

“Community Association Law Headed in the Right Direction,” FLCAJ Magazine

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Over the years, there have been a number of advents in Florida community association law toward allowing technology to facilitate the operation of community associations. For many years, board members were able to call in to board meetings and attend and vote, so long as speaker phones were available at the meeting site for

members present to hear the discussion and comments. This made it easier for volunteer board members to coordinate scheduling issues that could arise if it was imperative that a quorum be present in person for board business to continue. Also, the Florida Not-for-Profit Corporation Act allowed copies of proxies emailed or faxed to the association to be used in the same way as originals. If an association was required to use the original proxy, the unit owner had to mail or hand deliver it. However, if the association could use a copy that can be emailed or faxed to it, then the owner did not have to mail the proxy days before or attend the meeting in order for his or her vote to count. By allowing a copy emailed or faxed to the association to be used, unit owners had more time and flexibility to cast their proxies and have their voices heard. While this was an important assist in owner participation, it would only help in cases where owners could vote by proxy. So, in a condominium association—for example—election of directors still had to take place with the two-envelope paper system.

In addition, community association laws allowed owners to video tape or audio record meetings (subject to the association’s rules and regulations, of course). These were followed by laws that eased the burden of paper and postage on associations by allowing owners to formally allow certain association notices to be sent to them via electronic communication rather than paper mail or hand delivery.

In the last few years, there were two very significant technological evolutions in community association law. The first was the addition of online voting opportunities for owners in community associations. Since these laws

incorporated the election process as well, this was a huge advance in the use of technology by community associations. The ability to vote online combined the benefits of an emailed proxy and expanded it to include election of directors (which previously would have been impossible to accomplish remotely in a condominium setting). Online voting, combined with electronic notice, could convert a process that previously took pounds of paper, hundreds of dollars in postage costs, weeks of mailing time, and hours of counting (and often recounting) ballots into a fast, cost efficient, and accurate process.

The second giant leap forward were the website requirements imposed on condominium associations. While these requirement burdened many managers and boards with having to upload many, many documents in an initial start-up process that took many associations months to complete, those that have done so require only minimal time to keep the websites up to date. This saves associations hours of time in putting together many responses to member records requests, allows members ready access to applicable governing documents, provides a handy site for disseminating information to its members quickly, can include links to local and state information (if desired), and can serve a number of other useful purposes for those associations that choose to expand the platform a bit more than what the law requires.

The recent COVID-19 pandemic required associations to modify meeting protocols on the fly. Despite requirements for social distancing, the concerns of the membership (and boards) regarding community spread, and emergency orders banning groups of larger than 10 people, the business of the association needed to continue. In fact, the very pandemic required many board meetings to address numerous issues that were arising as a result. How were boards to accomplish this with-out running afoul of the newly imposed restrictions on social contacts and still allow a window into the board workings for the owners who might be interested? Enter Zoom and similar platforms like Microsoft Teams, GoToMeeting, and others.

Although the legislature has not expressly authorized exclusively limiting member attendance to these video conferencing methods in the Florida community association laws, many boards saw this as their only opportunity to keep the association's business trans-parent and keep their member-ship safe at the same time. Meeting notices were modified to clarify the limits on personal attendance and provide Zoom meeting information instead. Zoom (or other similar plat-forms) gives participants the chance to participate with audio and visual features, allows participants to raise their hands to be recognized, and also enables communication with one another via a chat feature. The host of the meeting has the opportunity to mute or unmute audio for participants, accept only proper participants (as in members only), and also share his/her screen to display documents, slide shows, etc. As previously noted, Florida community association law does not currently expressly allow a board to require remote-only attendance. However, in light of the restrictions Florida is currently still under, video conferencing has at least allowed many communities to proceed with necessary association business while affording owners the

opportunity to listen and actively participate in the meetings as well as allowing boards to limit the meetings to proper participation by members while providing transparency.

Of course, these quick movements into new platforms have not been without controversy and some unknowns. Although the author has not personally had any experience with “Zoom bombing” (where an uninvited person “crashed” a Zoom meeting and disrupted it), it appears that using a password and forcing participants into a virtual waiting room before being admitted into the call are key to avoiding a similar incident during a Zoom meeting or call. Also, instructing participants to not click on any links in the chat section could help in reducing malware attacks.

As this article is being written, there is nothing that is certain about the days to come. What is certain, however, is the slow (but seemingly steady) march of Florida community association law into the future of technology. Whether video conferencing options will take the place of or simply supplement personal attendance at meetings in the future is yet to be seen. In light of the fact that many community association members may have homes in other locations or may be out of town on meeting dates, and the potential for other unforeseen circumstances, natural disasters, and other life interrupting possible scenarios that may arise, the legislature should consider expressly adding this new form of remote attendance at community association meetings to the laws. In doing so, it can regulate and clarify the proper use of these methods to ensure that member rights are balanced with the need of community association business to be conducted, even when the rest of the world seems to be shut down.