

# Chatt & Prince P.C.

# Association Law Update

Volume 2, Issue 4    September 8, 2016

## Decoding The New Laws Affecting Condos

There are several new laws that bind condominium associations statewide. They range in topics. In this article, you will find a topic by topic breakdown of these new laws. All of the bills are effective on January 1, 2017.

**Electronic Notices and Voting** – This bill clarifies that acceptable technological means for notices and communications to and from members may be determined by rule adopted by the Board as long as the proposed method provides reasonable security, reliability, identification and verifiability. The law is Public Act 99-0612.

**Developer Changes** – If a developer wants to assign its interest to a successor developer, the assignment is not effective until the successor obtains the assign-

ment in writing and records it. The law is Public Act 99-0569.

**Meetings** – Boards can now hold closed sessions for a number of topics, including 1) litigation, 2) hiring, firing, engaging employees, contractors and other vendors, 3) interviewing employees, contractors and other vendors, 4) violations, 5) delinquencies and 6) consultation with the association's attorney. Boards do not even need to conduct that closed session as part of a noticed board meeting. However, they cannot take action on the items outside of a noticed board meeting. This allows associations to revert back to holding workshops or working sessions on the protected issues. The law is public Act 99-0567.

**Ombudsperson Act** - The enactment of a new law puts the obligations for associations to comply

with the Ombudsperson Act on hold until January 1, 2019. This means that associations will not have to adopt a policy to handle owner complaints until that date though they can consider doing so sooner. The law also clarifies that Ombudsperson does not have jurisdiction for discrimination claims or other administrative bodies. The law is Public Act 99-076.

**Bank Loans** – The Condo Act now permits a board to take out a bank loan without obtaining the approval of the membership. Under the old system, for many associations, owners would have had to be consulted if the board was pledging all or substantially all of the association's assets. This gives more flexibility to boards. The law is Public Act 99-0849.

**Q&A Question:** How do we know if our association is a master association?

**Answer:** The Condominium Property Act states that a master association is created

where a declaration, other governing documents or covenant states that at least some power that would generally be authorized by a condominium association is or may be delegated to another corporation

or association on behalf of or for the benefit of the condominium associations. While an association's name may state that it is a master association, if it does not meet the definition it is not.

## Running Your Meetings Does Not Have To Feel Like Running A Kindergarten Classroom



Anyone who has attended multiple board meetings has likely seen at least a portion of that meeting delve into chaos. It is not uncommon for individuals to talk over each other, refuse to cooperate or simply turn downright petty. In short, the meeting starts to feel more like a kindergarten class than one involving mature adults. If chaos ensues, the meeting gets bogged down and becomes inefficient. This can impact owner attendance and participation at future meetings.

How does a board address these issues? There is no right answer. However, there are a number of things a board can do to prevent a schoolhouse feel to your association meetings.

1. Adopt Rules Concerning Participation. Boards can adopt rules addressing how meetings will run. It is not unusual to specifically

state how owners are entitled to participate in the meeting. We generally recommend that boards limit owner participation, where possible, to an open forum period. This allows the Board to conduct business without being interrupted every time an owner disagrees or has a thought on an issue.

2. Consider Following Rules of Order. Most boards are not required to abide by Roberts Rules of Order. If yours is not, you can adopt your own rules of order. Included in the rules might be where owner participation is permitted.
3. Remind Owners of the Rules. The President can make a short statement at the

Continued on next page

## Decoding The New Laws Affecting Common Interest Community Associations

There are several new laws that bind common interest community associations that are worth noting. They range in topics. In this article, you will find a topic by topic breakdown of these new laws. All of the bills are effective on January 1, 2017. You will notice, most of the bills are the same as condos.

**Amendments** – The legislature has made changes to the amendment language contained in CICAA. Particularly, a new law makes it clear that the members and mortgagees (banks) do not have to approve amendments to correct errors in the governing documents. Thus, the board is in the sole position to approve amendments to bring the governing documents into compliance with the law. The law is Public Act 99-0627.

**Electronic Notices and Voting** – This bill clarifies that ac-

ceptable technological means for notices and communications to and from members may be determined by rule adopted by the Board as long as the proposed method provides reasonable security, reliability, identification and verifiability. The law is Public Act 99-0612.

