

58-4612. Same; open meetings; executive session restrictions; copies of materials to owners; declarant control, special procedures. (a) Meetings of the board of directors and committees of the association authorized to act for the association must be open to the unit owners except during executive sessions. The board of directors and those committees may hold an executive session only during a regular or special meeting of the board or a committee. No final vote or action may be taken during an executive session. An executive session may be held only to:

- (1) consult with the association's attorney concerning legal matters;
- (2) discuss existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (3) discuss labor or personnel matters;
- (4) discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage; or
- (5) prevent public knowledge of the matter to be discussed if the board of directors or committee determines that public knowledge would violate the privacy of any person.

(b) For purposes of this section, a gathering of board of directors at which the board members do not conduct association business is not a meeting of the board of directors. The board of directors and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this section.

(c) Except as provided in subsection (i), during the period of declarant control, the board of directors shall meet at least two times a year. At least one of those meetings must be held at the common interest community or at a place convenient to the community. After termination of the period of declarant control, the board of directors shall meet at least once a year and such meetings must be at the common interest community or at a place convenient to the community unless the unit owners amend the bylaws to vary the location of those meetings.

(d) At each board of director's meeting, the board shall provide a reasonable opportunity for unit owners to comment regarding any matter affecting the common interest community and the association.

(e) Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the bylaws shall give notice of each board of directors meeting to each board member and to the unit owners. The notice must state the time, date, place, and agenda of the meeting and, except as provided in subsection (c) of K.S.A. 2016 Supp. 58-4611 and 58-4620, and amendments thereto, be given at least five days prior to the meeting date.

(f) If any materials are distributed to the board of directors before the meeting, the board at the same time shall make copies of those materials reasonably available to unit owners, except that the board need not make available copies of unapproved minutes or materials that are to be considered in executive session.

(g) Unless the declaration or bylaws otherwise provide, the board of directors may meet by telephonic, video, or other conferencing process if:

(1) The meeting notice states the conferencing process to be used and provides information explaining how unit owners may participate in the conference directly or by meeting at a central location or conference connection; and

(2) the process provides all unit owners the opportunity to hear or perceive the discussion and to comment as provided in subsection (d).

(h) After termination of any period when the declarant controls the association, unit owners may amend the bylaws to vary the procedures for meetings described in subsection (g).

(i) During the period of declarant control, instead of meeting, the board of directors may act by unanimous consent as documented in a record authenticated by all its members. The secretary promptly shall give notice to all unit owners of any action taken by unanimous consent. After termination of the period of declarant control, the board of directors may act by unanimous consent only to undertake ministerial actions or to implement actions previously taken at a meeting of the board.

(j) Even if an action by the board of directors is not in compliance with this section, it is valid unless set aside by a court. A challenge to the validity of an action of the board of directors for failure to comply with this section may not be brought more than 60 days after the minutes of the board of directors of the meeting at which the action was taken are approved or the record of that action is distributed to unit owners, whichever is later.

(k) This section shall take effect on and after January 1, 2011.

History: L. 2010, ch. 116, § 12; July 1.