



HindmanSanchez

Dealing With Disruptive Behavior

HindmanSanchez P.C. Attorneys at Law • Denver & Fort Collins

5610 Ward Road., Suite 300, Arvada, Colorado 80002-1310 Tel 303.432.9999 Free 800.809.5242 Fax 303.432.0999 www.hindmansanchez.com



Hindman Sanchez

Dealing With Disruptive Behavior

General Authority

Generally, the board of directors may deal with disruptive behavior under authority of the governing documents of the association. Many associations are required to conduct meetings according to parliamentary procedures set forth in the association's bylaws and rules. If your association does not have such requirements, it is a good idea to adopt a procedure for conducting meetings in order to cut short obnoxious and disruptive behavior. Some associations use Roberts Rules of Order as a source for maintaining orders; however, even if using Roberts, it is essential that you use such source in conjunction with, and not contrary to, your governing documents and the applicable statutes. If your governing documents do not have provisions against disruptive and harassing behavior, your association should amend its documents to include them. The association should also ensure that its governing documents contain procedures for reprimand, fines, suspension and even expulsion of unruly members during meetings.

Methods for Keeping Things Calm and Orderly

Announce Ground Rules: Prior to starting the meeting, the presiding officer should explain the ground rules for conducting the meeting. The officer should explain the meeting process and state if and when homeowner comments will be permitted. Under the Colorado Common Interest Ownership Act, board meetings, with the exception of executive sessions, are open to all members and the Board must allow homeowners to speak. If certain members tend to continuously disrupt or dominate homeowner forum, strict time limits and control techniques, discussed below, should be applied consistently throughout the meeting. Keep in mind, however, that many members are attending a meeting solely for the purpose of providing helpful and constructive suggestions. You should not discourage such contributions or, worse yet, inadvertently create homeowner apathy!

Time Limits for Speaking: More often than not, the Board must prepare itself for a heated, if not downright nasty, debate on a controversial topic. If such a topic is on your agenda, the Board should set limits on speaking time. In addition, rather than calling on raised hands during the meeting, the Board should provide a sign-up sheet for those who wish to speak. An ideal time limit is three to five minutes. The Board should also set a rule, which should be announced with the other "ground rules" at the beginning of the meeting, that all who wish to speak must have an opportunity to speak once before anyone can speak a second time. While the Board must allow for a reasonable number of people to speak to each side of an issue, this number will vary depending on the number of homeowners who wish to speak. It is reasonable to establish a shorter speaking time limit for those who wish to speak a second time or to rebut a previous comment. Keep in mind that the Board must allow a homeowner to speak before the Board takes formal action on any item under discussion. This opportunity to speak must be allowed in addition to any other speaking opportunities provided by the Board.

Controlling the Meeting: The chairperson of any meeting must embody the following qualities: organization, composure and, above all, the ability to remain calm, yet in charge, of the often frenzied mass of speakers. That familiar scenario in which a controversial topic causes respectful, courteous "friends" to degenerate into disrespectful, profanity-using, and even threatening "strangers" can be avoided. If faced with a particularly hostile or difficult member, the chairperson should first warn such member and call him or her to order. In the case of a particularly egregious breach of order, after numerous warnings the chairperson can direct the secretary to take down the words used by the disorderly member, and should

“name” the offender in such minutes (i.e., “Mr. X! The chair has asked you to refrain from offensive language three times, and yet you still refuse to comply.”)

Removing the Member: Removal should be the last resort. If an association cannot conduct business due to serious and/or continued disruption from a member, the Association may consider ordering him or her from the meeting. Such action, however, is not recommended unless absolutely necessary, as the removal of a member could have negative repercussions. A better alternative would be to adjourn the meeting until a later time rather than forcing a member to leave. For more information on dealing with disruptive behavior and harassment, please see our newsletter article entitled “Dealing with Harassment: How Board Members and Managers Cope” in Issue No. 2 of our Community E-ssentials. Archived editions can be found on our website at www.hindmansanchez.com