; the gun discharges....Lawyers start your engines!

Others note that "the criminals already carry guns."

We have attended many association meetings and while we occasionally see a charged mix of large egos and high emotion, we don't see criminals.

While Wisconsin's concealed carry law may fail to empower a Board or association from posting to common areas, condominium law and the Board's power to regulate common elements may be seen as the basis of enabling associations to decide whether concealed guns are allowed on multi-family common areas.

For those who believe that guns should not be present in common element meeting rooms and facilities, the approach we would suggest is this: Post a "No Carry" sign pursuant to the power of the Board to maintain the safety of the common elements. If you happen to see a gun, ask that it be removed, plain and simple. If that does not work, back off, and call the police if appropriate.

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