

## AUGUST 2011 MONTHLY COLUMN

### **NEW LAWS AFFECTING PARTICIPATION AT ASSOCIATION BOARD MEETINGS**

One of the most fundamental rights of unit owners in both a condominium and homeowners association is the right to attend and actively participate in board meetings. Both the Condominium and Homeowners Association Acts specifically require that board meetings be open to the members, with limited exceptions, and allow the owners to attend and speak at such board meetings, subject to reasonable rules and regulations. However, the statutes were amended effective July 1, 2011, to alter some of these requirements.

For a condominium association prior to July 1<sup>st</sup>, all board meetings were required to be open to the members except for meetings with the association's attorney to discuss proposed or pending litigation. However, as of July 1, 2011, a condominium board may also meet in private, closed session, without the attorney present, for purposes of discussing personnel matters. Similarly, a homeowners association board of directors may also meet in closed session, without the attorney present, for purposes of discussing personnel matters, and may meet in closed session, with the attorney present, for purposes of discussing proposed or pending litigation. This was always true for a homeowners association, and the Condominium Act was recently amended to be consistent with the Homeowners Association Act.

Aside from the right to attend board meetings, owners also have a right to participate in meetings of the board of directors, subject to reasonable rules and regulations regarding the frequency and manner of such participation. For a condominium association, owners have the authority to speak with reference to any designated agenda item. Prior to July 1<sup>st</sup>, owners in a homeowners association were only entitled to speak at board meetings on items that were placed on the agenda by a petition signed by twenty (20%) percent of the voting interests. However, effective July 1, 2011, the Homeowners Association Act was amended to be consistent with the Condominium Act in allowing all owners the authority to speak at a board meeting with reference to all designated agenda items. Both condominium and homeowners association boards should look into the adoption of reasonable rules and regulations governing the procedures by which owners may participate in such meetings.

When determining whether a board meeting should be open to the members or whether owners should have the authority to participate in a meeting, it is important to consult with legal counsel as needed. Additionally, when your association board discusses implementing rules and procedures governing participation in open board meetings, some should be discussed with association counsel.

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