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



#### **TRANSPARENT GOVERNANCE**

Meetings, Communication and Access to Books & Records

#### **OCTOBER 5, 2024**

**PRESENTED BY** 

DAVID S. MERCER, ESQUIRE LUCIA ANNA TRIGIANI, ATTORNEY AT LAW MERCERTRIGIANI LLP



# **Elements of Good Governance** Transparency Responsiveness **Consensus Based** Equity & Inclusiveness Effectiveness & Efficiency Accountability Participation

### **Owner Rights**

#### Members in **good standing** have rights to:

- Receive notice of board and committee meeting.
  - Participate in and record meetings.
- Cast votes on matters requiring membership vote.
- Receive notice of proceedings to enforce rules.
  - Opportunity to be heard & represented by counsel.
  - Due process.
- Access association books & records.

Property Owners Association Act, §55.1-1807 Condominium Act, §55.1-1939



### **Program Overview**

- Board Meetings
- Access to Books & Records
- Communication
  - Advanced Technology
  - Social Media

### **BOARD MEETINGS**





### **Board Meetings - Defined**

The formal gathering of the board of directors where the business of the association is discussed or transacted.



### **General Rule – Open Session**

All meetings of the Board and Committees shall be open to **all** members of record.

Property Owners' Association Act, §55.1-1816.A Condominium Act, §55.1-1949.B

#### **Work Sessions**

The board of directors shall not use **work sessions** or other informal gatherings of the board of directors to circumvent open meeting requirements.

Property Owners' Association Act, §55.1-1816.A Condominium Act, §55.1-1949.B



### **Notice of Meetings**

- *Published* where reasonably calculated to be available to a majority of the owners.
- Upon written request, at least once a year provided to an owner making the request.
- Notice of *special* or *emergency* meetings reasonable under the circumstances and contemporaneous with board or committee members.

### **Open Forum**

#### Required

- Subject to reasonable rules
- Designated time period (or more)
- Comments on ANY matter affecting association
- Limited agenda topics limited comments

Property Owners' Association Act, §55.1-1816.D Condominium Act, §55.1-1949.D



### Voting

- No Secret Ballot
- **Except** Officer Elections
- Board Members Only
- In Open Session
- **NOT** By Proxy

## **Virtual Meeting Guidelines**

Must ensure that:

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



## Recording

- Unit owners 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.



## **Meeting Minutes**

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

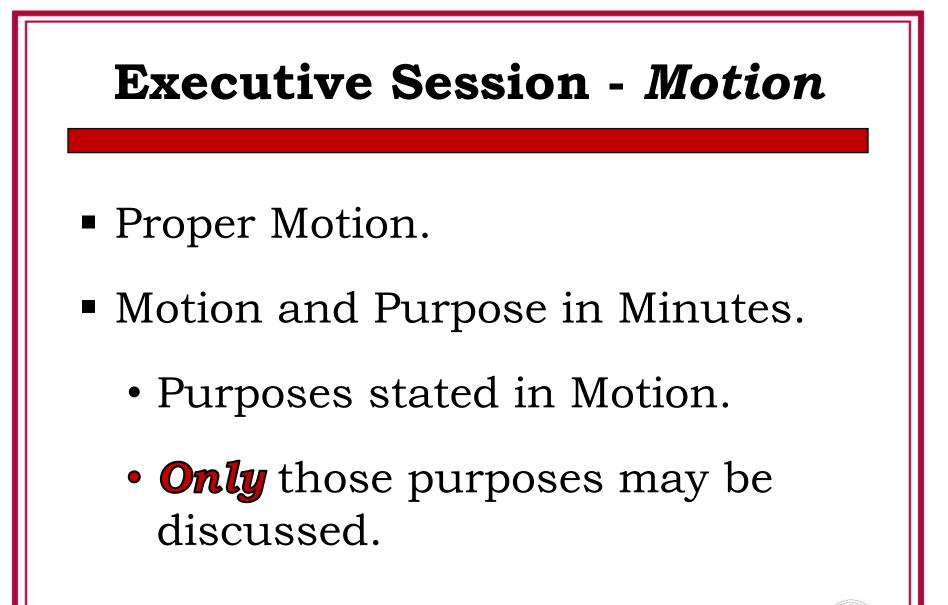
## **Meeting Minutes**

- Meeting minutes shall be recorded and shall be available to all members.
  - Property Owners Association Act, §55.1-1816.A
  - Condominium Act, §55.1-1949.B.1
- Meeting minutes or other confidential records of an **executive session** are withheld from inspection.
  - Property Owners Association Act, §55.1-1815.C.7
  - Condominium Act, §55.1-1945.C.7



### **Executive Session**

- Information obtained in executive session is confidential.
- May only be discussed with Board members, management, staff and Association legal counsel.
- Committees may also convene in executive session.



# **Executive Session - Purposes** Personnel Matters Consult with Legal Counsel Document and Rule Violations Personal liability of owners Discuss and consider Contracts Probable or pending litigation

## **BOOKS & RECORDS**





### **Types of Books & Records**

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- Condominium Instruments & Governing Documents
- Financial Records
- Administrative Records
- Exempt Records

### **Association Documents**

- Recorded Condominium Instruments & Governing Documents
- Resolutions & Policies
- Rules & Regulations
- Approved Meeting Minutes
- Plans, Permits, Warranties, Proffers and Other Developer Items



### **Financial Records**

- Audits, Reviews, Accounting Statements and Financial Reports
- Member Assessment Accounts
- Receipts and Expenditures
- Paid Invoices
- Bank Statements
- Tax Returns
- IRS and State Tax Authority correspondence

#### **Administrative Records**

- Member Roster & Current Mailing Addresses.
- Association Employment Records.
- Salary Information of Association Employees.
- Executed Contracts.



