



# Connecticut C.I.O.A.\*

## \*Common Interest Ownership Act

Eric H. Witlin, J.D.  
Ernest C. Trefz School of Business  
University of Bridgeport  
Bridgeport, Connecticut

### Abstract

The Connecticut Common Interest Ownership Act a/k/a "C.I.O.A.," was enacted by this state's legislature in response to numerous problems associated with the function and management of condominium associations. Specifically, problems of how and when to provide notice to association members, the appropriateness of public board meeting agenda and content and the ability of association members to participate and be heard in connection with an association's activities.

The C.I.O.A. was to accomplish not only protecting the rights of individual association members, but also to standardize practices and procedures among all associations within the state in order to provide uniformity in dispute outcomes.

Prior to the enactment of the C.I.O.A. each association had its own set of rules in regard to foregoing, placing undue burden on 1) individual association members in understanding them and 2) the state's courts in interpreting them.



### Applicability

Title 47 section 216 governs the applicability of the C.I.O.A. and states:

"(a) Except as provided in section 47-217, sections 47-202, 47-204, 47-205, 47-206, 47-218, 47-221, 47-222, 47-223, subsections (b), (d), (i) and (j) of section 47-236, sections 47-237, 47-240 and 47-244, subsection (f) of section 47-245, sections 47-250, 47-251, 47-252, 47-253, 47-255, 47-257, 47-258, 47-260, 47-261b, 47-261c, 47-261d, 47-261e, 47-270 and 47-278, to the extent necessary in construing any of those sections, apply to all common interest communities created in this state before January 1, 1984; but those sections apply only with respect to events and circumstances occurring after January 1, 1984, and do not invalidate existing provisions of the declaration, bylaws or surveys or plans of those common interest communities."

The numerous sections referred to are the most substantive of the C.I.O.A. and were intended to make clear that to the extent of any conflict between the C.I.O.A. and the existing declaration, bylaws and rules or regulations of the association, the provisions of the Act would govern as to events which occurred after January 1, 1984. However, the last portion of 47-216 states "[they] do no invalidate existing provisions of the declaration, bylaws or surveys or plans of those common interest communities."

This language has caused considerable confusion among laypersons and professionals alike. To understand the language the way it was apparently intended, one must turn back the clock to January 1, 1984. At that time, a decision was made with respect to when the provisions of the Act would apply (1/1/1984). Most of the issues at that time that were being dealt with by associations throughout the state occurred **before** then. It was necessary therefore to make clear that 47-216 did not invalidate existing bylaws, because those bylaws were still applicable with respect to most of the issues then being dealt with by associations.

Without this perspective and understanding, many associations that were established prior to the Act still implement their existing bylaws under the mistaken belief that they are still valid, when in fact, there are almost no issues any association faces now that occurred prior to January 1, 1984.

### Budget ratification

One of the more difficult problems in managing an association from a financial perspective is the need for association members to ratify a new budget on an annual basis. Many association members are inclined to ignore formal notices of a vote on the matter, resulting in under participation and failure in the attempt to implement a new budget.

Section 47-261e specifies that the Board of Directors may "approve" of an annual budget to then be submitted to the Association for vote and ratification. However, the statute also specifies that the proposed budget is deemed approved unless affirmatively rejected by more than a fifty (50) percent interest of the association. In other words, under participation no longer impacts the ability of an association's Board to implement an annual budget.

### Notice

The C.I.O.A. specifies those functions of the association's Board of Directors which must be done publically and also specifies the manner in which notice must be given.

Prior to the C.I.O.A., the notice provisions varied from one association's declaration and by laws (the rules set out by the condominium developer) to another. The form of notice under the C.I.O.A. must be in writing and either delivered (personally or by mail) or publically posted in an area conspicuous enough to ensure notoriety within the association.

The C.I.O.A. also requires this notice be given, depending on the function, a specified number of days prior to the event. Like many of the provisions of the C.I.O.A., violation of the requirements of notice renders any action taken at a board function or meeting voidable by any association member. However, in recognition of the difficulties related to "proof" of notice, any objection raised based on a failure of required form or procedure must be within thirty days of the action complained of. This allows for efficient operation and continuity in the case of inadvertent mistake.

### Amendments

The "constitution" of a condominium association is its Declaration and "Bylaws". What happens if it should be determined that either or both should be amended? The C.I.O.A. requires **affirmative** consent of members that represent two-thirds of the interest of the association.

Affirmative consent is not the same process as with regard to budget ratification. The amendment proposals must be supported by a two-thirds interest. If not enough members participate, the amendment is not ratified. Note that "two-thirds" of the condominium's interest may or may not be two-thirds of the number of members because condominiums assign a specific percentage of interest to each unit within the association and that these percentages are often unequal.

The amendment process has a special rule when it comes to loan financing. An association is required to have the affirmative consent of members comprising an eighty - percent interest in the condominium in order for any lien to be placed on the common elements. This effectively requires the same consent with respect to any loan the association obtains since favorable financing will invariably involve a security interest in the common elements to be given to a lender.