



## Condominium Law Q&A

June 16, 2008

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**Question** – Our homeowners association posts public notice for all board meetings in accordance with our by-laws. What form of notice, if any, is mandated by law for various committee meetings when held as required in areas of public access? It seems contradictory to hold “open” meetings and then fail to inform homeowners of a place and time. F.B., Pt. St. Lucie

**Answer** – The Condominium Act is clear, the notice of both board and unit owner meetings must include an agenda. The Homeowners Association Act is less clear. While the Act does require posting of notice of the board meeting, the only reference to an agenda appears in the section of the Act which governs broadcast notice over a closed circuit television channel, when it requires the agenda be provided. No doubt, the intent is for an agenda to be included; perhaps, the oversight will be cured during the next legislative session. I, for one, can find no rational explanation as to why Florida doesn’t do what over 25 other states have done and that is to consolidate into a single uniform act governing condominiums, cooperatives and planned developments governed by homeowner associations. The pervasive ambiguities and contradictions between the current laws are impossible to rectify or justify.

**Question** – Recently, I have begun to get spam mail from unit owners who own businesses. Since I don’t give out my e-mail address to anyone but family and

friends, I wondered where they got it. The manager of our 80 unit condo has my e-mail address, as he sends copies of the board minutes to us. I asked him if he gave the address out, and he said, yes, that those e-mail addresses were part of the condo records and available to all the owners. I can’t believe that my privacy can be invaded that way just because I am an owner. Is he right? I, of course, told him to delete it. M.M., Flagler Beach

**Answer** – If a unit owner elects to receive their communications via e-mail, then their e-mail address does become part of the official records open to all unit owners. And, while the Time Share Act prohibits the association from distributing the names and addresses of its members to third parties, there is no similar protection offered to condominium owners; there should be. The Act does require that certain unit owner information be kept in confidence. The records protected from disclosure are: (1) information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit; (2) medical records of unit owners, and (3) social security numbers, drivers license numbers, credit card numbers, and “other personal identifying information of any person.” I am not sure what “other personal identifying information of any person” will be construed to mean, given that those words were just added to the Act and have not been clarified by administrative rules, court decisions, or legislative intent.

**Question** - We recently voted on changing some amendments to our By-Laws. We are puzzled about the number of votes needed to pass an amendment because we have 200 (units) residents. Do we go by the number of people who voted, or the 102 votes needed (51%), only. Unfortunately, 108 people sent in their ballot. My question really is, do we take the votes that we have using that percentage because the remaining lost their right to vote? M.S., Royal Palm Beach

**Answer** - The document being amended will tell you if the vote is a given percentage of those voting

at a meeting at which there is a quorum, or a defined amount of the "total voting interest." For example, if the vote required to amend the By-Laws is a "majority of the total voting interest," then, even assuming that 100% of those in attendance at the meeting, numbering 100, vote yes, the amendment fails, because it would require 101 affirmative votes to pass. On the other hand, if the vote to amend is a majority of those present and voting, the vote required to pass would only be 51. Big difference, so do read the By-Laws carefully.

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