



## Meeting Agenda Dictates Rules of Resident Notification

### Condo Board Defines What is “Conspicuous”

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**By Joe Adams**

jadams@becker-poliakoff.com

TEL (239) 433-7707

FAX (239) 433-5933

**Q:** I live in a condominium association where the condominium units are free-standing buildings that look just like single family homes. My association apparently conducts meetings without sending notice to the members, but instead just posts the meeting notice. This concerns me because I understand the meetings involve important issues, like changing the insurance obligation to make every owner obligated to insure his own free-standing condominium building. Can you confirm that these meetings are not proper without notice being mailed to members at least fourteen days before the meeting? **J.M. (via e-mail)**

**A:** I am assuming from your question that members’ meetings are what is at stake. If the board of directors is only conducting board meetings (as opposed to members’ meetings), there is no need for mailed notice to the unit owners, forty-eight hours posted notice is typically sufficient. There are two exceptions to this rule. Board meetings where rules regarding unit use will be adopted and board meetings where special assessments will be adopted, must be noticed in the same manner as annual membership meetings (fourteen days posted and mailed notice).

The Florida Condominium Act provides that the bylaws shall set forth the method of calling

meetings of unit owners, including annual meetings. The statute goes on to require at least fourteen days written notice of the annual meeting be sent or delivered to the members. The Condominium Act also requires that notices of special owner meetings shall be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner, but no time-frame is spelled out in the law.

Your board of directors is obligated to adopt a rule or resolution which specifies the “conspicuous posting” location for notices of both members’ meetings and board meetings. This is a technical legal requirement that “falls through the cracks” with many associations.

The statute requires that notices of annual meetings be posted at a conspicuous location on the condominium property at least fourteen days in advance. The statute also requires posting of notice of special members’ meetings but again contains no specific time requirement for posting of notice of special members’ meetings.

It is permissible under the Condominium Act for free-standing condominium buildings comprised of no more than one building in or on a unit to be insured by the unit owners and not by the

association, if the declaration so provides. Accordingly, I am assuming that a membership meeting would need to be called for voting on the change. Clearly, mailed (or delivered) notice is required for amendment votes. Conversely, if the board has only been meeting to talk about the advisability of such a proposed amendment, 48 hours posted notice would be sufficient.

**Q:** Recently, our condominium association conducted a vote on proposed amendments to our declaration of condominium that addressed a contentious issue regarding use rights in our apartments. The vote did not pass, but many of our owners did not send in a proxy or cast a ballot. Some people feel that if another vote is taken, and people are contacted and encouraged to vote, the result will be different.

Our board is more or less “neutral” on the issue. Most of the directors favor the change, but many feel the voters have spoken and the matter should be dropped. The board recently received a request from one of our unit owners to conduct a re-vote immediately. We understand a petition may also be in circulation. What are the board’s obligations? **F.I. (via e-mail)**

**A:** It is not unusual for amendment votes to fail simply due to voter apathy, and re-votes are indeed common. Of course, the process needs to be started over, with a new meeting notice, proxy, and the like.

Initiation of a vote on proposed amendments to your declaration is not addressed by the applicable statute. Rather, the provisions of your declaration of condominium will control.

Most declarations provide that proposals to amend the declaration may be initiated by the board of directors. In such case, it is up to the board to determine whether another vote should be conducted, and if so, when the vote will be taken. The board could decide to hold another vote immediately, wait until next “season”, wait until the next annual meeting, or simply let the matter drop.

Most declarations of condominium also contain a process whereby unit owners can petition for changes. There is no “standard” provision regarding the required number of signatures for an amendment petition, ten percent and twenty-five percent seem to be the two most common standards.

If your members properly petition for another vote on the amendment, regardless of the board’s feelings on the issue, the board of directors will need to act on that petition. Absent a provision in the bylaws specifying a certain time-frame, it is the board’s duty to act within a “reasonable” time in calling a special members’ meeting to vote on the proposed amendment. I would say that sixty days is probably at the outer limits of a reasonable time for action in that case.

*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](mailto: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](http://www.becker-poliakoff.com).*