

Association of Condominium,
Townhouse, and
Homeowners Associations



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OCTOBER 2016

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**LAST CHANCE FOR
NORTH EXPO!**

**See insert and page 7
for details on our
October 15 event
in Northbrook**

Best Practices for Adopting Rules and Regulations for Electronic Voting

By: Kat Formeller, Senior Counsel
Tressler LLP
Bolingbrook, IL

Legislation was enacted in January 2015 (Illinois Public Act 98-1042) which made changes to both the Illinois Condominium Property Act (“Condo Act”) and the Illinois Common Interest Community Act (“CICAA”) to allow for electronic notice and voting. Previously, in order to bypass the archaic way of voting, associations had to amend their Declaration and By-Laws which requires membership approval. Now, the board can adopt the appropriate rules to allow the association to use “technological means” to issue notices and collect votes from members. This article addresses some “best practices” for drafting, adopting and implementing rules for electronic voting.

In order for an association to conduct its voting electronically, the association must first draft and adopt a rule which authorizes the board to send out electronic notices to members of the association as well as allows members to vote electronically. CICAA does not specifically address the adoption of rules and regulations. Thus, for common interest community associations, the association’s declaration and bylaws will determine the appropriate process. As for condominiums, Section 18.4 of the Condo Act provides the procedures for adopting rules and regulations.

A rule for electronic notices and voting should define the “technological means” that the board deems will “provide sufficient security, reliability, identification, and verifiability” - - i.e. Electronic Mail (“email”) - - as required by Section 18.8(b) of the Condo Act and Section 1-85(b) of CICAA. The rule should also provide that the “technological means” of communications adopted by the board affords the association sufficient means of creating a record of those communications and collecting and tallying votes which the association can maintain, as required by Section 18.8(d) of the Condo Act and Section 1-85(d) of the Act.

A rule for electronic notices and voting should also be specific and include detailed procedures for how notices are to be sent as well as how voting is to be conducted. For example, the rule should state that voting by proxies is prohibited in board elections that are conducted electronically pursuant to Section 18(b)(9)(B) of the Condo Act and 1-25(i) of CICAA. Additionally, it may be helpful to include in the rule how the board will handle the receipt of both a paper ballot and an electronic ballot from the same member. If a member appears at a meeting and casts a ballot, the electronic ballot submitted by the member should be voided.

Continued on page 4



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Regulating Political Signs within your Association

By: Benjamin J. Rooney, Attorney
Keay & Costello, P.C.
Wheaton, IL

Whether we like it or not, over the past few months it has been impossible to escape the onslaught of political ads for the upcoming presidential election. These ads bombard us from every angle, whether it be from television, radio, or online. But for many of you, it does not end there. Owners in your community association are displaying political signs to show their support (or disapproval) of one candidate or another.

For community association boards looking to regulate these political signs, it is important to keep two principles in mind. The first is that any rule it adopts must be reasonable, nondiscriminatory and applied uniformly. Secondly, displaying a political sign, whether it be for a national, state, local, or community association election, is a form of speech. In this country, we have a long history of going to great lengths to protect all speech, particularly political speech. This is not only evidenced by both the United States and Illinois constitutions (which typically only apply to governmental actors), but by the Illinois Condominium Property Act, which specifically prohibits a board from adopting or enforcing a rule or regulation that “may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution.” While most agree that community associations can regulate signs, associations need to make certain that its rules are not unreasonably infringing on an owner’s right of political speech.

While other states have adopted laws defining how a community association may restrict political signs, Illinois has not. With the above principles in mind, we are left to speculate as to what types of



political sign restrictions a court would deem reasonable. When it comes to common elements or property owned by the association, outright prohibitions against erecting signs would likely be reasonable.

