#### THE CITY OF ALEXANDRIA COMMON INTEREST COMMUNITIES EDUCATION SERIES



#### **MEMBERSHIP MEETINGS**

#### November 18, 2023

PRESENTED BY LUCIA ANNA TRIGIANI, ATTORNEY AT LAW MERCERTRIGIANI LLP



#### **Program Overview**

- Meetings Generally
- The Law
- Virtual Meetings
- Effective Meetings



### **Meeting Types**

Association

- Committee
- Board
  Regular
- Organizational
  Special





#### **Board & Association Meetings**

#### Required by:

- Condominium Act
- Property Owners' Association Act
- Non-Stock Corporation Act
- Governing documents or condominium instruments





#### **Board & Association Meetings**

- Association Meetings at least once annually
- Board Meetings more frequently
- Association Meetings All members
- Board Meetings Open to all members



# The Law





### **Source of Authority**

- Condominium Act § 55.1-1949
- Property Owners' Association Act –
  § 55.1-1815
- Nonstock Corporation Act
- Governing Documents
  - Articles of Incorporation
  - Bylaws
- Condominium Instruments
  - Bylaws



### **Location of Association Meetings**

- Physical Location vs. Virtual vs.
   *Hybrid*
  - Condominium Act **§ 55.1-1935**
  - Property Owners' Association Act -*§* 55.1-1832
- Board discretion unless *prohibited* by governing documents.



#### **Notice of Association Meetings**

#### Depends on:

- Type of meeting Annual Meeting
   or Special Meeting.
- Type of community condominium
   or property owners association.
- Whether association is incorporated.

### **Notice of Annual Meetings**

#### Condominium Unit Owners Associations –

- At least **21 days** prior to meeting -Condominium Act - § 55.1-1949
- Property Owners' Associations
  - At least **14 days** prior to meeting *Property Owners' Association Act - §* 55.1-1815
- If incorporated
  - <u>Not more than</u> 60 days prior to the meeting
     *Nonstock Corporation Act § 13.1-842*

### **Notice of Special Meetings**

#### Condominium Unit Owners Associations

- At least 7 days prior to meeting -Condominium Act - § 55.1-1949
- Property Owners' Associations
  - At least 7 days prior to meeting Property Owners' Association Act - § 55.1-1815

#### If incorporated

 <u>Not more than</u> 60 days prior to the meeting -Nonstock Corporation Act - § 13.1-842

#### **Notice of Association Meetings**

Always review governing documents and condominium instruments. Satisfy most **restrictive** timeframe.



