

# Absentee voting revision divides board members

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Q. I would like your opinion on the recent amendment to the Illinois Condominium Property Act regarding absentee voting. I am a new member of our board and was assigned to research the effect of this amendment on our election of directors.

Our board members are divided on this amendment. One group argues that the amendment is only permissive, because it gives owners holding 20 percent of the vote the right to veto an absentee ballot rule. If the veto is successful, the association must revert back to proxy voting.

The other group of directors argues that the association should adopt the rule and then let the owners initiate a petition to veto the absentee ballot process. These directors argue that if the veto is not successful, the absentee ballot rule will apply for the new election.

A. The board of directors may adopt an absentee ballot rule if the directors believe this process will increase voter participation for association elections. If the board adopts the rule at least 120 days before the next election, 20 percent of the owners may submit a petition to call for a vote on the new rule. Twenty percent of the owners, alone, do not have the authority to veto the rule.

The absentee ballot rule is neither permissive nor mandatory. The absentee ballot process is an alternative for the board to eliminate proxy voting if the directors believe that the use of proxies is more complicated and less likely to generate maximum owner participation than a simple absentee ballot process in which voting is done in person or by mail.

If a significant group of owners object to absentee balloting, 20 percent of the ownership may call for a vote, but a majority of the entire membership must veto the new rule or it remains in effect for future elections.

Q. My town home association does not send out the minutes from unit owner or board meetings. If owners are out of town and unable to attend these meetings, we have no idea what is happening. Is the board obligated to send out the minutes of the meetings to the ownership?

Also, are non-board members permitted to attend director meetings? There are 60 units in our complex, and the lack of communication is appalling.

A. Like a condominium association, the board of directors of a town home association is not obligated to distribute minutes to the unit owners. Owners may request copies of the minutes, which the board must provide within 30 days. If owners are out of town, they may request minutes of meetings they miss.

It is also prudent for the board or management to take a proactive approach to owner communications by distributing a newsletter, creating a Web site or devise some other means to keep the owners informed of board decisions.

Owners, or "non board members," have the right to attend town home board meetings. Your board is not alone in failing to understand the concept of an open meeting.

Q. I understand that the Illinois Condominium Property Act requires that all board meetings must be open for owners to attend, with a few exceptions.

I live in an adult complex in Lake County, developed by a major builder. Our declaration, which was written in 1998, states that owners may attend meetings of the board only if and to the extent permitted by the board in its discretion. The declaration further states that "it is not the intention that owners shall have the right to attend meetings of the board in the same manner as provided for members of condominium associations."

Is this provision in our declaration legal?

A. Your association is a common-interest community. Under Section 18.5 of the Condominium Act, board meetings of common-interest communities are open to the membership in the same manner as condominium board meetings. The provision of your declaration conflicts directly with the portion of the law pertaining to non-condominium associations.

As a practical matter, it is harmful to a community for the members not to have access to board meetings where directors make decisions affecting their property. Other than litigation, rule violations or delinquencies, and employment matters, what confidential issues exist in a senior housing community? None.

Late fee limits vetoed

Gov. Rod Blagojevich vetoed Senate Bill 1915, which would have imposed limits on late fees charged by condominium associations. As drafted, the bill set a limit of \$25 or 10 percent of the delinquent account. Many condo association boards opposed this measure, because it inhibited their ability to collect delinquent assessments.

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