



## Condominium Law Q&A

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Question – Our condo association has been through a tremendous amount of stress in the past year, partly due to an aging infrastructure that needs repairs (and the associated special assessments to cover the expenses), partly due to economy issues, and partly due to attitudinal issues. The current board president is conducting constant discussions with the full board via e-mail (he is a part time resident and is not here during the winter months). This person wrote a note to another board member today as follows: “You and some of the past board members worried so much about *Robert’s Rules* and state law it kept you and them from doing some of the things that needed to be done at our condominium. This has now changed and for the better.” I believe that the current board, with the president’s encouragement, is violating provisions of Florida law. If this is so, what recourse do owners have in this matter? Is filing a complaint with the State our best action (would not like to do this, but the president does not take suggestions about following laws very well)? D.S., Cocoa Beach

Answer – While the Government in the Sunshine Law [Chapter 286, Florida Statutes] does not apply to condominiums, co-ops and homeowners associations, the open meeting sections of each of their respective Acts do. The gathering of a quorum of directors to discuss business, which might be considered at a board meeting, is deemed to be a meeting and, as such, must be noticed and open to the members. Actions taken at an illegal meeting are null and void. Inclusive in what constitutes a board meeting are “executive” sessions, conference

calls and, yes, chatting on Internet sites, as long as a quorum of the directors are participating. That said, while any communications between two or more elected officials or committee members would be a violation of the Government in the Sunshine Law, the shared ownership laws do not preclude less than a quorum of directors from communicating with one another or discussing association business. Thus, the note written between two board members, assuming 2 board members less than a quorum, does not violate the law.

Question – Our documents state an owner has to leash, curb, and pick up after his or her pet. Owners are allowed only one pet, which cannot weigh more than 30 pounds, and there are designated areas for the pet to use in the community. Our board of directors posted a sign in our official notice board stating that, any owner not following the rules regarding picking up after their pet, will have their pet removed from the property by the board. There is nothing in our documents allowing the Board to remove an owner’s pet from the property. The board further states that the local city laws/ordinances back up this action. This is private property, not public property, and I have never heard of the city patrolling condominium property to see if an owner’s pet is using the designated area. We do have the right to fine an owner for violating the rules, but we do not have the right to have the pet removed by force from the property. I am an animal lover; I also want all owners to follow the rules regarding their pets, but I think the board is abusing

its power by posting such a statement; this would not be the first time. N.M., Cocoa Beach

Answer – Self-help is not favored when it comes to enforcing either private or public laws. Each requires due process and equal protection, which translated means (1) notice, (2) an opportunity to cure, and (3) a hearing. Accordingly, while the rules seem reasonable, the statement that the board will have the owners' pet removed from the property without due process of the law would be illegal.

Question – I own a unit in a cooperative on Singer Island, Florida. Its bylaws state that it is a non-profit cooperative but the voting procedure permits owners to vote according to the number of shares they own. Is this legal? N.N., Palm Beach Gardens

Answer – Yes. There are two primary methods of voting in a shared ownership community: (1) everyone has a single vote; and (2) weighted votes, where the unit owners vote their shares and/or percentage of ownership of the common elements. Both are legal as long as it is set forth in the governing documents.

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