



THE PRACTICAL GUIDE TO HOMEOWNER ASSOCIATION MANAGEMENT

## How Strong Are Your HOA Owners' Privacy Rights?

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In this week 's tip, we help you determine whether to strip search your residents. OK, maybe that 's too strong. But we do offer tips on how intrusive you can be when it comes to "searching" owners.

A [HOAleader.com](#) reader reports that his HOA is requiring that owners allow coolers to be searched for glass when they enter the pool because of the "no glass container" rule. His response? It's an invasion of my privacy! Is our reader right?

The first rule when you're determining how far you can go in "searching" owners is that you have more leeway than a government entity would have in the same situation.

"Generally speaking, you give up a lot of constitutional rights when you purchase a home or unit in these communities," says [Elizabeth White](#), a shareholder and head of the community associations practice at the law firm of LeClairRyan in Williamsburg, Va. "Usually, boards aren't looking at constitutional rights unless they're affecting a protected class, like a race- or religion-based class."

The fundamental issue when boards act is reasonableness. "By statute, HOAs are entitled to adopt reasonable rules and regulations that pertain to the use of common areas and recreational facilities," says Andrew Lewis of Eisinger, Brown, Lewis, Frankel & Chaiet PA in Hollywood, Fla., who specializes in representing community associations.

"Boards also have to look at their [governing documents](#) to see what authority they have with adopting rules and regulations for common areas," adds White. "Owners have an expectation of privacy in their purse and beach bag. So you have to balance those factors when you're adopting rules. Are the rules reasonable, and are you balancing whatever your need is against the level of intrusion into owners' personal belongings?"

How does that translate to searching coolers? And what about other situations in which you might want to nose into owners' private lives? Learn more in our new article, [How Intrusive Can You Be with HOA Owners?](#)

Best regards,  
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President