

# apm NEWS

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## **STANDARDS OF CONDUCT AT ASSOCIATION MEETINGS**

**BY JOHN R. MATH, LCAM**

Since the hurricanes of 2004, we have seen a trend of more owners becoming disruptive at Board of Directors and Members Meetings. Association owners are frustrated and stressed at what has happened to their lives over the last few years in South Florida. In addition, the aftermath of the hurricanes has caused additional stress due to increases in assessments, higher insurance costs and ever increasing and expensive special assessments to offset non-planned expenses and emergencies. In addition to the increased Association burden is also the burden of the residents having increased personal expenses as well, also caused by the hurricanes.

Today, owners and residents are frustrated and angry at these circumstances and they are taking it out on the Board of Directors and management personnel with more frequency at Association meetings. This is not right or fair to those assembled, as in most circumstances the Board of Directors do not control the weather, insurance costs or other operating costs. The Board of Directors are handling these issues and many other issues as well as they can and they need all of the help that they can get from the community to combat these challenges. At an Association meeting, the Board of Directors does not need a

resident who is disruptive and disharmony is not part of the solution. In these difficult times there is too much to be accomplished and everyone should be working together rather than causing disruption. By statute, the Board is allowed to make reasonable rules and regulations on the participation of owners and members at Board of Directors Meetings. This usually has to do with time and frequency of talking at meetings. This article expands owner participation at meetings with the hope of helping to make meetings more productive, shorter in duration, and more professional.

To help minimize Association problems and to help to become more effective at their meetings, the Board should consider having a Standards of Conduct for all Association meetings. These standards would be agreed to by the Board of Directors and could be made official by a Board Resolution. The agreed upon Standards would be a part of the official records of the Association and should be posted along with the Meeting Notice and Agenda of the Meeting. Consider having the Standards of Conduct made into a sign that could be displayed on an easel at the entrance of the meeting room. In this manner, no one can say that they did not know of the policy when they come to the meeting. At least have the Standards copied and

made available to residents that attend the meeting. It should be understood that these standards must be adhered to by everyone who attends the meeting.

The following is a list of "suggested" Standards and they can be expanded or reduced, depending on the size of the Association and the complexity of issues at hand:

No one should be allowed to speak unless they are recognized by the Chairperson of the Meeting. (This will reduce the amount of disruptions during a meeting).

There should be a rule that allows the Chairperson to also make rules at the meeting. In this manner, if a situation were to arise that is not covered in the Standards of Conduct, the Chairperson could make a quick rule that could diffuse or solve an issue.

No one is allowed to interrupt anyone who has the floor of the meeting. Interrupting helps to foster a hostile environment and wastes time, which make meetings last longer than is necessary.

All comments should be made to the Chairperson. In this manner the issue is depersonalized and not directed to someone who may have an opposing point of view.

All comments should be made on

Agenda Items only. This helps to prevent meetings from getting off topic and a rehash of old items and topics that someone disagrees with.

Any time limits that have been made must be complied with and adhered to by all participants. Possibly there is an item on the agenda that is worthy of more time or owner participation. If this is the case, the Chairperson should be able to alter the time and how it will be allocated. Most other times, the Board should set a 2-minute time limit for members to speak.

If someone wants to speak more than once, and if this is permitted, then everyone should be allowed to speak first, prior to someone addressing the Board a second time. This gives as many people as possible the chance to speak at the meeting.

Do not allow someone to speak more than twice on the same issue. If the situation or discussions change regarding the same subject, the Chairperson will have to have some discretion if someone would want to speak again on the same subject, but with different circumstances.

No personal attacks should be allowed on anyone, as this not only allows the meeting to deteriorate but is unproductive and unprofessional. The Board is a group of volunteers who are trying to operate a "small business" and they should be respected. If an owner begins to personally attacking another member, whether on the Board or not, the Chairperson should nip this quick.

No foul or threatening language should be allowed to be used in any meeting by anyone. If anyone is unwilling to be civil in their dealings at a meeting, then they should be asked to leave, and if it is necessary, the meeting should be adjourned to a later time or date.

These Standards of Conduct will help an Association to have civil gatherings and more productive meetings. In the long run this will benefit your Association in terms of greater owner participation as well.

## Ask The Attorney

By David St. John, Esq.

***Q. We had a roofing company provide our association with a new roof and now we come to find out that the roofer did not pay one of his subcontractors, as we now find out that he has placed a lien on the association property. We executed a Notice of Commencement and were provided with a Release of Lien with each payment. What should we do, as no one can sell their units now with this lien on the property?***

A. Under the Florida Condominium Act, labor performed on or materials furnished to the common elements are not the basis for a lien on the common elements, but may be the basis for the filing of a lien against all condominium parcels in the proportions for which the individual owners are liable for common expenses of the condominium. However, a lien can be filed against association-owned property (not common elements) for work done on that property.

In addition to filing a notice of commencement in the county clerk's office, the association must post a certified copy of the notice in front of the building where the work will be done. The association must also file a copy of the notice of commencement with the local authority issuing the building permit. All of this puts any subcontractor on notice of the identity of the association and the direct contractor. Any subcontractor wishing to pursue his lien rights to secure payment must then make himself known to the association. The subcontractor has to serve a "notice to owner" form on the association before the final payment has been made to the direct contractor. This notifies the association that the subcontractor can file a lien if he has not been paid, even if the association has paid the contractor in full. If the association has done everything it is supposed to with regard to filing and posting the notice of commencement, the subcontractor cannot record his claim of lien until after serving the notice to owner. Once the association has received the notice to owner, it must not pay the contractor any partial or final payment without first getting a partial or final release of lien from the subcontractor that gave the association a notice to owner. Another option is to pay the subcontractor and deduct the amount paid from what would otherwise be due to the contractor. It is

preferable, however, to have the contractor first pay its subcontractors so that there is no question about the amounts charged by the subcontractor. The association should also request an affidavit from the contractor listing all unpaid subcontractors and the amount that each is owed.

