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Ins and outs of a condo quorum

Daniel Vasquez - On CondosOn Condos

Barbara Myer recently learned that the board of directors of her 55-and-older **Delray Beach** condominium wants to lower the quorum — the minimum number of owners needed to decide a membership vote — necessary to elect board members or amend governing documents.

Currently, her community documents call for a quorum of 50 percent of membership, but the board wants to lower the number to 20 percent for board elections and all future document amendments.

Often it is difficult for South Florida's community associations to get high membership participation given large numbers of snowbirds and out-of-town owners, as well as those who have fallen into foreclosure or given up paying association fees.

Myer said she understands why her board would want to go in that direction. However, she wonders whether it is legal for a board to lower the quorum to less than a majority, or less than 50 percent? "If the quorum is 20 percent, that gives the board a lot of power," she said.

For help, I turned to South Florida attorney Jed L. Frankel, of Eisinger, Brown, Lewis, Frankel & Chalet.

Yes, Frankel says, community associations may lower the quorum requirement for a membership meeting, provided that the procedures established by the governing documents are followed. State statutes specifically authorize that the number may be less than a majority of the voting interests. Frankel adds that, these days, it is not unusual for a quorum to consist of less than half of the membership given the difficulties in getting people to attend such meetings.

Once changed, the quorum requirement would apply to all membership meetings, including those where amendments to the governing documents are considered.

As for electing board members, the quorum requirement has no bearing, Frankel says. Florida law provides that a membership vote is valid when 20 percent of eligible voters cast a ballot.

He recommends that any change in quorum requirements be thought out carefully, as most association business, including negotiation of contracts, staff decisions and approval of expenditures, is conducted by the board. Membership meetings are called to consider such things as waiving reserves, reducing the mandatory level of financial reporting and approving material alterations of common elements.

The good news is that lawmakers recently amended the statutes to allow associations with large numbers of units in delinquency in excess of 90 days or in foreclosure to suspend the voting rights of those unit owners. Those units with suspended voting rights are not counted toward the total number necessary to reach a quorum.