

TEN COMMON MISCONCEPTIONS ABOUT ROBERT'S RULE OF ORDER AND HOW THEY RELATE TO COMMUNITY ASSOCIATION MEETINGS

The following is an excellent overview about Robert's Rule of Order as related to association meetings. I have decided to share this in its entirety. The author, Mr. Richard DeBoest II, Esq. serves Southwest Florida holding seminars and is available for any questions or comments you may have. Mr. DeBoest can be reach at 941-334-1381 or rddesq@aol.com

Common Misconception #1

The only time the President of the association can vote at a Board meeting is to break a tie or an election.

Robert's Rules of Order do provide that the President of an assembly is only entitled to vote when the vote is by ballot or where the vote would change the result, i.e. break a tie.

However, in the community association context in almost all cases the President of the association is also a member of the Board of Directors. In essence he or she wears two hats, one as an officer of the corporation and one as a Director. Thus, at a meeting of the Board of Directors a President of an association who is also a Director has a fiduciary duty to vote on all issues properly before the Board.

Common Misconception #2

A Director may abstain from voting on an issue.

Robert's Rules of Order provides that a member who does not have an opinion on an issue may abstain from voting on the issue. However, in the community association context a Director may only abstain from voting if he or she has a legitimate conflict of interest directly related to the issue or subject being considered.

An example of a conflict of interest, which would allow a Director to abstain, would be if the Board was considering hiring the Director's spouse to be the manager of the association. Barring a direct conflict of interest, it is always improper for a Director to abstain. A Director asserting a conflict of the interest must state the nature of the conflict on record.

Common Misconception #3

An abstention counts as a "yes" vote.

An abstention does not count as a “yes” vote and in fact, is not counted at all. Robert’s Rules of Order and Florida law provide that a person who has not abstained because of an asserted conflict of interest is deemed to have agreed with the majority and thus cannot later claim to have been against the action.

If however, the Board is deadlocked because of abstention, then there is no majority and the motion fails.

Common Misconception #4

The Board of Directors may use secret ballots to vote on any issue they deem appropriate.

Actually, the only time it is appropriate for secret ballots to be used is when the Board is electing the officers.

Common Misconception #5

Members do not have the right to speak at meetings of the Board of Directors.

Under Robert’s Rules of Order, members of an assembly have the right to speak. However, this is not always the case at community association Board Meetings.

In the condominium context pursuant to 718.112(2)(c), Florida Statutes, members have the right to attend meetings of the Board and to speak about all items on the agenda. The Board may, however, adopt reasonable rules governing the frequency, duration, and manner of unit owner statements.

In the homeowner association context, however, while a member has the right to attend Board meetings, he or she does not have the right to speak unless the association documents give members the right to speak at Board meetings.

Common Misconception #6

All motions must be seconded.

Most motions do need a second in order to be considered by the Board. However, some motions do not need a second.

Types of motions that do not need a second include: questions of privilege (i.e. complain about the heat, noise, etc.), points of order (point out a rule violation to the chair), a call for division (requesting a voice vote to be verified by having members raise their hands), points of information (requesting more information about a topic under debate), and objections to consideration of a particular manner.

Common Misconception #7

All motions are debatable.

Robert's Rules of Order does not require that all motions be debated. Types of motions that are not debatable include: motion to adjourn, question of privilege, motion to table consideration of an issue, motion to end debate on a main motion, point of order, a call or division and a request for information from the chair.

Common Misconception #8

All meetings must be run according to Robert's Rules of Order.

This is not necessarily true. First and foremost there is no law that requires community associations to operate their meetings according to Robert's Rules of Order.

Often times, however, the community association Declaration, Bylaws, or Articles of Incorporation will require that meetings utilize Robert's Rules of Order. However, this still does not mean that every single technical rule must be followed to the letter. In fact, Robert's Rules of Order provides that smaller assemblies may operate with less formality.

This would certainly apply to community association boards, which generally have from three to seven Directors. Regardless of what degree of formality the Board utilizes, it is important to be consistent in the use and application of the rules.

Common Misconception #9

Without a quorum, nothing can be done.

In the absence of a quorum, the Board or the members at a members meeting may not transact business but they may take measures to establish a quorum, fix the time to adjourn, adjourn, or take a recess. Additionally, it should be noted that there is no quorum requirement for the election of Directors of a condominium association but at least 20% of the eligible voters of the association must cast a ballot in order to have a valid election.

Common Misconception #10

The Board of Directors can exclude members from attending the Board meeting by holding an "Executive Session."

According to Robert's Rules of Order, a Board may meet in "executive session" and thereby exclude members and keep the proceedings secret. However, in the community association context, the only time a Board may meet in executive session is when the

Board is meeting with the association's attorney to seek legal advice with respect to proposed or pending litigation.

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