

Effective 5/9/2017

57-8a-226 Board meetings -- Open board meetings.

- (1) Except for an action taken without a meeting in accordance with Section 16-6a-813, a board may take action only at a board meeting.
- (2)
 - (a) At least 48 hours before a board meeting, the association shall give written notice of the board meeting via email to each lot owner who requests notice of a board meeting, unless:
 - (i) notice of the board meeting is included in a board meeting schedule that was previously provided to the lot owner; or
 - (ii)
 - (A) the board meeting is to address an emergency; and
 - (B) each board member receives notice of the board meeting less than 48 hours before the board meeting.
 - (b) A notice described in Subsection (2)(a) shall:
 - (i) be delivered to the lot owner by email, to the email address that the lot owner provides to the board or the association;
 - (ii) state the time and date of the board meeting;
 - (iii) state the location of the board meeting; and
 - (iv) if a board member may participate by means of electronic communication, provide the information necessary to allow the lot owner to participate by the available means of electronic communication.
- (3)
 - (a) Except as provided in Subsection (3)(b), a board meeting shall be open to each lot owner or the lot owner's representative if the representative is designated in writing.
 - (b) A board may close a board meeting to:
 - (i) consult with an attorney for the purpose of obtaining legal advice;
 - (ii) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings;
 - (iii) discuss a personnel matter;
 - (iv) discuss a matter relating to contract negotiations, including review of a bid or proposal;
 - (v) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or
 - (vi) discuss a delinquent assessment or fine.
 - (c) Any matter discussed at a board meeting closed pursuant to Subsection (3)(b)(ii) is not subject to discovery in a civil action in a state court under the Utah Rules of Civil Procedure.
- (4)
 - (a) At each board meeting, the board shall provide each lot owner a reasonable opportunity to offer comments.
 - (b) The board may limit the comments described in Subsection (4)(a) to one specific time period during the board meeting.
- (5) A board member may not avoid or obstruct the requirements of this section.
- (6) Nothing in this section shall affect the validity or enforceability of an action of a board.
- (7)
 - (a) Except as provided in Subsection (7)(b), the provisions of this section do not apply during the period of administrative control.
 - (b) During the period of administrative control, the association shall hold a meeting that complies with Subsections (1) through (5):
 - (i) at least once each year; and
 - (ii) each time the association:

- (A) increases a fee; or
 - (B) raises an assessment.
- (8) The provisions of this section apply regardless of when the association's first governing document was recorded.
- (9)
- (a) Subject to Subsection (9)(d), if an association fails to comply with a provision of Subsections (1) through (5) and fails to remedy the noncompliance during the 90-day period described in Subsection (9)(d), a lot owner may file an action in court for:
 - (i) injunctive relief requiring the association to comply with the provisions of Subsections (1) through (5);
 - (ii) \$500 or actual damages, whichever is greater; or
 - (iii) any other relief provided by law.
 - (b) In an action described in Subsection (9)(a), the court may award costs and reasonable attorney fees to the prevailing party.
 - (c) Upon motion from the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association has failed to comply with a provision of Subsections (1) through (5), the court may order the association to immediately comply with the provisions of Subsections (1) through (5).
 - (d) At least 90 days before the day on which a lot owner files an action described in Subsection (9)(a), the lot owner shall deliver a written notice to the association that states:
 - (i) the lot owner's name, address, telephone number, and email address;
 - (ii) each requirement of Subsections (1) through (5) with which the association has failed to comply;
 - (iii) a demand that the association comply with each requirement with which the association has failed to comply; and
 - (iv) a date by which the association shall remedy the association's noncompliance that is at least 90 days after the day on which the lot owner delivers the notice to the association.

Amended by Chapter 131, 2017 General Session

Amended by Chapter 284, 2017 General Session