



## CONDOMINIUM EXECUTIVE BOARDS

By: James Orlando, Associate Attorney

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The scope of a particular condominium board's authority is determined by the association's bylaws and declaration, subject to the restrictions, duties, and powers specified in the statutes. In performing their duties, board members must exercise care and loyalty to the association.

### QUESTION

Summarize the powers and duties of condominium executive boards.

### SUMMARY

The Common Interest Ownership Act (CIOA) requires the unit owner association of a condominium or other common interest community to have an executive board ([CGS § 47-243](#)). CIOA authorizes an executive board to act in all instances on the association's behalf, except as provided in the declaration, bylaws, or specific limitations in CIOA ([CGS § 47-245](#)).

CIOA specifies certain duties and authority for condominium boards, such as the requirement to annually adopt proposed budgets for unit owners' consideration. It also prohibits boards from taking certain actions, such as determining board members' powers or terms of office.

Below, we summarize (1) the general scope of board authority and (2) specific duties, powers, and restrictions on board action. If you would like more details about particular aspects of the law, please let us know.

### BOARD AUTHORITY – OVERVIEW

CIOA requires an association's bylaws to specify the powers and duties of executive board members, as well as the powers the board may delegate to other persons or to managing agents ([CGS § 47-248](#)).

CIOA specifies several powers of unit owner associations (see, e.g., [CGS § 47-244](#)). Many of these powers can be vested in the board. These include, among other things:

1. adopting and amending rules (subject to certain restrictions discussed below);
2. collecting common expense assessments;
3. imposing charges or interest for late payments, or fines for violations of the association's governing instruments;
4. hiring managing agents and other employees, agents, and independent contractors; and
5. regulating the use and modification of common elements.

CIOA also (1) grants executive boards specific responsibility or authority regarding various matters and (2) imposes certain limits on board authority. These matters are discussed below.

## **SPECIFIC BOARD POWERS, DUTIES, AND RESTRICTIONS**

### ***Budgets and Special Assessments***

CIOA requires executive boards, at least annually, to adopt proposed budgets for consideration by the unit owners. It also allows boards to propose special assessments at any time. The board must provide a summary of these proposals to unit owners. For annual budgets and certain special assessments, the board must schedule a unit owner vote (with or without a meeting) to consider the budget or assessment. Generally, the measure is approved unless a majority of all unit owners votes against it. Among other exceptions, certain special assessments take effect without unit owner approval ([CGS § 47-261e](#)). ([PA 14-215](#) (§ 8) makes technical changes to this statute.)

CIOA exempts board members from criminal liability for alleged violations of the state building or fire safety code or a municipal health, housing, or safety code when the (1) board proposes a special assessment to cover the cost of repairs needed to ensure compliance with the codes and (2) unit owners vote to reject the assessment ([CGS § 47-253\(e\)](#)).

### ***Loan Agreements***

Before entering into a loan agreement on the association's behalf, the board must provide certain information about the loan to unit owners and give them a reasonable opportunity to submit comments to the board.

If the board proposes to assign its right to future income as security for the loan, then the assignment is generally approved only if a majority of unit owners votes for it. The declaration can (1) restrict the board's authority to take this action or (2) require more than a majority vote for approval ([CGS § 47-261e](#)).

### ***Board Meetings***

CIOA sets various requirements regarding board meetings. For example, the board must meet at least twice a year. It must provide unit owners with notice of board meetings, and those meetings must be open to the unit owners and their representatives except during executive sessions.

The board may hold an executive session only during a regular or special board meeting, and no final vote or action may be taken during an executive session. An executive session may be held only for certain reasons (such as discussing labor or personnel matters or consulting with the association's attorney concerning legal matters).

At each board meeting, the board must provide a reasonable opportunity for unit owners to comment regarding any matter affecting the common interest community and the association. Copies of materials distributed to the board before the meeting must be made 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.

Instead of meeting, the board may act by unanimous consent as documented in a record authenticated by all members, and the secretary must promptly give notice to all unit owners of any action taken by unanimous consent ([CGS § 47-250](#)).

[PA 14-215](#) (§ 1) requires the minutes of executive board meetings to indicate how each board member voted on any final action the board proposed to take, unless the board approved the action unanimously or without any member objecting. This provision takes effect October 1, 2014. Existing law sets other recordkeeping requirements related to board meetings ([CGS § 47-260](#)).

### ***Enforcement Actions; Hearings***

***General Authority.*** Subject to certain conditions, the board can determine whether to take enforcement action for violations of the association's instruments (such as the declaration and bylaws), including imposing sanctions or bringing a legal action ([CGS § 47-244\(g\)](#)).

***Proceedings Alleging Construction Defects.*** Subject to certain procedures, the board can determine whether and when the association may institute a proceeding against the declarant (developer) or an employee, independent contractor, or someone else providing labor or materials to the declarant, alleging construction defects in the common interest community ([CGS § 47-261f](#)).