As for restrictions concerning the display of political signs on the owner’s property, or in areas exclusively controlled by a single owner (i.e., balcony or yard), the answers become less clear. An outright prohibition of political signs in these areas would almost certainly be deemed unreasonable. Most likely, reasonable restrictions concerning when political signs can be posted

would be deemed reasonable. For Example, Arizona law states that an association may not prohibit the display of political signs 71 days before the day of an election or later than 3 days after an election. Similarly, a reasonable restriction on the size and number of signs an owner may display on their property (or property the owner exclusively controls) would likely be enforceable.

Due to the great protections afforded to political speech, the lack of guidance in Illinois, and the passion that owners can have for, or against, the display of political signs, any community association considering the adoption of rules concerning political signs should consult its attorney prior to adopting them.



Pursuant to Section 18(b)(9)(B) of the Condo Act, Condo associations must adopt their rules for electronic voting at least 120 days before the board election. Common interest communities, however, do not have such a restriction. Once the rule is adopted, the association must obtain written authorization from its members who agree to participate in conducting elections via email or other technological means. If a member does not provide such written authorization, the association must, at its expense, conduct business with the person without the use of electronic transmission or other equivalent technological means.

Finally, the Condo Act and CICA provide certain provisions for the issuance of notices and instructions regarding electronic voting to members. Instructions for electronic board elections are to be issued to members not less than ten (10) and not more than thirty (30) days before the election meeting pursuant to Section 18(b)(9)(B-5) of the Condo Act and Section 1-25(h-5)(i) of CICA. Section 18(b)(9)(B-5) of the Condo Act and Section 1-25(h-5)(i) of CICA further provide that the notices/instructions should include the names of all candidates and must give the member voting through electronic or other technological means the opportunity to cast votes for candidates whose names do not appear on the ballot.

Contact your association's attorney with any questions regarding electronic voting and the proper procedures for same.



Letter to the Editor

Received September 12, 2016

Thank you for including our problem (*What's a Board to do About Abandoned Vehicles*) and attorney's answer in the July/August Newsletter. Between the time of my contact to you and the publication of the newsletter, our association attorney responded with a similar answer and specific language to adopt. We sent the proposed rules amendment to the owners, and less than a week later the offending homeowner removed his car. The board officially approved the amendment after waiting the requisite 30 days.

Thank you again for your action!

Editor's Note: Special thanks to Michael DeSantis of Gardi & Haught for providing legal response for the article referenced above.

Looking for guidance regarding an association issue? Email actha@actha.org and your question (and answer) may be published in a future issue of the ACTHA Newsletter.

Upcoming Events

HVAC Field Trip to the Ambassador House

Thursday, October 20, 7:00-8:30pm

Presenter: Mike Carpenter, Edwards Engineering

Location: Ambassador House Condo Assn

1325 N State Parkway, Chicago, IL

Navigating the Property Tax Appeal Process

Thursday, October 27, 7:00-8:30pm

Presenter: Patty Fortsas, Elliott & Associates, P.C.

Location: Countryside Bank

6734 Joliet Road, Countryside, IL

Insurance/Risk Management of Associations

Saturday, October 29, 9:00am-12:00pm

Presenter: Joel Davis, CAU Insurance

Location: Community Center

4455 Sauk Trail, Richton Park, IL

Call 312-987-1906 or visit www.actha.org to register

A MESSAGE FROM THE EXECUTIVE DIRECTOR

Important Change Regarding ACTHA Membership Dues

Dear Association and Commercial Members,

I want to make you aware of a recent administrative change impacting your association/company's ACTHA membership moving forward.

Effective January 1, 2017, all ACTHA memberships will cover the calendar year (January 1 – December 31) instead of the anniversary date of when your association/company joined. This change will align all ACTHA members to the same dues cycle while streamlining our internal business operations. It also allows members to submit dues payments early in their fiscal cycle, which for most members runs on the calendar year.

As part of this transition, the primary contact from your association/company will receive a modified dues invoice that will adjust the membership to the calendar year. For example, if your membership is due April 1, 2017, your association/company will receive a pro-rated invoice for 75% of your total dues rate to cover the period through 12/31/17. Moving forward, all ACTHA members will receive dues invoices for the following year in December, with additional reminders in January and February. The deadline for members to renew is March 1.

