

Meetings in the Era of the Corona Virus

by Adam J. Cohen, Esq.

Community association lawyers are being flooded with questions from their clients about their options for holding meetings in light of the threat posed by COVID-19, commonly called the corona virus.

The most important thing to do is to **stay safe**. “Social distancing” – which means staying several feet away from other people at all times, not touching them even for a handshake, and avoiding crowded indoor areas – is essentially to stop the spread of this virus. This means large groups of people should not be congregating for any reason, including homeowner’s meetings. On March 16, Governor Ned Lamont issued an executive order declaring a prohibition of community gatherings of over 50 people, but the safest thing to do is to postpone **all** community meetings even for smaller numbers of attendees for the foreseeable future.

Association boards have options for conducting their business without live meetings. State law says that boards can make decisions without a meeting if two-thirds (or all, if the bylaws so require) of the board members agree on something by phone or email. The unit owners must be promptly notified in writing (by mail, email, or hand-delivery) of the outcome and how each board member voted. Another option is that, unless the declaration or bylaws prohibit doing so, state law allows the board to hold a meeting by telephone or video if a notice is sent to every owner that explains how unit owners can connect into the conference, and comments are possible in that every participant can both hear and be heard. (The statute also allows owners to participate from a designated central location, but that’s what we’re trying to avoid.)

The bigger problem is meetings of the unit owners themselves, such as the annual meetings which most communities typically hold at this time of year. Unfortunately, state law does not currently allow community associations to hold unit owner meetings by telephone or video unless the declaration or bylaws so allow, and very few do. Since holding a large meeting can be extremely unsafe now – and literally illegal for communities of 50 or more – this is simply not an option. Associations should postpone their unit owner meetings until after the risk of infection has subsided.

Fortunately, state law does allow unit owners to conduct votes by referendum instead of during a live meeting unless the declaration or bylaws prohibit doing so. This means elections, budget approvals, and other items can often be conducted by mail or online. The board must distribute paper or electronic ballots, along with notices which explain the applicable quorum and passage thresholds, the deadline for returning the ballots, and how owners can communicate with each other about the subject of the vote. This can be a useful alternative in order to decide key issues without exposing everyone to the serious risks of a live meeting.

Governor Lamont issued another executive order on March 14 suspending in-person meeting requirements for municipal entities. These include taxing districts and special services districts which many homeowner’s associations have established to conduct a portion of their affairs. The executive order requires that the meeting be held by telephone, video, or online such that the public is able to view or listen; participation instructions and relevant materials are posted to the organization’s website before the meeting and a transcript or recording is posted there afterward; and everyone who speaks must clearly state their names and titles. The Governor’s order applies only to government entities like districts, not private associations like condominiums.

Our communities will get through this difficult time together. Focus on keeping yourself healthy and safe, and work with your community's attorney to ensure you are following the law applicable to your type of community as well as your individual governing documents. And of course, remember to wash your hands.

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