

Best Practices for Board Communications

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As we all know, Cooperative Boards' of Directors powers are statutory in accordance with the New York State Business Law. Board communications in Board meetings are private and each Board member is obligated to maintain confidentiality as fiduciaries of the Coop Corporation. In spite of these privacy issues, Boards can best serve their shareholders by being as transparent as possible. This is a tricky balance that often can use the assistance of an experienced Coop attorney or Managing Agent.

Good communication always starts with good records and good minutes of Board meetings. Good minutes will be a record of Board actions in the form motions and a resulting vote. Votes can be anonymous or you can list how Board members voted. This is entirely up to the Board.

Board minutes are not open for public viewing. However, shareholders often need to review Board minutes when they are selling their apartments. If minutes are not available for review a shareholder might have trouble selling their unit. Therefore, most Coop Boards do make shareholder minutes available for review in sale/transfer situations, although not required to do so by law. Additionally, it is important to make sure that the minutes are either redacted or there is a separate set up executive minutes for all privacy issues which are not given to the public for review.

In addition, many Coops have websites and newsletters, which are excellent forms of communication to their shareholders and help a buildings' reputation. A Coop Corporations' website and newsletter should only have basic information accessible by the general public. Items such as pictures of common areas; listing of amenities; address; history of the building etc... If the website contains organizational documents; bylaws; form leases; application forms and other items unique to the building, those items should only be accessible through a password only for shareholders.

The advent of emails as a Board tool of communication has brought greater levels of communication, but also a new level of exposure to Board members and others involved in email threads. As an attorney for many Coops I have come to the conclusion that emails can be the enemy. Too many Boards spend too much time giving their opinion in emails, very often on sensitive matters. These emails can be subject to a subpoena and can be used against the Coop Corporation if any litigation ensues. Emails can create a permanent written record of an entire conversation and many things can be transmitted that are misconstrued. Therefore, Board members need to keep email communications to a minimum. I encourage Boards to wait until the next meeting or do a conference call.

As stated throughout, Board members are volunteers who act as fiduciaries. Therefore, they need to be extra careful when communicating Board business to shareholders and other third parties. A Board needs to be transparent, but that does not mean every issue is discussed in an open forum with all to listen. Board members need to make important decisions and need to act in the Coop Corporations' best interests. Good communication is essential, but it must be practiced in the context of what is best for the Coop Corporation.

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Mr. Mazel graduated from St. John's Law School and received his B.A. from the State University of New York at Binghamton, where he graduated with honors. His practice has been devoted to real estate law, with extensive experience in cooperative and condominium law, litigation, and sales and acquisitions. Mr. Mazel counsels several dozen Cooperative and Condominium boards of Directors/Managers, which encompasses over 10,000 units of Coop/Condo housing, including many of the largest Coop/Condo Boards in the City of New York and the metropolitan area.

Mr. Mazel has served as an adjunct Professor at the New York Institute of Technology teaching the real estate paralegal course; has served as President of Glen Oaks Village Owners Inc., a 3,000 unit Cooperative in Queens, NY; he is a former member of the Committee on Cooperative and Condominium Law of the Association of the Bar of the City of New York and was the Chairperson of the Steering Committee for the Federation of New York Housing Cooperatives and Condominiums. Currently, Mr. Mazel serves as the Campaign Treasurer and as a legal advisor for Jon Kaiman, the Supervisor of the Town of North Hempstead and candidate for Nassau County Executive and is serving as the co-chairperson of the Cooperative/Condominium Law Committee of the Queens County Bar Association with his partner, Mark Hankin, Esq.



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