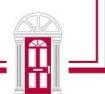


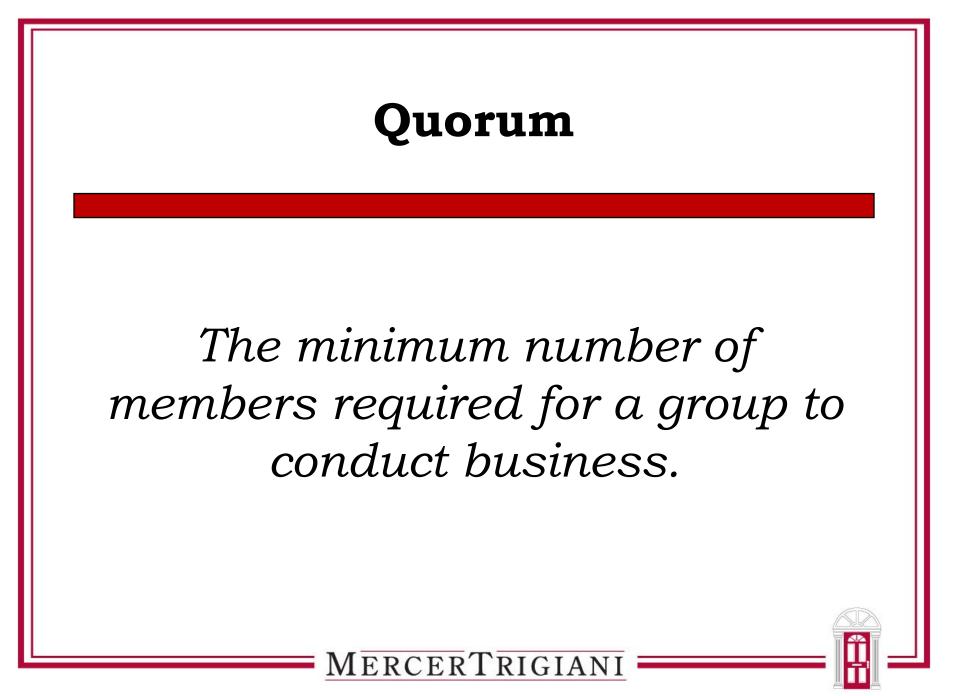
#### **Association Meeting Notice**

- Must include:
  - Time and Date
  - Place
  - Purpose (for **special** meeting)
- U.S. Mail or hand-delivered to Owners at address of Record
- Electronic Owner Consent and Certification
  - Virginia Condominium Act § 55.1-1949
  - Property Owners' Association Act § 55.1-1815



# Agenda May be specified in governing documents or condominium instruments Certification of Notice Quorum Determined Officer and Committee Reports Elections New and Old Business (Open Forum)





## Quorum

#### **Condominium Unit Owners Associations**

- Bylaws
- Condominium Act § 55.1-1952.A:
  - As specified in condominium instruments
  - If not specified in the condominium instruments – persons entitled to cast 33-1/3 percent of the votes
  - Percentage may be larger but <u>not</u> less than 10 percent



#### Quorum

- Property Owners' Association Act does not address quorum
- Nonstock Corporation Act –
   § 13.1-849.A
  - As specified in Bylaws
  - If Bylaws silent 1/10 of votes entitled to be cast

#### Lack of Quorum

Review governing documents in preparation for the meeting!

- Authority to continue meeting
  - Recess
  - Adjourn to a fixed date and time
  - Quorum Reduction
- Consider impact of not convening meeting.



#### Lack of Quorum *Virginia Condominium Act*

#### **Section 55.1-1952.C**

- Association or Unit Owner may petition court to reduce quorum requirement
- Pre-conditions:
  - No Annual Meeting due to lack of quorum for **3 consecutive years**; and
  - Good faith attempt to convene meetings



#### Lack of Quorum Nonstock Corporation Act

#### **Section 13.1-840**

A court may order a membership meeting when:

- There has been no annual meeting for 15 months since the last Annual Meeting; or
- A demand for a Special Meeting was submitted and
  - Notice of the Special Meeting was not issued within 30 days of the demand; or
  - The Special Meeting was not held in accordance with the notice.





### Voting

- In Person
- By Proxy
- Absentee Ballot
  - Electronic
  - Paper

### Proxies

**Condominium Unit Owners Associations** 

- Bylaws control
- Condominium Act § 55.1-1953.D
  - Signed by one unit owner of record
  - Dated
  - Revocable with Notice
  - Terminates after first meeting
  - Explanation of an uninstructed proxy
  - Electronic transmission





#### Proxies Property Owners Associations

- Governing documents control most often bylaws.
- Property Owners' Association Act does not establish proxy requirements.
- Nonstock Corporation Act only requires proxies to be in writing -§ 13.1-847.



# Voting

#### **Condominium Unit Owners Associations**

- Condominium Act Section 55.1-1953 either:
  - Undivided interest assigned each Unit
    - Square Footage
    - Par Value
  - One vote per Unit
- Voting procedures established in the Bylaws
  - Cumulative voting?
  - Bullet voting?
  - Electronic?

- Secret ballot?
- Absentee or mail-in voting?



### Voting **Property Owners' Associations**

- Review governing documents some communities have established voting procedures
- Most Common: "one lot, one vote"
  - Cumulative voting?
     Secret ballot?
  - Bullet voting?
  - **Electronic?**

- Absentee or mailin voting?