***Hearings.*** With two exceptions, before an association can bring an action or institute a proceeding against a unit owner other than a declarant, it must schedule a hearing during a regular or special board meeting. (The requirement does not apply to actions to (1) prevent immediate and irreparable harm or (2) foreclose a lien for an assessment or related fines.) The board must make its decision within 30 days, and must consider the oral or written testimony of the unit owner or his or her representative.

CIOA also allows a unit owner, other than a declarant, to request a hearing before the board to enforce a right granted or obligation imposed by CIOA, the declaration, or bylaws against the association or another unit owner, other than a declarant. The hearing must be held during a board meeting and within 45 days after the request. Within 30 days after the hearing, the association must notify the unit owner of the board's decision.

CIOA specifies that the association's failure to comply with these hearing requirements does not affect a unit owner's right to bring an action to enforce a right or obligation under CIOA, the declaration, or bylaws ([CGS § 47-278](#)).

### ***Rulemaking***

CIOA requires an executive board, at least 10 days before adopting, amending, or repealing any rule, to give all unit owners notice of (1) its intention to do so and provide the text of the rule or the proposed change and (2) the date when the board will act after considering unit owners' comments.

CIOA also sets certain parameters and limits regarding association rules. (These provisions apply to association rulemaking, whether adopted by the board or in some other manner).

The law requires each rule to be reasonable. There are also specific provisions that apply to particular types of rules, including those affecting construction and design standards; flag displays and election signs; assembly; and behavior in residential units.

For example, the association can adopt rules affecting the use of or behavior in residential units only to:

1. implement a provision of the declaration;
2. regulate any behavior or occupancy that violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners; or
3. restrict leasing to the extent the rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make first mortgages on units or purchase such mortgages (any leasing restriction must be recorded in the town's land records) ([CGS § 47-261b](#)).

### **Other Matters**

In addition to the matters discussed above, CIOA grants executive boards specific authority or responsibility regarding various other matters, including the following.

1. The board can determine the amount of commercial general liability insurance the association must maintain, subject to minimum requirements in the declaration ([CGS § 47-255\(a\)](#)).
2. In certain circumstances, the board can decide whether the association's property insurance must cover improvements unit owners installed in their units ([CGS § 47-255\(b\)](#)).
3. The board can determine that a proposal by adjoining unit owners to relocate the boundaries between their units is unreasonable ([CGS § 47-231](#)).
4. The board can require the association to hold a special meeting of unit owners ([CGS § 47-250\(a\)](#)).
5. The board can vote to bring a foreclosure action against a unit or adopt a standard policy for bringing foreclosure actions ([CGS § 47-258\(m\)](#)).
6. The board must promptly notify unit owners concerning certain legal proceedings in which the association is a party ([CGS § 47-244\(c\)](#)).
7. The board, or an officer it designates, must encourage association and board members and people providing association management services to attend, when available, a basic education program. Program fees can be designated as a common expense and paid from association funds in whatever manner the board determines and the association approves, as long as it is consistent with the bylaws and CIOA ([CGS § 47-261a](#)).

### **Prohibited Actions**

CIOA prohibits an executive board from:

1. amending the declaration, with certain exceptions;
2. terminating the common interest community (but the board can bring a court action seeking to terminate the community, under certain circumstances, if substantially all the units have been destroyed, are abandoned, or are uninhabitable) ([CGS § 47-237\(m\)](#));

3. electing board members (except the board may fill vacancies for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of board members); or
4. determining the qualifications, powers and duties, or terms of office of board members ([CGS § 47-245\(b\)](#)).

Board members, or people seeking election to a board, are prohibited from accepting any item of value based on the understanding that doing so will influence the member's or candidate's vote, official action, or judgment ([CGS § 47-245\(j\)](#)).

There are other restrictions on association authority under CIOA, which also apply to the board acting on the association's behalf. For example, an association may suspend any right or privilege of a unit owner that fails to pay an assessment, but may not:

1. deny a unit owner or other occupant access to the owner's unit or its limited common elements;
2. suspend a unit owner's right to vote or participate in association meetings;
3. prevent a unit owner from seeking election as a director or officer; or
4. withhold services the association provides to a unit or a unit owner if this would endanger anyone's health, safety, or property ([CGS § 47-244\(a\)\(19\)](#)).

## **BACKGROUND — COMMON INTEREST OWNERSHIP ACT**

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut on and after January 1, 1984 ([CGS § 47-200](#) et seq.). Several CIOA provisions also apply to common interest communities created in Connecticut before January 1, 1984, but do not invalidate existing provisions of the communities' governing instruments. Common interest communities created before that date can amend their governing instruments to conform to portions of CIOA that do not automatically apply ([CGS §§ 47-214, 216, 218](#)).

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