

“Board’s Pandemic Restrictions Questioned,” News-Press

June 15, 2020

By: Joseph E. Adams



Q: Because of COVID-19, our homeowners’ association has prohibited guest use of our pool and fitness center. This has precluded third-party led fitness classes, even if the classes are offered outdoors. Instead, the association is allowing member-led fitness classes outdoors, like aqua aerobics and yoga, on the common areas. Is it permissible to allow members to offer such classes to other members on the common areas? (R.B., via e-mail)

A: The COVID-19 pandemic has presented many questions for community associations which defy easy answers. There are substantial debates even amongst legal experts in the field as to how much control an association can, or should, exert over individual behavior within the community.

In my personal opinion, the scope of a board’s powers is quite broad, but must be exercised in a reasonable fashion. Also, I am of the belief that just because a particular activity may now be permissible as governmentally imposed isolation standards are relaxed, this does not mean that an association is obligated to permit the activity.

Obviously, this is a delicate balance and reasonable people can disagree on the wisdom of a particular action. Clearly, the more “outsiders” that are allowed into a community, the greater the risk of infection spread. I would note that many community associations still have many of their amenities closed to resident use.

On balance, your board’s position on outside fitness instructors does not seem unreasonable and I suspect would be upheld if challenged.

Q: Our homeowners’ association does not post meeting minutes on its website on a timely basis. When they are posted, they are cryptic, and do

not reflect each board members' vote. Does Florida law require minutes of HOA board meetings to be posted at least in draft form within 48 hours or some specific time period? (M.N., via e-mail)

A: No. Chapter 720 of the Florida statutes, known as the Florida Homeowners' Association Act ("HOA Act"), does not require posting of meeting minutes within a specified period on a website, and does not even require that an association have a website. Minutes of board meetings must be kept as part of the "official records" of the association.

Official records must be made available for owner inspection within 10 days of receipt of a proper owner request. The statute does require that the vote or abstention of every director present at the meeting be recorded in the minutes. In my opinion, if a vote is unanimous and that is stated in the minutes, that is a sufficient record of each director's vote.

Section 720.303(3) of the Florida statutes provides that minutes must be maintained in written form or in another form that can be converted into written form within a reasonable time. In my opinion, the board should have a draft of minutes available within a reasonable time after each meeting, 30 days is often considered a reasonable standard, and at one point was a legal requirement for condominium associations.

As to the minutes being "cryptic," it is my opinion that the minutes should reflect what was done, not what was said. There is rarely a reason for a set of minutes to exceed one or two pages. If a board wants to document information that form the basis for its vote, that should be done by a separate resolution or incorporation of an extrinsic document, such as a committee report.