Please note that dues rates will not increase in 2017. Through strong financial support from our commercial members, ACTHA is able to extend affordable membership rates and nominal event pricing for association members. Did I mention that all owners may be included with your association membership, regardless if they serve on the board of directors?

Additionally, the ACTHA directory (which typically distributes in late fall each year) will now distribute in spring after our dues cycle is complete.

If you have any questions regarding this change or membership in general, please contact our office at 312-987-1906 or via email at actha@actha.org.

Thank you for your continued support of ACTHA!



Mark Swets, CAE

Executive Director

WELCOME!

New ACTHA Members (September 2016)

Association Members

Riviera Condo Assn, Glen Ellyn
Canterbury at Carillon HOA, Plainfield
Indian Ridge Lakes Condo Assn, Indian Head Park
Townhomes of Russet Oaks HA, University Park

Commercial Members

A. Schoeneman & Co. is one of the oldest and most respected family-owned public adjusting firms serving the Chicago area, exclusively representing policyholders in insurance claims.
Contact: Ron Schoeneman, 773-539-7446 (Chicago), 224-251-8446 (Suburbs), ron@aschoeneman.com

Custom Installations – A family owned and operated business located in Lake Forest, providing full service exterior remodeling in Chicagoland including roofing, gutter, siding and window installations.
Contact: Brad Hironimus, 847-932-4500, brad@custominstallations.com

Custom Installations is participating in ACTHA's North Expo on October 15! See next page for details.



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North Expo to Feature Stellar Education and Networking Opportunities

Join us in Northbrook for our next ACTHA event! Connect with board members, unit owners and quality vendors who serve community associations as well as leading industry experts addressing topics impacting today's condo, townhome and homeowners associations.

Exchange ideas with association board members

Find Solutions to the biggest issues impacting community associations

Meet representatives from legal, financial services, construction firms and more

North Expo | Sat., October 15 | 8am-1pm | Renaissance Chicago North Shore Hotel

Schedule of Events

7:30 a.m. Registration and Breakfast

8:00—9:00 a.m. Concurrent Education Sessions

IL Condo Act for Dummies—*John Bickley III, Attorney, Kovitz Shifrin Nesbit*

Are You Ready for Winter?—*Britt Fisher, Portfolio Mgr., FirstService Residential*
Matt Vukic, Express 11 Inc.

9:00—11:30 a.m. Trade Show

10:00—10:20 a.m. Mini Education Sessions (on trade show floor)

Reducing Liability for the Multi-Family Property

10:45—11:05 a.m. Mini Education Sessions (on trade show floor)

Benefits of Native Landscaping

11:30 a.m.—1:00 p.m. Concurrent Education Sessions

Don't Be a Fool: Rules & Regulations—*Marshall Dickler, Principal*

Dickler, Kahn, Slowikowski & Zavell
—*Tom Skweres, Regional Vice President*
ACM Community Management

How to Fund Your Project: It's Always About the Money—*Tony Dister, VP*

Community Advantage

Register by 10/12 and save \$\$!

To register, refer to the insert included with this newsletter.

Visit www.condoeducation.org for complete details

South Expo Recap

Over 200 people gathered at the Tinley Park Convention Center on Saturday, September 24, as part of ACTHA’s South Expo. The event featured 8 different education sessions addressing association-related topics and a trade show with nearly 40 vendors providing products and services. Breakfast included an informal meet and greet with State Senator Michael Hastings, who represents Illinois’ 19th District.

What were valued takeaways from the event? (Answers courtesy of our attendee survey)

“Opportunity to meet current and prospective clients in the south-suburban region”

“...the importance of having an attorney who is well-versed in condominium law!”

“Importance of Palm, rules and regs, ideas from other Board members”



Handshake Deal? Above: George Darling and the team at Total Roofing & Construction bond with Expo attendees. **Left:** An attendee gets answers from Chuhak & Tecson attorney (and ACTHA speaker) Jim Arrigo.

