

What CCIOA Says About Voting and Annual Disclosures

Voting

If you've never lived in a homeowners association before, you may be surprised to learn how much authority the association's Executive Board has in making decisions for the community. Sure, there are many HOAs whose governing documents provide for greater membership input on a variety of issues. But by and large, most HOAs delegate the majority of the decision making authority to the Executive Board.

This does not mean that the membership of an HOA is powerless - quite the contrary! One of the most important roles an HOA member undertakes is actively participating in the governance process by attending meetings and voting on community matters. Generally speaking, the Executive Board will make decisions regarding the day-to-day operations of the association. However, section 303(3)(a) of the [Colorado Common Interest Ownership Act](#) ("CCIOA") prohibits boards from unilaterally adopting certain amendments to the governing documents and requires owner approval for such revisions to be valid. Specifically, boards cannot act on behalf of the association to take the following actions:

- **Terminate the community**
 - At least 67% (or more) of all allocated votes in the Association must affirmatively agree to terminate the common interest community in a Termination Agreement. The declaration may have a percentage requirement higher than 67%.
 - For more information on terminating a common interest community, please see [Terminating a Colorado Common Interest Community](#) by Conner Wilden & Jerry Orten of the Community Association Law Firm Orten Cavanagh Holmes & Hunt, LLC
- **Elect members of the board (except to fill vacancies)**
 - See governing documents for election procedures.
 - [CCIOA](#) section 38-33.3-310(1)(b)(I)(A) requires that votes for contested positions on the executive board shall be taken by secret ballot.
- **Change qualifications of directors; Change powers and duties of directors; and, Change terms of the directors**
 - See governing documents for procedures to amend these items.

In addition to the above, the [Colorado Revised Nonprofit Corporations Act](#) prohibits boards from unilaterally amending their documents to change quorum and requires all quorum changes to be presented to the members for approval.

It may also surprise you that secret ballots are only required under the following circumstances:

- When the association's bylaws require the use of secret ballots;
- When voting in a contested board election (i.e., more than one candidate for the same position);

- At the discretion of the board; and,
- Upon the request of 20% of the homeowners present at a homeowner meeting.

Annual Disclosures

The HOA Information and Resource Center frequently receives complaints from homeowners in HOAs regarding a perceived lack of transparency by their association. One way to combat this notion is to ensure the association is complying with section 38-33.3-209.4(2), which provides a list of association information and records that must be provided to the membership annually.

An association must make the following information available to its membership within ninety days of any change:

- The name of the association;
- The name of the association's designated agent or management company, if any;
- A valid physical address and telephone number for both the association and the designated agent or management company, if any;
- The name of the common interest community;
- The initial date of recording of the declaration;
- The reception number or book and page for the main document that constitutes the declaration.

An association must make the following information available to its membership within ninety days of the end of each fiscal year:

- The date on which its fiscal year commences;
- Its operating budget for the current fiscal year;
- A list, by unit type, of the association's current assessments, including both regular and special assessments;
- Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- The results of its most recent available financial audit or review;
- A list of all association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed.
- All the association's bylaws, articles, and rules and regulations;
- The minutes of the executive board and member meetings for the fiscal year immediately preceding the current annual disclosure; and
- The association's responsible governance policies that were adopted under section 38-33.3-209.5 of CCIOA.

For more information please see the Colorado Common Interest Ownership Act and the Colorado Revised Nonprofit Corporation Act.