



Nonprofit Law Alert

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NEIGHBORHOOD ASSOCIATIONS: NEW LAW EXPANDS MEMBERSHIP, NOTICE REQUIREMENTS

Neighborhood associations represent the interests of their members – generally residents and business owners located in the neighborhood. Until now, however, the Minnesota Nonprofit Corporations Act limited eligibility to vote at neighborhood association meetings to certain individuals. New changes to the law permit neighborhood associations to amend their Bylaws to allow any resident or business owner in the neighborhood to vote at association meetings, and add flexibility to notice requirements for certain association meetings.

THE PROBLEM

While many neighborhood associations think of themselves as quasi-governmental entities, they are in fact typically incorporated as nonprofit corporations under the Minnesota Nonprofit Corporations Act. As a result, they are subject to that Act's rules about membership, voting and elections.

Under current law, a person cannot be made a "member" of a nonprofit corporation without taking some affirmative step to establish membership. Nonprofit corporations *must* maintain a list of current members eligible to vote in elections, *must* give notices to the members on that list, and *only* those members on the list are eligible to vote. The Board of Directors can *close* the membership list to new members prior to the annual meeting. Many neighborhood organizations fail to comply with these rules, leaving them vulnerable to election challenges. (If no member challenges the elections before the meeting adjourns, however, the elections are generally considered valid).

THE SOLUTION

The Legislature has updated the law to allow neighborhoods to automatically treat all residents and business owners in the neighborhood as members. As of August 1, neighborhood associations can amend their Bylaws to incorporate these new rules. If the Bylaws are not amended, the generic nonprofit corporation rules described above still apply. Here are the provisions that can now be included in the organization's Bylaws:

Members

In their Bylaws, neighborhoods can now define members with voting rights as any of the following:

- neighborhood residents
- neighborhood business and property owners and their employees
- employees of nonprofit organizations and governmental entities in the neighborhood

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Gray Plant Mooty's Nonprofit Organizations Practice Team represents many types of nonprofit organizations including complex, multi-entity health care systems, public and private colleges and universities as well as start-up organizations, private foundations for individuals and corporations and community foundations.

This Nonprofit Alert is not intended as legal advice, which may often turn on specific facts. Readers should seek specific legal advice before acting with regard to this subject.

The neighborhood can require individuals to produce documentation showing their status, and can allow vouching by another member for a person who can not produce the needed documentation.

If a neighborhood association amends its Bylaws to include these new provisions, it would no longer need to maintain membership lists for purposes of determining which members are entitled to vote, and could no longer close memberships prior to an election.

Notices of Meetings

Neighborhood associations can also add flexibility to their notice requirements for association meetings where Directors will be elected or the Articles or Bylaws amended. The Bylaws can provide for meeting notices by any of the following:

- posting at public buildings in the neighborhood
- publishing in the community newspaper having the largest circulation in the neighborhood
- publishing in the neighborhood organization's own newsletter, if the newsletter is distributed to all occupied buildings in the neighborhood
- delivering a written notice to all households in the neighborhood

The notice must be posted or published at least ten but not more than thirty days before the meeting and include the date, time, and place of the meeting.

OTHER REQUIREMENTS STILL APPLY

The rest of the Minnesota Nonprofit Corporations Act still applies to neighborhood associations. This Act covers such issues as conflicts of interest, Director duties and liabilities, use of electronic communications to provide notices and make decisions, and committees. In addition, most neighborhood associations are exempt from federal income taxes, and are therefore subject to Internal Revenue Service rules for exempt organizations. Finally, neighborhoods that receive funding from governmental sources are generally subject to obligations and conditions associated with that funding. Neighborhood association Directors and leaders should be aware of these rules affecting their organizations and ensure that they are operating in compliance with them.



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