



Condominium Law Q&A

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Question – As a reader of your column, I always find that your responses are rendered in a fashion which denotes that your opinions are not only legally accurate but give the person direction in dealing with their issue. I am presently an owner of a condo here in Central Florida and have some concerns as to how the Board and the management company are handling the Association. G.R.D. – Merritt Island

Answer – My best recommendation is to contact the Community Associations Institute (CAI), a not-for-profit clearinghouse for common interest ownership housing developments, representing the interests of all constituent groups; unit owners, boards, managers and professional colleagues (accountants, lawyers, engineers). CAI publishes a large array of pamphlets and books on the subject. To contact CAI you can visit their website at www.caionline.org, or call 703-548-8600 (M-F, 9-6:30 ET). There are fifty-seven (57) CAI chapters throughout the United States, including seven (7) in Florida.

Question – I live in a gated community in Daytona Beach. We are a development of single family, duplex and condo housing with a private equity membership golf club that also owns a “semi-private” golf course here. Our master association board of directors consists of subdivision presidents. Some of these directors are equity members in the private golf club. Recently, the master association approved a restaurant, which is open to the public, in

that private club. Recently, the golf club sold some of their land to a developer. Although this land is presently zoned for recreational purposes, it is obvious that the buyer will attempt to develop this area. Many residents, particularly those that are not equity members, object to a zoning change. This same board of directors claim they did not know about this transaction and do not know the developer’s plans. We have not had an official master homeowners association meeting in twelve years. Therefore, when 350+ residents show up for meetings we cannot formally proceed with motions, discussions and votes. We have not been able to attract enough residents for a quorum. Each time a meeting is scheduled, there are not enough people and/or proxies. The meetings degenerate into shouting matches. Because the meeting is unofficial, there are no minutes or record of the discussions. Our boards of directors say record keeping is not necessary because it is not a formal meeting. For all these years, many of us have asked why we could not revise the covenants and restrictions to lower the required number for a quorum. At our last scheduled meeting, the issue was raised again, and we were told that covenants and restrictions cannot be changed. It would be greatly appreciated if you could clarify this issue. T.A.M., Daytona Beach

Answer – A “quorum” is the minimum number of members who must be present, in person or by proxy, at a meeting, in order to conduct the business

of an association. In the case of a homeowners association, the statutory quorum is 30% of the total voting interest, unless the bylaws provide a lower number. Assuming that there are 350 members, the highest quorum permitted is 105. There is nothing in the law which precludes the members from amending the bylaws in order to reduce the quorum. If the bylaws provide for a higher quorum, the statute controls. The authority of the board to sell a portion of the golf course to a private developer without approval of the equity members would have to be set forth in the club documents. Does it? Finally, just because the board sold a portion of the golf course for development doesn't mean that the lot owners cannot object to the rezoning when the

matter comes before the county or municipal zoning board. If you and the other owners are opposed to the plan of development why not oppose it and object? Am I surprised by the fact that the association hasn't had a meeting in twelve years due to the lack of a quorum? No. When you realize that less than a small fraction of eligible voters register to vote and/or vote in primaries and general elections, apathy seems to be the norm and not the exception; sad isn't it. The United States has spent billions, along with sacrificing the lives of thousands of our soldiers trying to bring democracy to the rest of the world, yet, here at home, we take democracy for granted and do not exercise its most important tool, the right to vote.

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