

MERCERTRIGIANI

CONVENING VIRTUAL ANNUAL MEETINGS

Virginia Property Owners Associations

Annual meetings are an essential component of community association governance. Volunteer leaders have an opportunity to report on association matters, such as the financial condition of the association and volunteer and management accomplishments. The annual meeting is a business meeting but also can be a celebration and an opportunity to reflect on the past year. And, most importantly, annual meetings provide an opportunity for members to elect volunteer leaders to the governing board.

To encourage attendance and participation, associations are turning to *electronic platforms* that allow association members to gather virtually. In doing so, care must be taken when planning and conducting the annual meeting to comply with procedural and substantive requirements established in association governing documents, the Virginia Property Owners' Association Act ("Act") and the Virginia Nonstock Corporation Act ("Nonstock Act"). If legal requirements are not satisfied, the annual meeting may be invalid, and any action taken at an invalid meeting may be determined invalid as a matter of law. Manchester Oaks Homeowners Ass'n v. Batt, 284 Va. 409, 423 (2012).

Planning is critical to the success of the annual meeting, which has many moving parts, including both statutory and document-based requirements. Developing a checklist to assist in planning a properly convened meeting is a good first step:

Review Annual Meeting Requirements.

- Determine requirements for the date of the annual meeting.
- Determine requirements for providing notice of the annual meeting.
- Develop a timeline for planning and implementing annual meeting preparations.
- Confirm the nomination process (i.e., establishment of election or nomination committee) and timely prepare Call for Candidates documentation, if appropriate.
- Confirm available voting methods and develop election rules.
- Determine notice requirements.
- Check limitations on location of meetings.
- Confirm quorum requirements and determine whether the governing documents allow for quorum to be reduced at a subsequent meeting if a quorum is not present at the meeting.

Authorize Remote Participation, if incorporated.

- Establish guidelines and procedures for remote participation that, at a minimum, enable the association to:
 - Verify* that each member participating remotely is a member or a designated proxy.

- Provide members a reasonable opportunity *to participate* in the meeting.
 - Provide members a reasonable opportunity *to vote*.
- If the governing documents do not require that a meeting be at a place, the Board also may authorize that the meeting be held solely by means of remote communication.
- Identify reasonable alternative, non-electronic means for members who cannot or do not wish to participate in the meeting electronically.
- If the association is not incorporated, review governing documents for restrictions on remote participation and electronic voting and consider contacting legal counsel.
- Prepare Annual Meeting Package.**
 - Prepare annual meeting notice stating date, time and place of the meeting along with instructions for attending the meeting remotely.
 - Prepare proxy forms in accordance with requirements established in governing documents.
 - Prepare annual meeting agenda and other documents (e.g., annual budget) that may be appropriate or required to be distributed to owners for the annual meeting.
 - Timely deliver the complete annual meeting package in accordance with requirements established by the governing documents, the Act and the Nonstock Act.
- Prepare for the Meeting.**
 - Think through and plan registration process – remember to account for submission and review of completed proxy forms.
 - Rehearse using the remote communication platform to ensure access to and proper operation.
 - Think through and establish voting procedures – remember votes must be cast *during the meeting* unless the governing documents provide for alternative voting methods.
- Conduct the Meeting.**
 - Register participants.
 - Confirm a quorum is present.
 - Appoint a Secretary of the Meeting.
 - Conduct the business of the meeting in accordance with the agenda (typically, document proscribed).
 - Conduct the election in accordance with established voting procedures.
 - Adjourn (or recess) the meeting, depending on the circumstances.