

## CPIV Single Purpose Camera Policy Justification

### *Executive Summary:*

For purposes of this policy, a single purpose camera is defined as a camera that's sole use is for recording video and/or audio and has no other tangible function as part of the device.

This document was created to explain the reasoning behind the existing ban on single purpose cameras installed on common element within Capitol Park IV (CPIV). The current policy was created, and has been maintained, with input and advice from our legal counsel over several years to protect the community owned association and its residents from potential significant liabilities created by these types of audio and video recording systems. Three driving factors for the policy are:

1. Protecting the privacy of CPIV residents that may be violated by single purpose cameras and their placement on common element of the association.
2. Mitigation of potentially significant financial and legal liability to the community owned association created by audio and video recording devices placed on common element.
3. Preventing the "duty" of video and audio retention requirements and the expectation of association provided security that is transferred to the association when single purpose cameras are installed on common element by residents.

These three factors require that the CPIV association aggressively pursue violations where single purpose cameras have been installed on the property. Although usually well intentioned, many residents are unaware of the significant liability, responsibility, and potential financial cost the installing resident has effectively transferred to the entire association and other owners when they violate the current policy and install single purpose camera systems.

Despite our horizontal, townhouse style units, our community is a condominium, which has different rules and responsibilities than a Homeowner's Association (HOA) commonly found in fee simple properties. The permanent exterior of our units, which includes walls, the exterior of windows, patios and roofs are all considered either general or limited common element and are not the sole property of the unit owner. When something is added to a common element, like a camera system, and the association is made aware of it, any responsibility or liability may be transferred to the association. Since the association has no ability or desire to manage owner installed devices, it becomes impossible to reduce the association's liability and therefore exposes our collectively owned association to a possible significant legal and financial burden.

The association has, within the past several years, adopted policy allowing approved doorbells and floodlights that primarily serve their main purpose of a light or a bell, but also provide residents the ability to have video monitoring. **Both doorbells and light fixtures on CPIV units are not permanently affixed or considered common element. They remain the responsibility and property of the unit owner as they have since our community's construction.** The association does not maintain doorbells or floodlights and it continues to be the responsibility of the owner to do so pursuant to the Bylaws.

It is in our collective association's best interests to enforce our current policy and aggressively remove all single purpose cameras from CPIV property. Failure to do so exposes our jointly owned and managed condominium association to significant risk.

### ***Explaining the Drivers of the Policy***

1. Protecting the privacy of CPIV residents that may be violated by single purpose cameras and their placement on general or limited common element of the association.

Protecting the privacy of our residents is of utmost importance to the CPIV Board. There are significant concerns from residents and Board members alike about adoption of cameras placed in unregulated areas of common element. Neighbors of an offending installer will be consistently subjected to being recorded when enjoying our community and their unit. Furthermore, there are both Federal and local laws that regulate surveillance recordings when people have a reasonable expectation of privacy. Owner installed single purpose cameras installed in unregulated areas on common element create significant invasion of privacy risks that are passed on to our collective association.

The current Board adopted policy for owner-maintained doorbells and floodlights significantly limits the placement and scope of what should be able to be recorded. This is a direct attempt to accommodate privacy concerns of our residents. Unauthorized single purpose cameras are regularly installed at angles where privacy concerns for our residents become a significant issue.

Even when installed with the best of intentions, single purpose cameras can inadvertently capture private areas, events occurring through other unit's windows and conversations occurring out of it's range of view. All of these events create a liability for our jointly owned Association and are minimized when following the placement guidance for owner-maintained doorbells and floodlights.

2. Mitigation of potentially significant financial and legal liability to the association created by audio and video recording devices placed on general or limited common element.

Despite our horizontal, townhouse style units, our community is a condominium, which has different rules and responsibilities than a Homeowner's Association (HOA) commonly found in fee simple properties. The permanent exterior of our units, which includes walls, the exterior of windows, patios and roofs are all considered either general or limited common elements and are not the sole property of the unit owner. When something is added to common element, like a camera system, and the association is made aware of it, any responsibility or liability may be transferred to the association. Additionally, the association has an enforceable obligation to take action to remove the offending item and can be held liable by an owner or otherwise aggrieved party for failure to do so. Since the association has no ability or desire to manage owner installed devices, it becomes impossible to reduce the association's liability and therefore exposes our collectively owned association to a possible significant legal and financial burden. Further, our association wishes to avoid the risk, expense, and other issues raised by a potential legal action stemming from a failure to remove the offending cameras.

3. Camera systems have significant liability exposure. Federal wiretapping laws apply to any audio recording and local regulations regulate consent for these recordings as well. These laws carry very stiff penalties for violation thereof. Installing camera systems on common element, which include the exterior walls of our units, places the burden of these responsibilities on the collective association

with no ability to manage or control the recordings or cameras. This is an unsustainable practice and will result in enormous exposure to risk that could jeopardize our community's financial stability. Preventing the "duty" of video and audio retention requirements and the expectation of association provided security that is transferred to the association when single purpose cameras are installed on general or limited common element by residents.

For reasons shared in the above responses, single use camera systems installed on general or limited common element transfer the responsibility and liability created to the association. If the Board were to allow the installation of these camera systems, it will create a legally enforceable "duty" for the association to manage the footage captured on these devices on a regular basis. With these single purpose camera systems being accessible only by the unit owners who installed them, it will be impossible for the association to regularly review, manage and distribute the footage to law enforcement or other required sources. Furthermore, the association would be required to maintain and regularly validate operation of these camera systems. A subsequent failure to fulfill that duty or to maintain the system would open the association to liability.

### Conclusion

For the reasons stated above, it is imperative that the association continue to strictly forbid single purpose camera systems installed in our association. Residents who do install these systems on common element, knowingly or not, are placing a significant burden on our community owned association.