In your case, if you filed and posted a notice of commencement and did not receive any notice from the subcontractor, the non-receipt would be a complete defense to an attempted enforcement of a lien by the subcontractor. If there is no available defense to the lien, an individual owner may relieve his condominium parcel of the lien by payment of the proportionate amount attributable to his condominium parcel. Upon payment, the lienor must release the lien of record for that unit. All of this is a brief overview of a very complex area of the law. An association should seek legal counsel experienced in this area before beginning any construction or maintenance project.

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## REMINDERS!

1. Remember, there are new financial reporting requirements now for Chapter 720 Clients. Make provisions in your 2007 Budget.
2. Any waiver of reserves for Chapter 718, 719 and 720 association members must be voted on and waived prior to the beginning of the new fiscal year.
3. If the documents so require, the amount of Directors for the coming year must be determined according to the by-laws prior to the first notice of Annual Meeting.
4. Any proposed amendments must be drafted, reviewed and proposed by the Board of Directors, prior to the Members Meeting or Annual Meeting.

## **BOARD MEMBER TRANSITIONS FOR COMMUNITY ASSOCIATIONS**

**By John R. Math, LCAM**

At this time of year, new Board of Directors are being elected and formed for the coming year. Some Boards remain static from year to year, while others experience total turnover. In all cases, there should be a transition procedure to help the new Board Members to adapt more quickly to the operations and management of the association.

Since being on a Board of Directors is solely a volunteer position, it is very difficult for Board of Directors to have a smooth transition from year to year, as residents get tired from fulfilling their duties or their terms expire. Thus, it is imperative to replace the outgoing Directors with new Directors, year after year. To help bring new Directors up to speed as quickly as possible and to have them be as effective as possible, it is suggested that there be transition packages for each new board member. Transition packages would contain key information about the operations of the association and any important elements to help and guide any new Director in that position. The main purpose in having transition packages is to provide continuity of operations from year to year. In this manner, there are no serious disruptions in management and in the operations for the coming year.

A few elements of the transition package would be; all current contracts, any amendments to the association documents, recorded set of association documents, current governing statutes for the Association, calendar of events for the next twelve months, current year's budget, manager's reports for last two years, committee reports for the last

two years, minutes of last two years board meetings, prior year's budgets, summary of past accomplishments and future problems and finally telephone numbers of board and committee persons. In addition to the above, I suggest having all bank account numbers listed, with locations of the accounts and who the current signers are. Also, at the transition meeting or organizational meeting of the new Board, there should be new bank signature cards and corporate authorizations available to assist the new Board.

In an ideal situation, a past Board will meet with the new Board and review their current management, any current conflicts and operation problems. Past officers would provide an overview to the new officers. Committee chairpersons would give their reports and summary of activities to the new Directors and new committee chairpersons as well. Past Officers would be available to provide guidance to new members.

In many transitions, there will be some Directors that will be carried over from one year to the next. These Directors usually become leaders or will be able to fill in the history of a situation or a problem to the new Board members. In that way, the new Board will be able to make more informed and better decisions that will please the membership. Many association documents have staggered terms, which provides for Directors to be carried over from year to year, rather than one year terms. If an association provides for one-year terms, the association should consider amending their documents to allow for staggered terms for their Directors. This also helps to promote continuity from Board to Board and year to year. An ideal staggered

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term scenario would be for 1/2 of the Directors being newly elected with a two-year term and 1/2 of the Directors having a one-year term remaining. In this manner, the association has a group of people who will be able to carry on from year to year with some continuity. The Board members who have the longer experience will be able to provide some history to certain projects for the Directors who are new to the Board. In this way, the entire Board can make more informed decisions which will benefit the association.

All associations should try to develop transition procedures for your Board of Directors. This strategy will help to minimize any disruptions in the Association operations from year to year. This transitional strategy also benefits your new Directors and in turn your residents.

**Associated Property Management of the Palm Beaches, Inc., is an eighteen-year-old full-service association management firm. APM serves more than 125 associations in Palm Beach County. If you have any questions or comments, you may contact us at 1928 Lake Worth Road, Lake Worth, Florida 33461. Please call us at 561-588-7210, or you may email us at [assocpropmgt@bellsouth.net](mailto:assocpropmgt@bellsouth.net) at any time.**

**USEFUL WEBSITES FOR YOUR ASSOCIATION**

Associated Property Management  
561-588-7210 or [www.assocpropmgt.com](http://www.assocpropmgt.com)

Florida Department of State  
904-487-6000 or [www.sunbiz.org](http://www.sunbiz.org)

South Florida Water Management District  
561-686-8800 or [www.sfwmd.gov/index](http://www.sfwmd.gov/index)

Palm Beach County Property Appraiser  
561-355-3230 or [www.pbcgov.com/papa/](http://www.pbcgov.com/papa/)

Florida Division of Emergency Management  
850-413-9900 or [www.floridadisaster.org](http://www.floridadisaster.org)

Palm Beach County Div. of Emergency Mgt.  
561-712-6400 or [www.co.palm-beach.fl.us/eoc](http://www.co.palm-beach.fl.us/eoc)