

OPEN PUBLIC MEETINGS

All meetings at which a board takes a binding vote are required by law to be open to all owners and advance notice of such meetings must be given as provided by law. The laws governing Open Public Meetings in planned real estate development associations can be found in N.J.S.A. 45:22A-46 or for condominiums in N.J.S.A. 46:8B-13a and N.J.A.C. 5:20-1 et seq.

Advance notice, as prescribed by N.J.A.C. 5:20-1.2(b) shall mean written notice, at least 48 hours in advance, giving the time, date, location, and, to the extent known, the agenda of the meeting. The notice shall be posted prominently in at least one place on the property that is accessible at all time to all unit owners and must be filed with the person responsible for administering the business office of the association. In addition, it is to be mailed, telephoned, telegraphed, or hand delivered to at least two newspapers that have been designated by the governing board or by the association to receive such notices. Condominium association by-laws may prescribe additional or alternative methods of providing notice, which provide an equal or greater prospect that unit owners will receive it. Mailings directly to owners, for example, are permitted, as is hand delivering a copy to each unit door.

There is no law administered by the Association Regulation Unit that mandates how often open public meetings are required to be held. The by-laws of an association may establish guidelines, which must be adhered to. An open public meeting must be held when there will be binding votes taken.

Minutes of open meetings must be taken and copies made available to unit owners prior to the next open meeting. Associations are not obligated to mail minutes to owners. It is satisfactory if the minutes are available at the next meeting.

Open Public Meeting requirements regarding board meetings (as opposed to general membership meetings) do not guarantee a right to participate, only to observe. Participation is at the board's discretion. Moreover, the board may legitimately exclude or restrict attendance at meetings dealing with certain matters, such as litigation, personnel actions, or any matter the disclosure of which would constitute an unwarranted invasion of privacy. However, even though certain matters may be discussed in a closed session, any binding votes on the matter must be taken at a public meeting.

The Association Regulation Unit within the Planned Real Estate Development section has the power to ensure that an association complies with the open public meeting requirements. We request adherence to the mandated insertion of Open Public Meeting (OPM) requirements into an association's bylaws. However, even if the OPM requirements are not inserted into an association's by-laws, the law requires associations to comply with them. This office will take the necessary measures to ensure compliance by the association.

If you feel your association has not adhered to the Open Public Meeting requirements, please fill out the enclosed form and mail it to the address listed on the form. Please also include a brief explanation of why you feel your association has not adhered to the OPM requirements.

For further information on either the Planned Real Estate Development Full Disclosure Act, N.J.S. 45:22A-21 or the Condominium Act, N.J.S. 46:8B-1, you should look under the heading 'Statutes' at www.njleg.state.nj.us.