

Lights, Camera, **Action!**

You may have heard that Hollywood has all but packed up and moved to Canada over the last few decades. Increased film production costs can be blamed for this outsourcing. But, what you may not have heard is that non-traditional and affordable filming locations are on the rise in Southern California and some of your neighboring associations may have already cashed in on this money-maker. For some associations, the members have benefited from an assessment offset by allowing the association's common areas to be used for the backdrop of a film or commercial.

Before you get too excited, this is not an option for every community. Many associations have language in the governing documents that prevent the association from allowing the common area to be used in this manner. While some newer associations might have actual filming prohibitions, others have language that is more subtle, like prohibitions against commercial activities.

Once you clear that hurdle, you have to be "spotted," as they say in the "biz." Some associations are lucky enough to be approached by a location scout or other filming representative without ever having to lift a finger. But, for most, it is necessary to let it be known that the association is open to the opportunity. This can be done by contacting location managers or engaging a liaison to contact media production companies on the association's behalf.

In my experience, using a liaison can make the whole process much smoother. The liaison can get all the specifics regarding the shoot and can be present during the shoot to ensure compliance with all of the rules or conditions placed on the production company. Dan Nordberg, Esq. of Nordberg DeNichilo, LLP shares this sentiment. When asked, Dan said, "I have found it very useful to have the production crew include a PR specialist to make advance contacts to the neighboring properties and to be the point of contact to handle any complaints. This gets the monkey off the board and management if things start going downhill." Dan also said that on one occasion a production crew gave the neighbors gifts and autographs and invited the residents to enjoy the catered food on set. This kind of gesture can go a long way to eliminating resident complaints.



What many boards battle with is deciding how much to charge. Wendy Bucknum, the Governmental & Public Affairs Manager at Laguna Woods Village, has had good experiences with filming. Because filming is a common event at Laguna Woods the association is prepared in advance with filming rules that include the rates. "The fee is based on the amount of vehicles, equipment, security and other personnel required," stated Wendy. "We always over estimate time required, because the production companies never give you the full story."

Boards also need to consider that some of the income generated from the film shoot may be taxable income. When asked about the subject, Steve Schonwit, CPA, of Schonwit Consulting Group, stated, "For most associations, filming revenue represents non-membership income that is subject to income taxation. However, often times there are related expenses (both direct and possibly indirect) that can be used to reduce the taxable portion of the filming receipts. Such expenses might include legal fees to review related contracts, administrative support to coordinate the event, or additional security services. Accordingly, associations should be diligent in developing a tracking system to specifically identify costs relating to each filming event in order to fairly report the net taxable number on the respective income tax returns."

If you are legally able to host a film shoot, you have your price set and a production company comes knocking on your door, the next step is to make sure you have a well-drafted contract. At a minimum, the contract should specify the amount charged, including penalties for overtime, the indemnity provisions, insurance requirements, and the conditions of the shoot. Kirk Watilo with Action Property Management, Inc. has had unpleasant experiences with filming, indicating that the filming crews never abide by the rules given to them. This may be cause to include a specific provision in the contract indicating that the association can shut down a production without fear of a damages claim if the crew does not adhere to your policies. The contract should also limit how the images might be used. Please refer to the box below for things to consider.

The board or film liaison should also perform some research on the production itself. The board will want to consider how the images will be used. For example, most board members would not want their community to knowingly be portrayed as a location for gang violence, drug use, prostitution, etc. Boards would likely want the community painted in a good light.

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Scott Clements of Reserve Studies, Inc. also suggests that the association photo document the condition of the property beforehand. Disputes can arise as to what conditions were pre-existing. This kind of documentation eliminates much of the fight. There is a big learning curve with these productions and unfamiliar boards would be well-advised to try out a small production first to see what unique concerns might arise for the community. With practice, the community might just find an entertaining new way of offsetting its operating expenses.



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