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#### Voting Absentee Ballot

- Condominium Act § 55.1-1953.E
- Property Owners' Association Act § 55.1-1815.H
- Unless expressly prohibited by governing documents, condominium instruments.
- Members voting by absentee ballot are deemed present – for all purposes.



#### **Electronic Voting Authority**

- The rule Permitted unless prohibited.
- Statutory Authority
  - *Condominium Act* Sections 55.1-1935 and 55.1-1953
  - **Property Owners' Association Act** Sections 55.1-1832 and 55.1-1815
  - Nonstock Corporation Act § 13.1-847.1



### Electronic Voting Considerations

- When must voting occur?
  - **During** the meeting
  - **Before or After** the meeting (aka *absentee voting*)
- Are secret ballots required?
  - Attention must be given to process
  - Preserving secret ballots with proxies
- Voting by proxy or by ballot.



### **Non-Electronic Options**

- Associations *must* reasonably accommodate owners with non-electronic alternatives
  - Condominium Act Section 55.1-1935
  - Property Owners' Association Act Section 55.1-1832
- No reason required
- Common alternatives?





#### Suspending the Right to Vote

- Authority must be established in **recorded** documents and statue.
- Established (written) Board policy *Record Date*
- Policy should be reviewed and adopted at least two months prior to meeting.
- Policy should be briefly summarized in meeting notice.



# **Virtual Meetings**



#### **Statutory Authority**

#### Effective July 1, 2021

- Meetings (Association, Board, Committee) may be held entirely by electronic means (telephone, video, etc.) subject to adopted guidelines.
- Two Board members *no longer required* to be present in person for Board meetings.

Property Owners' Association Act - § 55.1-1832.F Condominium Act - § 55.1-1935.F



### **Virtual Meeting Guidelines**

Must ensure that:

- Persons accessing the meeting are authorized to do so; and
- Persons entitled to participate have an opportunity to do so

#### Implementation

- Verify attendees as members or proxies.
- Provide attendees with an opportunity to **participate**.
  - Hear proceedings
  - Participate in proceedings
  - Vote

### Recording

- Unit owner may record open portion of meeting.
  - Audio Taping **Yes**
  - Video Taping Yes
- Board may adopt rules.
  - Placement and use of equipment.
  - May request but not require owner to provide notice of recording.



### **Virtual Meeting Tips**

- Require registration for attendees.
- Establish and communicate ground rules.
- Position camera properly at eye level.
- Prepare materials in advance.
- Rehearse the meeting.
- Review meeting settings.





### **Virtual Meeting Etiquette**

- Make introductions at beginning of meeting.
- Ensure background is clean and workappropriate.
- Look into camera when talking instead of looking at yourself.
- Be aware of audio and video settings.
- Eliminate distractions and avoid multitasking.
- Be mindful of background noise; mute when appropriate.
- Do not eat.





# **Effective Meetings**



#### **Planning Considerations**

- Kind of meeting.
- Governing document requirements.
- Timely notice of meeting.
- Meeting script.

Election procedures.

- Adopt Guidelines
- Election Committee
- Call for Candidates
- Floor Nominations

#### Voting.

- Proxies
- Absentee
- Ballot

### **Effective Meetings**

- Preparation
- Agenda
  - Organized
  - Complete Supporting Documentation
- Notice
- Venue In Person or Virtual



# Agenda Governing Documents or Condominium Instruments may address. Set by President In consultation with Management In consultation with Board members



### **Meeting Minutes**

- Record of Action Taken
- Brief
- Consistent Format
- Timely prepare & approved
- Content Date, Time, Place, Attendance
- Signed by Secretary



### **Meeting Minute Tips**

- Follow Agenda.
- Listen carefully.
- Pause to make sure motion is clear.
- Repeat motion.
- Transcribe as soon as practicable.



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