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Reporters at Your HOA Meetings: Film at 11!

An HOAleader.com reader posts, "Two residents in our community of 200 decided to invite a reporter to a possibly agitated meeting. They did not inform anyone until the meeting was over and the reporter was trying to interview residents. This was an official members-only open meeting. Was this a proper move by these two individuals? Please advise; can the board fine them for this?"

Here we offer answers to the general question of whether a board can restrict reporters, how it enforces that restriction, and the idea of fining an owner for bringing a reporter to a meeting without notice.

Obnoxiousness Happens

This is so not cool! "Wow, they invited like a news reporter?" asks an incredulous Robert White, managing director of KW Property Management & Consulting in Miami, which oversees about 125 associations totaling 30,000–35,000 units.

This type of situation is something you likely won't learn about until it's too late. "You probably wouldn't find out until after it happened," predicts Steven Parker, president of FirstService Residential Nevada in Las Vegas, which manages hundreds of community associations. "And communications have already deteriorated dramatically when a resident is bringing in a reporter on the sly."

It's not just a reporter who can cause tension or disruption. "I've not had that specific situation come up," says Beth Grimm, an attorney in Pleasant Hill, Calif., who's practiced HOA law for more than 25 years, representing both associations and homeowners. "I've had boards call and ask, 'Can I bring my real estate agent' or somebody else, and I tell them, 'I don't suggest you do.'"

"I also had one situation that involved a four-unit association," adds Grimm. "The boyfriend of purported owner was a lawyer, and he'd bring in a tape recorder in his pocket and turn it on before the board started having me come to meetings. He'd secretly tape them and goad them into saying things they shouldn't be saying. When I got to a meeting, I asked if he was recording. He said yes, and I took the recorder away from him. I've had people do really obnoxious things."

The Rule Leans Toward Exclusion

That said, generally, association meetings are open only to owners or to owners and residents. "In Nevada, the meeting is open to residents, and technically the reporter shouldn't be there," says Parker.

"At least in Florida, HOA and condo association meetings aren't open to the public," explains Jed L. Frankel, a partner at Eisinger, Brown, Lewis, Frankel & Chaiet PA in Hollywood, Fla., who advises community associations. "These are members-only meetings, and there's no right for any nonparty to be there. Typically, that's not something most associations enforce. But if something comes up, boards ask those people to leave."

White agrees that restrictions aren't typically enforced. "We've had tenants come to meetings, along with unit owners' family members who don't live in the association," he says. "We don't ever tell them they have to leave."

If you anticipate a problem—or want to quash this potentially embarrassing problem before it occurs—you can create rules and enforce them. But decide how far you're willing to go to enforce the rules. "You can enforce them through a sign-in sheet," says Parker. "But typically nobody's checking to say that Steven Parker, who signed in, actually lives here."

But if you need to go that far, you should. "I'd suggest associations have a sign-in sheet," says Grimm. "I wouldn't want to say associations have to bring their security at meetings up to airport snuff. But I'd suggest more stringent checking when people check in. There's of course a difference between an association with 30 owners and one with 3,000 owners. If I were running a board, I'd require everybody to bring proof that that's who they are. I wouldn't tolerate somebody being that sneaky."

And don't hesitate to ask people to identify themselves. "Depending on what kind of meeting it is, if it's a membership meeting, you can take roll to see who's there," says Frankel. "If it's a board meeting, people can be asked who they are. That typically doesn't happen because not a lot of people attend; it's often the same 15-20 owners who show up every month. We've had situations where people have wanted to bring a court reporter. Owners have a right in Florida to videotape and audiotape, and different associations have handled that request in different ways."

No Authority to Punish

Imposing a fine on the owners who escorted this reporter into the meeting is probably out of the question.

"There's no basis to fine them in Nevada," says Parker. "You couldn't fine somebody for bringing in not so much a reporter but a nonresident in general."

That's also the case in Florida. "I don't think you could," says Frankel. "Is there a specific rule those owners broke? Even though it's a private meeting, I haven't seen any rules that say you're breaking a rule by bringing in someone who's not an association member. But going forward, the HOA may have a policy they don't have nonunit owners at the meetings."