



It's Not Uncommon to Turn Over Presiding Officer Duties

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By Joe Adams

jadams@becker-poliakoff.com

TEL (239) 433-7707

FAX (239) 433-5933

Q: Our condominium association generally runs smoothly, but over the past two years we have had a few contentious issues. At a couple of the meetings the president of the association decided to turn over the presiding officer duties, to another board member on one occasion, and to the association's attorney on another occasion. Several members complained that the president did not have the authority to do this. In those instances, the complaining members stated that the president/presiding officer does not get to vote if he is the presiding officer but could vote if he appointed another presiding officer. Obviously, the complaining members knew how the president would vote on these contentious issues and did not want him to have the ability to vote. My question is whether or not the president has the authority to appoint a different presiding officer so that the president can then vote on issues coming before the board? **T.C. (via e-mail)**

A: Your question raises an important point about effective association meetings and administration, but also raises a common misconception about the president's right to vote. First, in my experience, a strong but fair presiding officer is often a key element to a well-run association. The presiding officer must run an efficient meeting and keep the assembly on point, but is well-advised to allow members of the board and members of the association to voice their opinions and concerns. Often, members do not

insist that their position or view be adopted, but at least want the opportunity to be heard.

I have been involved in situations like you described in your question, in which the president does not wish to be seen as controlling the direction of the meeting. In many cases, the president's conduct to that point has already been criticized and he or she has already been accused of having some bias in the issue at hand. You may know that most well-written bylaws of an association specifically state that the president shall be the presiding officer at all meetings of the association members or directors, and that in the absence of the president the vice president or some other officer shall serve as presiding officer at a meeting. However, in my opinion, the president can attend a meeting and decide not to act as the presiding officer. In those cases where the presiding officer is designated by a provision in the bylaws, it is reasonable to presume if the president decides not to serve as the presiding officer for a given meeting, the next officer as set forth in the bylaw provision would assume the duties of presiding officer. However, many times the president will appoint a presiding officer who has been prearranged to serve in that capacity, and often times that presiding officer is the association's attorney. In my experience this appointment of a presiding officer by the president is done without objection. If any member of the assembly takes issue with the president's appointment of the presiding officer, a motion may

be made by any member of the board or membership (depending on whether it is a board or membership meeting) to appoint a presiding officer for that particular meeting, and a majority of a quorum of the assembly may adopt the motion to appoint a particular presiding officer.

In any event, if the president's reason for not wanting to serve as the presiding officer is his or her belief that he or she is not entitled to vote as a director while serving as the presiding officer of a director's meeting, then that understanding is incorrect. It is not true that the president can vote only to break a tie. If a president is a member of the assembly (for instance, where the president is also a board member) he or she has exactly the same rights and privileges that all other members have, including the right to speak and debate and the right to vote.

Q: At our annual meeting I proposed that we have a bingo night at our clubhouse. Many residents had expressed an interest in having a bingo night but some members of the board are hesitant to vote for it because they say it might be illegal. I know other communities have bingo nights, so what is the law on holding bingo nights at a country club?

R. S. (via e-mail)

A: Community associations such as condominiums, homeowners' associations, cooperatives, and mobile home parks are the types of organizations permitted to conduct bingo games

under Florida law. However, there are some rules and limitations that must be followed in order to keep the game legal. For instance, after subtracting the actual expenses for conducting the bingo game, all net proceeds must be returned to the players in the form of prizes. If there are remaining proceeds after the bingo games are completed, the remaining proceeds must either be donated to a charity or must be used on the next day of play by providing bingo games free of charge until the remaining proceeds are used.

Florida law also limits how many days of play, total number of jackpots, and winnings are permissible. The maximum number of days a community association is allowed to hold bingo games in a week is two. The maximum jackpot is limited to two hundred and fifty dollars or its equivalent. A community is also limited to three jackpots on any one day of play.

The person or persons who are conducting the bingo game must be residents of the community and members of the organization sponsoring the game. The individuals responsible for organizing the bingo games cannot be compensated. The games must be played on common areas or property owned by the association which is located within the community. All players and organizers of bingo games must be at least eighteen years of age.

Mr. Adams concentrates his practice on the law of community association law, primarily representing condominium, co-operative, and homeowners' associations and country clubs. Mr. Adams has represented more than 600 community associations and serves as managing shareholder of the Firm's Naples and Ft. Myers offices.

Send questions to Joe Adams by e-mail to jadams@becker-poliakoff.com This column is not a substitute for consultation with legal counsel. Past editions of this column may be viewed at www.becker-poliakoff.com.