### **Administrative Records**

- Requests for Proposals & Proposals.
- Current Insurance Policies.
- Ballots, Sign-In Sheets, Proxies & Other Voting Materials.
- Annual Registration or Annual Reports.

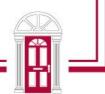


### Exemptions

- Certain books & records may be withheld from examination or copying.
- Exempt information may be withheld or redacted, and all other information made available.
- Books & records shall **only** be withheld if <u>entire document</u> is exempt.

Property Owners' Association Act, §55.1-1815.C Condominium Act, §55.1-1945.C





### Exemptions

- Personnel Records.
- Contracts under negotiation.
- Pending or probable litigation.
- Personal medical records.
- Attorney-Client Privileged Communications.



#### Exemptions

- Disclosure of Information in Violation of Law.
- Executive Session Records, Reports & Minutes.
- Individual owner files.
- Individual Financial Information.



# Books & Records Requests Written Request - During reasonable business hours or at a mutually convenient time and location.

- Notice.
  - Professionally Managed **5 days**.
  - Self Managed **10 days**.

Property Owners' Association Act, §55.1-1815.B Condominium Act, §55.1-1945.B





### **Books & Records Requests**

- Specify books and records requested.
- Specify purpose.
  - Proper purpose related to Association membership.
  - Not for pecuniary gain or commercial solicitation.

Property Owners' Association Act, §55.1-1815.B Condominium Act, §55.1-1945.B



### Costs

- Associations may impose a charge in accordance with a cost schedule adopted by the board.
- Charges may reflect *reasonable* costs of materials and labor and *cannot exceed actual costs*.
- Cost schedules must:
  - Specify charge for materials and labor
  - Apply equally to all owners in good standing
  - Be provided to requesting owner at time request is made.



## Books & Records – Tips

- Adopt a Books and Records Policy with a Cost Schedule.
- Adopt a Record Retention Policy.
- Identify and Publish Procedures for How, When and Where Books and Records are Available.
- Maintain Accurate and Detailed Records.



## COMMUNICATION



### **Sharing Information**

Associations are required to provide a **reasonable, effective and free method** for owners to communicate among themselves and with the board of directors regarding any matter concerning the association - **appropriate to the size and nature of the community**.

Property Owners' Association Act, §55.1-1817 Condominium Act, §55.1-1950



### **Types of Communication**

- Verbal
- Non-Verbal
- Written
- Electronic



#### **Communication Fundamentals**

- Listen
- Acknowledge
- Question
- Be clear *understandable*.
- Be concise make the point & keep it brief.
- Be complete *provide needed information*.
- Connect *make eye contact*.



# **Improving Communication** Be aware of others – reaction, emotion. Show interest & empathy. Encourage others. Use humor. Treat people equally. Resolve conflict & seek solutions. Be positive.

# **Use of Email**

- Not a substitute for meeting.
- Should not constitute Board action.
- Use to transmit information only.
- Avoid discussion.
- May be subject to inspection by members and in litigation.
- Assume that email will be made public.

## **Use of Advanced Technology**

**Unless the condominium instruments or governing documents provide otherwise**, notices, signatures, votes, consents and approvals required to be obtained under the condominium instruments or governing documents can be accomplished electronically.

Property Owners' Association Act, §55.1-1832 Condominium Act, §55.1-1935



# **Use of Advanced Technology**



- Technology must provide sufficient security, reliability, identification and verifiability.
- Associations must provide reasonable nontechnology alternatives if members do not have electronic capability or prefer otherwise.
- Do not apply to enforcement action notices, assessment liens, or foreclosure proceedings.



# Promoting Communication *Owner Information Exchange*Be Creative. Be Practical.

- Consider the Size of Community.
- Consider the Nature of Community.
- Seek input from Association Members.



# **Promoting Communication Owner Information Exchange** Websites Social Media Bulletin or Message Boards Townhall Meetings **Open Forum**

Sandwich Boards/Signage

# Newsletters

- Establish a Policy that addresses:
  - Content
  - Editorial Policy
  - Advertising
- Regular Publication Schedule
- Distribution
- Community Information

# Websites

- Ensure Association Licensed
- Establish Policy that addresses
  - Content
  - Advertising
- Keep Current
- Offer Useful Links
  - Community Resources
  - Community Services
  - Community Associations Institute
  - Common Interest Community Board



# **Social Media Types**

- Blogs
- Twitter
- Facebook
- Listservs





# **Social Media Considerations**

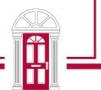
- Identify alternative means of communication.
  - Budget cost is money and time.
  - What can be improved?
  - What are other communities doing?
- Confirm cyber & other liability insurance is in place.
- Stay current on changes to laws impacting privacy.



# **Social Media Policy Considerations**

- What is the role of the virtual platform?
- Who is moderating & administering?
- What content will be published?
- Who has access to view, post and share content public or limited to community members?
- How will personally identifiable information be protected?
- Know and understand social media platforms security, rules for use, capabilities.





# DISCUSSION





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