



RUGGIERI
LAW FIRM



MONTHLY NEWSLETTER

JUNE 2020



PAGE 2

Keep Your Bedsheets Off My Property – Restricting the Location of Clotheslines

By Frank A. Ruggieri

PAGE 3

Keeping Things Above Board – Closed Board Meetings & Notices

By Anthony T. Paris, III



Keep Your Bedsheets Off My Property – Restricting the Location of Clotheslines

FRANK A. RUGGIERI

WHILE ELECTRONIC COMMUNICATIONS ARE BECOMING MUCH MORE PREVALENT WITH MANY OFFICES MOVING TO DIGITAL FILES, MAILED NOTICES ARE STILL A NECESSITY.

A present dispute concerning a homeowner's installation of a clothes drying line is a reminder that 1) clotheslines are protected by Florida's Renewable Resources Act and 2) the lack of specifics and guidelines governing architectural modifications can lead to significant enforcement issues. In the case at hand, presently being litigated in Sarasota County, Florida, a homeowner installed a clothes drying line which was actually approved by the Association. However, upon the Board's discovery that the clothesline was visible from the street, they attempted to rescind their approval and further imposed fines against the homeowner. The homeowner has challenged the Association's actions, primarily claiming that the Association cannot enforce a nonexistent restriction concerning the location of clotheslines. The Community's documents contain no restrictions either in the recorded covenants or Board-adopted guidelines which restrict the location of clotheslines.

The case is a reminder that clothes drying lines are indeed protected by Florida's Renewable Resources Act and therefore cannot be prohibited in their entirety. However, many communities adopt guidelines governing clotheslines which require that they be

placed so as not to be visible from the street. The homeowner in the case in question is challenging the Association's enforcement actions primarily based upon the lack of any specific guideline governing the location of clotheslines. In other words, the homeowner is not claiming that the Association cannot restrict the location of clotheslines. Instead, the homeowner is claiming that the Association cannot mandate the location due to the lack of a specific restriction.

Could the homeowner somehow argue that a specific location in the backyard is protected as the "most effective" location for clothesline? I suspect this would be a difficult argument to make. Associations can and should adopt restrictions governing location of clotheslines and other exterior modifications to ensure that the Association does not end up in a difficult dispute concerning the location of an improvement with no restrictions or guidelines to rely upon.

As always, consult your Community Association counsel for specific guidance concerning your community. ■





Keeping Things Above Board – Closed Board Meetings & Notices

ANTHONY T. PARIS, III

ALL GENERAL MEETINGS OF THE BOARD OF DIRECTORS ARE OPEN FOR MEMBERS TO ATTEND. HOWEVER, IT IS GENERALLY UNDERSTOOD THAT THERE ARE INSTANCES WHERE THE BOARD OF DIRECTORS FOR A COMMUNITY ASSOCIATION IS ALLOWED TO HOLD A CLOSED MEETING AT WHICH MEMBER PRESENCE IS NOT PERMITTED.

There are only two types of meetings that serve an exception to the rule: (1) meetings of the Board of Directors and the association's attorney, with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice; and (2) meetings of the Board held for the purpose of discussing personnel matters. While these types of Board meetings are closed-door even to non-director members, notice to the membership of their occurrence is still required.

Both Florida's condominium and homeowner's statutes address the exceptions to the requirement for meetings of the Board to be open. However, neither set of statutes specifically provides an exemption to noticing closed Board meetings. This lack of exception is likely not an oversight on the part of the legislature, but rather a

purposeful retention of the statutes' notice requirements. Hence, if your Board is planning on meeting with its attorney or discussing personnel matters soon, don't forget to notice the closed meeting as you would any other. As a practical matter, the notice should state that the meeting is closed to the membership so that confused members do not show up and request to sit-in.

Finally, what about meeting minutes? The same concept applies to the minutes; you should keep them during these closed meeting and notate proper notice, quorum, who was present, and the timing of adjournment. Detailed notes of the discussion should not be included. Consult your association counsel for more information regarding the types of documents which may remain confidential in your association's official records. ■



UPCOMING EVENTS

ONLINE ZOOM

HOA Board Certification Class

June 18, 2020 | 5pm - 7pm

If you have any questions, email us at contact@ruggierilawfirm.com.

ORLANDO

111 N. Orange Ave.
Suite 725
Orlando, FL 32801

P (407) 395-4766
F (407) 890-5177

MELBOURNE

6767 N. Wickham Rd.
Ste. 400-H
Melbourne, FL 32940

P (321) 241-4770
F (321) 241-4771

CORRESPOND TO ORLANDO



RUGGIERI
LAW FIRM