**Developer Changes** – If a developer wants to assign its interest to a successor developer, the assignment is not effective until the successor obtains the assignment in writing and records it. The law is Public Act 99-0569.

**Meetings** – Boards can now hold closed sessions for a number of topics, including 1) litigation, 2) hiring, firing, engaging employees, contractors and other vendors, 3) interviewing employees, contractors and other vendors, 4) violations, 5) delinquencies and 6) consultation with the association's attorney.

Boards do not even need to conduct that closed session as part of a noticed board meeting. However, they cannot take action on the items outside of a noticed board meeting. This allows associations to revert back to holding workshops or working sessions on the protected issues. The law is public Act 99-0567

**Ombudsperson Act** - The enactment of a new law puts the obligations for associations to comply with the Ombudsperson Act on hold until January 1, 2019. This means that associations will not have to adopt a policy to handle owner complaints until that date though they can consider doing so sooner. The law also clarifies that Ombudsperson does not have jurisdiction for discrimination claims or other administrative bodies. The law is Public Act 99-076.

---

### Kindergarten Contd.

- beginning of the meeting reminding the membership on when participation is allowed.
4. Be Firm and Remove Distractions. If a member fails to comply with the rules and directives on participation, they can be asked to leave. If they do not, the board can adjourn the meeting or, in egregious situations, ask the police to remove the member from the meeting.
  5. Make Owners Submit Complaints In Writing. One of the worst parts of a meeting is when the owners tell the Board everything their neighbors are doing wrong. We recommend that boards require owners to submit complaints or work orders in writing unless they are physically unable to do so. Beyond providing a written record for the association, it makes owners more reasonable.

## Chatt & Prince P.C.

16w343 83rd Street  
Suite A  
Burr Ridge, Illinois 60527

Phone: 630-326-4930  
Fax: 630-214-0227  
Email: [rprince@chattprince.com](mailto:rprince@chattprince.com)

---

[WWW.CHATTPRINCE.COM](http://WWW.CHATTPRINCE.COM)

---

Matching Legal Solutions  
to Real World Problems

## Authors

Robert Prince - [rprince@chattprince.com](mailto:rprince@chattprince.com)

Bill Chatt - [bchatt@chattprince.com](mailto:bchatt@chattprince.com)

Rachel Nagrant - [rnagrant@chattprince.com](mailto:rnagrant@chattprince.com)

This newsletter is for general information only and is not intended to provide and should not be relied upon for legal advice in any particular circumstance or fact situation. The reader is advised to consult with an attorney to address any particular circumstance or fact situation. The opinions expressed in this newsletter are those of the author and not necessarily those of Chatt & Prince P.C. or its clients. This bulletin or some of its content may be considered advertising under the applicable rules of the Supreme Court of Illinois. Prior results described herein do not guarantee a similar outcome. The information contained in this newsletter may or may not reflect the most current legal developments. Articles are not updated subsequent to their inclusion in the newsletter when published.

## Interesting Tidbits - Tax Appeals

Its always seems like it is tax season for associations. Unfortunately, associations consistently do not properly appeal their taxes. Certain law firms concentrate their practices in association tax appeals , which has helped reduce many of the errors. However, associations continue to make mistakes.

Section 10 of the Condominium Property Act states that, in a condo association, the board can appeal the taxes for the entire association. It takes two-thirds of the board approve of

the appeal. Otherwise, a majority of the owners can vote to appeal the taxes at a meeting, unless the declaration or bylaws require a higher vote.

Unfortunately, the boards of non-condominiums cannot appeal the taxes for the members. Instead, the Board can only act as an intermediary between the law firm processing an appeal and the membership.

Whether a condo association has approved of an appeal or whether a non-condo is helping facilitate an appeal, communication is the key

to success. The decision to appeal must appear in the minutes and needs to be communicated to the membership. While there are always individuals who do not want to participate in or pay for the appeal, if you have told them in advance, they have little to no arguments.

## WE HAVE MOVED

We are growing and have moved to a new office. Our new address is 16w343 83rd Street, Suite A, Burr Ridge, IL 60527.