

“Can a Recalled Director Run Again?” Naples Daily News

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Q: I am an owner, living in a community with a homeowners' association. I would like to know if a member of the board of directors who has been "recalled" (removed by a member vote) can run again for the board. Our membership, following all the proper procedures outlined in Florida Statutes relating to the recall process, had this owner removed as a director earlier this year. Our governing documents do not state anything regarding this issue. Our election process will begin shortly with the annual meeting and election occurring in December. M.W.

A: The director that was recalled from the board in mid-2019 can run for an open position at the election (assuming he/she meets all of the other eligibility requirements). Rule 61B-81.002 and Rule 61B-81.003 of the Florida Administrative Code state that a recalled Director cannot be appointed by the Board to fill the open position created by the recall. There is no prohibition, however, on a recalled director running again for the board at a future election.

Q: I live in a homeowners' association community with 41 homes. I just received the notice of annual meeting and none of the candidates for the open director positions are mentioned or listed anywhere. The owners never know who the candidates are until the annual meeting is held and nominations are made from the floor. The same owners end up getting elected year after year. Is this legal? R.M.

A: The answer to your question will depend on the specific language from your association's governing documents. Section 720.306(9) of the Florida Homeowners' Association Act states that an eligible member may nominate himself or herself "from the floor" as a candidate for the board at the annual meeting where the election is held, subject to certain exceptions. If the election process outlined in the governing documents requires candidates to be

nominated in advance of the meeting, and permits anyone wishing to run to have their name placed on the ballot, the association need not allow nominations “from the floor” at the annual meeting.

I encourage my homeowners’ association clients to amend their governing documents to require candidates to express their notice of intent to run for the board by a specific deadline, similar to the election process mandated by statute for condominium associations. I have found that an advance nomination requirement leads to a smoother overall election process and further helps to minimize election disputes.

Q: I know that community association managers have to be licensed but do management companies have to be licensed? A.T.

A: Section 468.432, Florida Statutes, requires a community association management firm which is responsible for the management of more than 10 units or a budget of \$100,000 or greater to be licensed with the Department of Business and Professional Regulation (“DBPR”).

An application must be submitted to the DBPR and licensure fees paid. Each community association firm applicant shall designate on its application a licensed community association manager to respond to all inquiries and investigations by the state. Community association management firm licenses expire on September 30 of odd-numbered years and must be renewed every 2 years. If the license of at least one individual active community association manager member is not in force, the license of the community association management firm is canceled automatically during that time.

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