

The following are a sample of questions that have been asked by boards, residents and their managers since the start of the COVID-19 pandemic. These answers are not a substitute for legal advice as the answers may change depending on the individual community and the status of the pandemic at any time.

**Q: Can we prohibit guests from entering the community?**

**A:** Now that we have a state of emergency declared at the national, state and county level, prohibiting non-essential guests from entering your community can be used to reduce exposure to COVID-19. This means that private parties and social events in or on your common areas can be suspended. Realtor open houses and showings may also be suspended and construction projects inside the units or on the common areas may be prohibited except when needed for emergency repairs.

Caretakers and immediate family members may be permitted to visit but a limit on the number of such essential guests may be imposed. If your community's governing documents prohibit short-term rentals and you are aware that some owners are violating these restrictions under the guise of having nonpaying guests when they are really renting out their units on platforms like Airbnb, then working with counsel to curb this activity should be a priority.

**Q: Can we prohibit owners from undertaking renovation projects so we can prevent contractors and other nonessential workers from entering the property?**

**A:** It is important to remember that not every private residential community may be impacted in the same way by the spread of COVID-19. In multifamily buildings where residents encounter each other frequently in the elevators, corridors and other common areas, the need to address preventative measures is much more pressing than in an HOA with single family homes and no enclosed common areas. Still, given the extraordinary steps that our federal and local government is taking to stem the spread of this disease, all non-essential projects should be delayed until the risks abate.

**Q: Can we prevent residents we know have traveled to any high-risk areas (China, South Korea, Iran and Italy) from returning to their units?**

**A:** No, you cannot prevent certain residents from returning to their homes. If you wish to minimize the spread of COVID-19 or the flu, use your communication channels to remind your residents to wash their hands frequently, practice social distancing and self quarantine if they have been exposed to the virus, tested positive or someone in their home has been exposed or tested positive.

Let your residents know that if they are feeling ill or have any questions or concerns they can contact the Florida Department of Health's 24-hour hotline that can be reached at 1-866-779-6121. Speak to association counsel about your duty to disclose an active infection or self quarantine when you become aware of same.



**Q: Can we ask potential purchasers and potential renters if they have traveled to any high-risk areas?**

**A:** Even if a potential purchaser or potential renter has recently traveled to a high-risk area, that information does not permit the board to safely deny the application. Asking such questions can have a chilling impact on the proposed transaction thereby exposing the association to a tortious interference with a business relationship claim. Speak to association counsel before revising your application forms or asking intrusive questions during your interviews.

**Q: Can we delay approving sales and lease applications?**

**A:** No, you still must act on those applications but should conduct your interviews remotely via Skype, FaceTime, Gotomeeting, Zoom or other meeting apps. If you fail to act on a pending application you may have inadvertently approved same pursuant to your documents. Speak to association counsel about your ability to delay move-in dates for new tenants and new purchasers.

**Q: Does the state of emergency mean the board now has emergency statutory powers?**

**A:** The emergency powers granted under Chapters 718, 719 and 720 of the Florida Statutes were designed to assist boards in the aftermath of a windstorm or other casualty event. However, the Florida Division of Condominiums has confirmed that those powers will be available to boards grappling with the COVID-19 pandemic. Speak to association counsel about which of those powers may be used with regard to common area closures, meetings and more.

**Q: Should we stop holding meetings?**

**A:** The board must continue to operate and administer the community's affairs and holding regular meetings is a large part of that function. However, board and membership meetings that might draw a crowd of more than 10 people are no longer permissible. Boards need to utilize technology to be able to continue conducting their meetings and elections.

In-house cable channels, videoconferencing, Skype or meeting apps allow residents to view meetings from the privacy of their homes. Directors can also attend meetings via speakerphone. Online voting was growing in popularity before COVID-19 but will surely pick up steam in the coming months.

It is also important to distinguish between the type of meeting when deciding whether to cancel or postpone same. An election naturally takes priority over a garden variety board meeting. Speak to association counsel about how to proceed with your election in light of COVID-19 challenges.



**Q: What should we be doing with regard to elevators and shared laundry rooms in our community?**

**A:** Medical experts recommend the use of social distancing (keeping at least 6 ft. between persons) to reduce the rate of transmission. In a multifamily building that can be difficult but not impossible. For elevators, you might want to restrict usage to one or two persons per car. For shared laundry facilities you can also limit the number of people using the facilities at any one time as well as insist on certain protocol with regard to sanitizing the machines and wiping down all surfaces after use. You may also want to implement a reservation process to use the shared laundry facilities to be sure that social distancing is being observed.

In some communities, individuals with underlying health concerns have made an accommodation request to install washers and dryers in their units. Speak to association counsel about whether or not such requests should be granted.

**Q: We have an electronic key pad that visitors to our community must use to enter. Should we just leave the gates open for the time being to avoid virus spread on this surface?**

**A:** Trying to contain the spread of COVID-19 cannot be accomplished in a vacuum. The board still has the responsibility to address other safety concerns and leaving your security gate open creates other real concerns. For communities with electronic key pads and access systems tied to fingerprints, consider installing a hand sanitizer station next to those items and placing a sign advising that all people entering the community should use the hand sanitizer after touching the screen or key pad.

**Q: Can/should we close our community pool now that we are under a state, federal and county state of emergency?**

**A:** It will be difficult to justify closing some common areas and not others. If you close the pool you will get less traffic at the pool. It's not so much about going in the water as it is keeping people out of the common areas altogether where there are numerous surfaces on which the virus can live. It is important to advise your residents that all of these common area closures are temporary and will be reevaluated as soon as possible.

