

## BOARD RELATIONSHIPS

### Loud & Clear

#### Improving Communication Improves Community Relations

BY LISA IANNUCCI

It's a truism that's been phrased many ways by many wise people: "A lack of transparency results in distrust and a deep sense of insecurity." That's the case in any number of situations, but it's especially applicable to the administration of a condo, HOA, or co-op community. Lack of clear, forthright communication between boards, managers and unit owners is one of the top perennial complaints association members have about living in their communities, whether they're small, self-managed buildings or sprawling suburban developments. As far as residents are concerned, being transparent means having a board that's open and honest, not secretive.

#### Crystal Clear

Not only do condo community residents like administrative transparency in their associations, Florida law actually demands it. According to that State Attorney General's Office website, "Florida began its tradition of openness back in 1909 with the passage of Chapter 119 of the Florida Statutes or the 'Public Records Law.' This law provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. Florida's Government-in-the-Sunshine Law was enacted in 1967. Today, the 'Sunshine Law' establishes a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities."

"Under Florida law, community associations have to be open to their owners with regards to the operations of the community," says Michael Hyman, an attorney and shareholder with the law firm Siegfried Rivera Hyman Lerner De La Torre Mars & Sobel LLP in Miami. "In the Sunshine Law, there's an openness policy that requires all meetings to be conducted in an open setting where all interested owners can come to the meeting and participate. The concept is that every owner has a right to understand how their community government is operating."

In the absence of transparency, mistrust tends to flourish, say the pros. "When the association representatives are not effective in their communication, dissent among the owners tends



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to increase," says Robert Kaye, managing firm member of Kaye Bender Rembaum in Pompano Beach. "When only those with negative messages about the association, the board, and/or management are communicating to the owners, and there is nothing from the association, owners may also tend to believe what they receive."

To improve transparency and communication, the Sunshine Law has three basic requirements: meetings of public boards or commissions must be open to the public; reasonable notice of such meetings must be given; and minutes of the meetings must be taken, promptly recorded and open to public inspection.

"Somewhere on the property there needs to be information on when the meeting is and what the meeting is going to be about," says Hyman. "Residents can participate, which means getting up and speaking on each agenda item." That doesn't mean that every meeting gets to be a marathon filibuster, however. "At our town meetings, residents have a certain set amount of time to talk about what they want to talk about," says Hyman. "Without those limitations, it has the

potential to get out of hand."

#### Getting Involved

Unfortunately, requiring open meetings doesn't always mean, "open the door and they will come," says Hyman. "The problem is that a lot of owners don't participate. They aren't in town, or can't be involved with what's going on in the community. It's in the best interest of the membership to have a full and open discussion as to what's going on, but people don't show up unless the issues are important to them - and in most cases, that has to do with an increase in taxes or a major project. However, the board should always be communicating in some format, whether through newsletters, blogs or email blasts."

Useful as electronic communication is however, state law also states that board members may not use media such as email, text messages, Facebook or even the telephone to conduct a private discussion about board business. The law says, "Board members may send a one-way communication to each other as long as the communication is kept as a public record and there is no response to the communication except at an open meeting." In

addition, any one-way communication should also be distributed by the board office so that they can be preserved as public records.

Joel Garcia, a licensed community manager in the Delray Beach area, says that in his client communities, the board works hard at being transparent with their residents by keeping them informed of everything, including upcoming projects. "In our associations, we have public meetings and disclose our current business ideas," says Garcia. "We maintain transparency by being up-front on what our thoughts and projects are."

For example, there was to be an expansion of a building in one of the HOAs in Garcia's portfolio. "There were some costs associated with it that the residents would have to pay with a special assessment," he says. "So we used a survey to inform the residents and see if there was an interest before we paid upfront consulting costs with architects and engineers. This last time was the third time we had surveyed them for the same project, and the result was that we didn't have enough information as to whether or not we should continue."