



## #245 HOA Homefront – How Open is Open Forum?

By Kelly G. Richardson, Esq.

*Dear Mr. Richardson:*

*I read your column most weekends with great interest. One subject I do not recall seeing handled recently is the right to speak at board meetings. Our association has a Homeowners Forum for owners. However, some owners also claim the right to speak on all agenda subjects, effectively co-deliberating with the Board. This would make an interesting subject for a future column.*

*J.L.*

*Oceanside*

Dear J.L.:

The Open Meeting Act at Civil 4925(b) requires all membership or open board meetings have a time for members to speak. A properly used open forum is a very valuable meeting feature. Some associations avoid open forum, while others have unrestricted open forum. Both extremes are unhealthy.

Except for closed sessions, members may observe board deliberation, but the law does not give members the right to participate. The directors are being held accountable for their decisions, have agenda packets, and have committed to come prepared. Those in the audience have not the liability, preparation or responsibility. That is why it is critical that attendees not participate in board discussions, but instead listen. Interrupting disrupts the board's discussion and interferes with the ability of other attendees to listen.

Open forum is the time for members to speak, and directors to listen. Outside of open forum, the board discusses while the members listen.

Consider these guidelines:

### **Directors:**

- Set reasonable time limits. Most associations allow 2 or 3 minutes per speaker. Have a timekeeper give members a "30 second warning" to help them.
- The law does not require speakers identify their topic in advance, so don't require it.
- Do not interrupt, argue with, or respond to the speakers during their time.
- Listen to the speakers, take notes, and demonstrate attentiveness to their concerns.

- Do not record open forum comments in the meeting minutes – comments are not action.
- Some owners may disagree or even criticize the board. Deal with it-- directors do not know everything, and the speaker might have a valid point.
- After open forum concludes, the chair should inquire if anything mentioned in open forum should be referred to a committee or management. If any questions can be immediately answered, then provide the answers.
- Be consistent. The Chair should not allow comments from the floor once open forum is closed, and also should stop directors from interrupting open forum remarks.
- Consider reopening open forum on issues of major importance or otherwise where the board desires member input on a specific topic.
- Do not discuss open forum topics. In open forum, members can discuss anything. Except for emergencies, the board only discusses agenda items.
- Adopt board meeting rules. Inform attendees how meetings are run, and set decorum standards.

#### **Association Members:**

- Open forum is for members, not tenants or other non-owners. If you need to communicate to the board, be there.
- Be organized. Your time is short. Focus on your main point and not everything you can think of.
- Address HOA issues, not global warming or high taxes.
- Don't bring a long list of questions and demand that each be immediately answered. It may take time to provide the requested information.
- Control your behavior. Yelling, cursing, insulting, or other abusive behavior is never acceptable.
- Outside of open forum, listen and don't interject. To deliberate board issues, run for the board!

Thanks for the question, J.L.