



Ask an Expert Webinar

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May 12, 2015 7-8p

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Ask an Expert

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- This webinar will run from 7 to 8p.
- Participants are asked to mute their phones if they have background noise.
- There were 16 questions submitted in advance that will be answered first.
- To ask a question, please type it in the question box.
- Additional questions will be answered if there is time.

Ask an Expert

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Q I: Our HOA needs to renew our By-Laws....

- a) is there a resource for items which we can include in the updated By-Laws...perhaps some we might not have anticipated needing but that would be beneficial?
- b) can we include regulations that would prohibit the selling or renting of any of the properties to anyone with a criminal history of any kind or anyone participating in criminal mischief? Is there a template we could use for including such regulations in the re-writing of the by-laws? How do we enforce such regulations?
- c) what is a reasonable fee to expect to pay to have the By-Laws updated?
- d) what is the typical process involved with having the By-Laws updated?

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Question 2:

We are a small, modest association of 38 units, and have frequently found ourselves in the situation of one or two bullies running the show and making decisions that have not been legal according to our By-Laws or that have at best only served their personal interest at the exclusion of tending to things that are required by the By-Laws. Anyone speaking up is frequently penalized by not having their requests tended to. Obviously, it's an extremely immature and inefficient way of running an association and tending to a community.

My question is.....are there any resources available to assist reasonable homeowners in dealing with these kinds of situations?

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Question 3:

How can our association legally be more selective in who we allow to buy a home within our association?

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Question 4:

Can a Property Manager, hired by the association keep the official records in her private home and limit the access to homeowners who wish to view the records during normal business hours (e.g. Mon-Fri 8-5) , when the private home is not the registered address of the Association, and is also not the registered address of the Property Management company?

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Question 5:

Does the Association need to conduct an election when there are less candidates than positions?

Background: Our condo docs have the standard five Board member positions (and require a minimum of three and max of seven). At the annual meeting this past Dec, apparently there were less than five eligible candidates according to the letter sent out by the Property manager on behalf of the Board. The letter stated these candidates would become the board members by acclamation and therefore no voting was needed.

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Question 6:

If an election is required, in this instance, should the Board immediately begin the process to hold a proper election or wait until the next annual meeting?

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Question 7:

If a candidate sent in their 'intent to be a candidate form' and was informed they were ineligible, is there a legal requirement to give that candidate a reason why they were ineligible?

- a) If so, what is the remedy for that candidate, if they do meet all the eligibility requirements and there was no valid reason for them to be disqualified?
- b) Also what is the remedy if a candidate were to send in their form on time via certified mail to the registered address and the authorized person (e.g. property manager or board member) does not sign for the mail and then claims it was not received on time.

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Question 8:

There are three Board members, and two of the three (quorum) conduct association business via phone and email and do not openly hold Board meetings. Can they do this?

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Question 9:

How should homeowners handle this a situation when the two Board meetings held last year (March, and Sept) were not properly posted (i.e. not posted with at least 48 hours notice and also no agenda) and the Board were later advised of this by homeowners?

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Question 10:

For the annual meeting, is the Board required to also post a notice in the designated area on property for the Annual meeting (in addition to the first and second notice letters that are sent out)?

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Question 11:

What happens when the financial manager (from a contracted service, attending the meeting at the request of the Board) declares the meeting is adjourned, immediately before a financial item on the agenda is discussed, and disrupts the meeting and the Board President cannot continue after the disruption?

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Question 12:

How should the association handle a situation when the financial manager (from a contracted service hired by the Board) is involved in independently hiring an attorney on behalf of a homeowner wanting to be on the Board (and not authorized by the Board), and records later show an invoice from the attorney describing services for the financial manager advising on recall process information and the financial manager has charged the fees to the association for the services?

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Question 13:

What should homeowners do when an Association receives Code Enforcement Violations from the City of Orlando and does not respond or acknowledge or let homeowners know what is going on with association business (i.e. no correspondence with homeowners and no open Board meeting held)?

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Question 14:

What can be done when the Property Manager makes statements and decisions apparently on behalf of the Board without any validation from the Board?

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Question 15:

What can or should be done when the Treasurer, for example, (a) moves association funds to a non-FDIC insured account without proper authorization and (b) if the treasurer is authorized by Board members to be a signature on one particular account and then sets up another account and moves funds to this account which is under a business name that has no known affiliation with the Condo Association?

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Question 16:

What is the best course of action in a situation where the Property Management Company sends out partial payment history once a year (approx the same month as the Intent to be a Candidate forms are sent out) and several of these contained erroneous past due notices, (including one long time owner who has automatic payment) and the letters threatened legal action. Homeowners that sent in proof of payment and requested full statements of prior payment history, to determine if there were other recent instances of improper financial recordkeeping, did not receive a response and did not receive a written correction either. When this is not the first time this has occurred and there are Minutes from a previous year which demonstrate this.

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Other Questions?

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Recently one of the Unit Owners requested to have all of the postage stamps that were included in the ballot return envelopes for our annual election. It appears that the Unit Owner is a serious stamp collector, but I stated that I could not give them to him, because I could not alter the envelopes. Is there a better answer or can I give him (by cutting out) the stamps?

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At my annual election, 5 board members were elected. I member made a motion to appoint a director I to one of the "4" officer positions of the Association. None of the other directors seconded the motion and only the director making the motion and the director being appointed were in favor. Can a director being appoint second the motion? Is that a conflict? What options does the Board have when they are at an impasse at an organizational meeting?

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Looking for an attorney specializing in mandatory associations?

Be sure to ask these two questions:

1. What percentage of your practice is mandatory association law?
2. How long have you practiced mandatory association law?

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Thank you for participating!

Please take a few moments to complete the evaluation that will be emailed to you.