



**GERSTIN & ASSOCIATES**  
ATTORNEYS & COUNSELORS AT LAW

## **Pickleball or “Pickle-Brawl”?**

### ***Navigating the Do's and Don'ts of Retrofitting your Community Association for Pickleball***

Gerstin & Associates, 40 S.E. 5th St., Boca Raton, FL 33432, Telephone: (561) 750-3456,  
E-mail: [joshua@gerstin.com](mailto:joshua@gerstin.com)

**Avoid Rumors, Discord and Mayhem. Form a Committee**



The worst thing a board of directors can do when contemplating retrofitting tennis courts or constructing new pickleball courts is to announce their intentions before researching the practicality and feasibility of such an effort.

Getting people excited (or possibly angry) about your pickleball ideas before knowing whether they are feasible is a recipe for disaster. After doing research you may discover the Association's governing documents, insurance, member sentiment, or local ordinances have pickled and soured your plans.

Form a committee that does not have a quorum of the Board as its members. This will allow the committee to do research, meet, and brainstorm without member involvement.

## Research the Issues.



Following is a list of the most common issues a community association experiences when deciding whether to retrofit or construct pickleball courts:

1. Environmental and space conditions.
2. Governing document and regulatory compliance.
3. Insurance and liability.
4. Accessibility.
5. Funding.
6. Community division.

## Environmental & Space Conditions



### Environmental and Space conditions.

In Florida, where space can be at a premium, finding the right location for pickleball courts that does not infringe on existing amenities or natural areas is challenging.

1. Is there available space where the pickleball courts will not disturb other residents? Pickleball generates a loud, distinctive "pop" sound from the paddle hitting the hard plastic ball, which can be disruptive to nearby residents. This noise has led to numerous complaints and even lawsuits in various communities. For instance, residents in South Florida have reported disturbances due to the constant noise, leading to legal actions against associations for creating a nuisance.
2. Professional noise level testing should be deployed if the proposed pickleball court is close to homes.
3. Beyond just the noise issue, associations might need to invest in or mandate quieter equipment or implement rules to limit playing times, all of which can be points of contention among members. Acoustic engineering consultations might be necessary to understand and mitigate noise effectively.

## Governing Document and Regulatory Compliance.



## Governing Document and Regulatory Compliance

### Governing Documents:

1. A new or retrofit of a pickleball court is a “material alteration”. Both condominium associations and homeowner associations must consult their governing documents to determine the level of member approval required for a material alteration
    - For condominium associations, if the material alteration threshold is not in your governing documents, Florida law sets the threshold at 75% of the total membership.
    - Homeowner associations may not have a material alteration member vote requirement. However, if you are retrofitting a tennis court, was the tennis court promised by the developer in the declaration? If so, a member vote to amend the Declaration is needed.
- Regulatory/Municipal Compliance:
2. Check with the county or city for construction requirements to assist with your research on feasibility. Do the requirements of the county or city make the construction impractical?

# Insurance & Liability



## Insurance

### 1. Liability Coverage

- **General Liability Insurance:** Ensure the association's general liability insurance covers recreational activities, including pickleball. This protects the association against claims for bodily injury or property damage that might occur on the courts.
- **Premises Liability:** Confirm coverage extends to the specific pickleball area, including courts, surrounding pathways, and related facilities.
- **Spectator Liability:** If spectators are common, liability for injuries occurring in seating or viewing areas should be covered.

### 2. Participant Waivers

- Require players to sign a waiver of liability before using the courts. The waiver should acknowledge the inherent risks of playing pickleball and release the association from liability for injuries except in cases of gross negligence.
- Include a parental waiver for minors participating in the sport.

## Insurance & Liability - Continued



### Insurance- Continued

- **Special Events or Tournaments**

- If the association plans to host tournaments or large gatherings, check with the insurer whether additional **special event insurance** is required.
- Evaluate crowd management, temporary structures, and vendor liabilities for such events.

- **Umbrella Insurance**

- Review the association's **umbrella liability policy** to ensure it provides extra coverage beyond standard liability limits for pickleball-related incidents.

