



Condominium Law Q&A

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Question – I'm not sure you're the person I'm supposed to be writing to, since I'm in a Homeowner's Association rather than a Condo Association, but maybe you can help me anyway.

I'm on the board of directors of our homeowner's association in Boynton Beach, Florida. We have just been given 30 days notice that our property management company is closing, and we need to find new representation. A suggestion was made that we might want to consider doing our own property management. I'm not sure that any one of us would be willing, able or knowledgeable enough to do anything involved with property management, but I want to know if it is even legal to manage ourselves. Can you help me? M.R., Boynton Beach

Answer - The subject which my column covers is "common interest ownership," which includes both condominium, cooperative, and planned developments governed by mandatory membership associations. The question you asked applies equally to all three common interest ownership formats. Community associations have three basic options when it comes to management of the community: 1. Self-management; 2. A professional property manager; 3. An independent management company. First, it is important to distinguish between the role of the board and management. The Board is a policy making body. In exercise of its fiduciary duty, it sets the guidelines and tone for operation of the community. Self-management only works in very small communities and those which have individuals, often retirees, with a lot of time on their hands. The professional property manager is hired as

an employee of the association, and is responsible for overseeing the entire operation of the community, from financial operations to grounds maintenance, as well as coordinating board and member meetings and hiring and supervising of association employees. The downside to hiring a property manager as an employee is having to deal with employment taxes, benefits, and laws, and, of course, finding a competent individual, someone whose personality and style blends with the board and the members. The independent management company is a business which specializes in the management of common interest ownership communities. The larger companies have dozens of professional property managers on their staff, who, in turn, are assigned to their association clients based upon need. That is, in some cases, a single manager will be assigned full time to a single community; in others, one manager will be responsible for two or more communities. The managers are supported by a staff of trained professionals who specialize in everything from landscaping to financial management. The obvious advantage of using a management company is economy of scale, and the company having, at its disposal, all the trades needed to service the community, such as, landscaping, painting, roofing, financial services, etc. In addition, if the assigned manager isn't working out, no problem. Just ask that someone else be assigned, and it will be done. I know of communities where all three alternatives work well. If I were making a recommendation it would be either alternative two or three.

Question - The board of directors for our association proposed amendments to our covenants. The homeowners rejected them. I learned through hearsay that the Board of Directors have extended the vote after being rejected to get the additional votes that they needed for approval. Is this legal?
J.Z., WPB

Answer - There are two means of canvassing votes in a community association; a meeting or by written consent. Votes canvassed at a meeting can be cast via proxy [limited (instructed) or general; in a condominium they must be limited (instructed)] or

ballot. Written consents are provided for by statute and can be used unless the association documents provided otherwise. Once the meeting is held, the votes cast are counted, and the results announced, the balloting is over and the results final. If prior to counting the votes, a motion is made to extend the time for casting votes, thereby adjourning the meeting until a time certain, then additional ballots can be cast and counted. The key is when the votes are cast and the results announced.

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