

## Architectural Committees Cannot Vote by E-mail

June 24, 2018

By: Joseph E. Adams



**Q:** I read your recent column stating that e-mail is no longer allowed as a way for HOA board members to vote. Our architectural review committee meets once a month to review and approve applications, but there are often “emergency” situations that arise where owners want approval between the monthly meetings. In

**these limited situations, would the committee members be permitted to vote by email to approve applications? (G.Q. via e-mail)**

**A:** No. The Florida Homeowners’ Association Act does not permit architectural review committees to use e-mail to vote on the approval or rejection of members’ applications.

Section 720.303(2)(a) of the statute addresses board meetings, and contains the new provision that members of the board may use e-mail to communicate, but may not use e-mail to cast votes on association matters. In my opinion, this was already the law before the statute was changed to specifically say this.

The same subsection of the statute states that contains the requirements for board procedures also applies to meetings of committees making a final decision regarding spending association funds and the meetings of committees that approve or disapprove architectural decisions.

Architectural committees are also generally required to comply with the requirements applicable to the board for purposes of meeting notice posting and minute keeping.

**Q:** I am a unit owner in a condominium. The board has been discussing hiring a management company to oversee our community. This has been a heated topic at recent board meetings and many owners are concerned that the board may choose a company that may not align

**with our best interest. Do the owners have any say in this decision?  
(W.D. via e-mail)**

**A:** Section 718.111(3) of the Florida Condominium Act provides that the powers of condominium associations include the ability to contract for the management of the condominium property. Section 718.3025 of the Statute lists certain provisions that must be included in management contracts, or the agreements may be unenforceable.

Most association bylaws confer all of the powers of the association upon the board, except where the statute or condominium documents require a vote of the unit owners. The statute does not require an owner vote to hire a management company and very few condominium documents do (though I do see it from time to time). Therefore, your board likely has the authority, unless the condominium documents provide otherwise.

However, this decision must be made at an open meeting of the board and the intent to enter into the agreement must be listed as an agenda item on the posted notice. Unit owners are entitled to speak at all open board meetings, so you do have a “say” in the matter, but not a vote.

**Q: Our board recently approved an amendment to the annual budget. The majority of owners who attended the meeting were against the change. My question is whether the board can increase assessments and amend the budget without approval of the owners? (M.M. via e-mail)**

**A:** Probably. First, you must confirm that the board of directors is given the authority in the condominium documents to adopt the budget in the first instance. This is the case in the vast majority of associations.

If the board is empowered to adopt the budget, it is empowered to amend the budget. However, any amendment to the budget must be done by following the procedures required for initial adoption of the budget. This includes, among other things, sending all owners a copy of the proposed revised budget and notice of the board meeting where the proposed revised budget will be considered. The notice must be mailed or delivered to each unit owner at least 14 days in advance and posted conspicuously on the condominium property 14 days in advance.

There is a procedure for unit owners to seek to “overrule” a budget adopted by a condominium association which exceeds the previous year’s assessments by 115%. Increases for non-recurring expenses and reserves are excluded from this computation. The process is, however, rather burdensome on the owners and I have rarely seen it employed, and never employed effectively.

*Joe Adams is an attorney with Becker & Poliakoff, P.A., Fort Myers. Send questions to Joe Adams by e-mail to [jadams@beckerlawyers.com](mailto:jadams@beckerlawyers.com). Past editions*

may be viewed at [floridacondoalawblog.com](http://floridacondoalawblog.com).

---