- **Property Coverage**

- Ensure the courts themselves and related equipment (e.g., nets, fences, lighting) are covered under the association's **property insurance** policy for damage due to natural disasters, vandalism, or accidents.

## Insurance & Liability - Continued



### Liability.

- **Risk Management**
  - **Court Maintenance:** Regular inspections and maintenance of courts to prevent injuries due to hazards like uneven surfaces, debris, or poorly maintained nets.
  - **Safety Guidelines:** Post visible rules and safety guidelines near the courts (e.g., appropriate footwear, conduct during play).
  - **Lighting and Security:** Ensure adequate lighting and security measures for evening play to reduce risks of accidents or incidents.
- **Medical Emergencies**
  - Consider the association's responsibility to provide **first aid** kits or AEDs (Automated External Defibrillators) near the courts.
  - Train staff or volunteers in basic first aid and CPR to respond to emergencies.



# Accessibility



Pickleball courts at community associations are required to be ADA (Americans with Disabilities Act) compliant to ensure accessibility for individuals with disabilities. Here is a breakdown of key ADA-related considerations for pickleball courts:

## 1. Pathways to Courts:

- Provide accessible routes (minimum 36 inches wide) from parking areas, entrances, and other facilities to the pickleball courts.
- Ensure paths are smooth, firm, and slip-resistant, avoiding obstructions like gravel or steep slopes (maximum slope: 1:12 or 8.33%).

## 2. Court Entrance:

- Gates or openings to the court should have a minimum clear width of 32 inches when open.
- Ensure no steps or high thresholds at the entrance; thresholds should not exceed ½ inch in height.

## 3. Court Surface

- Ensure the playing surface is smooth, even, and free of tripping hazards.
- Avoid materials that may cause slipping, especially in wet conditions.

## 4. Spectator Areas

- **Accessible Seating:**
  - Include wheelchair-accessible seating spaces in spectator areas.
  - Provide companion seating adjacent to accessible spots.
- **Viewing Areas:**
  - Ensure a clear line of sight for spectators in wheelchairs without obstruction from standing spectators.
- Engage local disability advocates or consultants to evaluate the court design.

## Funding



### **Funding.**

1. Typically, community associations have two sources of funding: 1) assessments (special or general) and 2) loans/credit lines.

2. Many community associations have limits on capital expenditures. Therefore, regardless of whether your association has funds available, a member vote may be needed.

3. Some community associations limit the amount an association can borrow without a vote by the owners.

4. A limit on the purpose of a special assessment levied by the Board is also common in many community associations.

Check your governing documents before proceeding to ensure funding is feasible.

## Community Division



This part of the presentation is last for a reason. People do not like change and tennis players do not like to pickleball players infringing on their “turf”. Some members will suddenly exclaim a desire for “green space”. Therefore, I recommend going through this presentation BEFORE speaking to members about the project.

1. Based on this presentation, is your project feasible?
2. If so, you should have fully developed plans covering all of the topics in this presentation along with their costs to present to the members. You must be able to answer questions with facts or rumors will start to grow.
3. **Surveys and Feedback:** Conduct surveys or hold meetings to gauge interest and gather input from all community members, not just current tennis players, to ensure the proposal reflects community desires.
4. **Demonstration Days:** Organize events where community members can try pickleball, potentially increasing its acceptance by showing its accessibility and fun factor across different age groups.
5. **Shared Court Usage:** Present the idea of painting pickleball lines on existing tennis courts, allowing both sports to coexist. This approach can be more cost-effective as it avoids the need for entirely new construction. However, ensure to discuss scheduling to avoid conflicts.
6. **Temporary Setups:** Suggest using temporary nets and portable lines for pickleball on existing tennis courts. This can demonstrate flexibility without permanent changes, addressing concerns about losing tennis facilities.

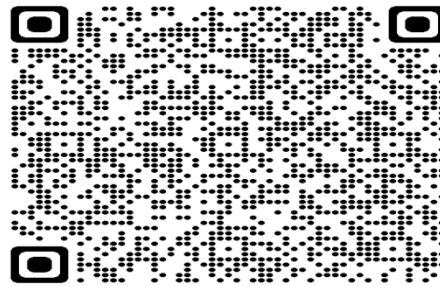
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