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Adjourning and Ducking into an HOA Executive Session: Can You Do It?

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Raise your hand if your board has done this: "Our board all of the sudden announced it was going into executive session, and they asked us to leave the room."

The question we get fairly frequently from readers is: Can they do that?

In this week's tip, we back up a little and give a snapshot of the process a board has to go through to get to executive session.

Your right to adjourn a board meeting and then to reconvene in private in an executive session depend on your state's law. Take Florida, for example. Florida's open meetings rules would prohibit boards from announcing on the spot the need to go into executive session. "[Executive sessions](#) are really contrary to all the rules of transparency we have here," says Alessandra Stivelman, an associate attorney who specializes in community association law at Eisinger Brown Lewis Frankel & Chaiet in Hollywood, Fla. "Under Florida statute 718.112, all board and committee meetings must be open except if the board's meeting with the attorney with respect to potential or pending litigation, to seek [litigation advice](#), and to discuss [personnel matters](#)."

"For an executive session, boards would still have to provide notice pursuant to the statutory requirements," adds Stivelman. "That means 48 hours notice for condo board meetings, and notice must be posted in a conspicuous place. The notice would also have to say there will be a closed meeting. I tell people to say as little as possible, so they should say something like, 'to discuss proposed or pending litigation' or 'to discuss personnel matters.'"

Stivelman says it's possible a board could plan a regular meeting and include notice that a portion will be closed. But she's never seen that happen. "I suppose you could have a regular board meeting and could figure out a way to put a closed item on the agenda," she explains. "And then you could continue the board meeting without the owners. But I've never seen it done that way. It's always, 'We're having a special meeting to discuss this pending or proposed litigation.' That way, you don't have owners there you have to remove."

We've also talked to experts in other states about the process permitted there. Find out more in our new article, [Getting to Your HOA's Executive Session, Step by Step](#).

Best regards,

Matt Humphrey

President