



## **KEOUGH & MOODY WEBINAR**



### **HOW TO ENSURE YOUR ASSOCIATION MEETINGS ARE NOT AS ENTERTAINING AS A TELEVISION SITCOM**

**May 3, 2023, at 12:00 p.m.**

**2 hours of continuing education credit will be provided**

Join Gabby and Dawn on Wednesday, May 3, 2023, 12:00 p.m.-1:30 p.m., for our next webinar, “How to Ensure Your Association Meetings are not as Entertaining as a Television Sitcom.” In this webinar, Gabby and Dawn will tackle how out of control association meetings have gotten and can get. Many boards and managers are facing confrontations and animosity within their communities that they have never seen. These issues can create frustration, stall productivity and business from being conducted, create burnout, and instill fear. They also can leave those in attendance shocked that this is happening within their community and that they are not watching a reality show. Often, there are signs that the community meetings are headed in this direction before they spiral out of control. In this webinar, Dawn and Gabby will identify those red flags that may be waving in front of the board and management, signaling the path ahead. They will also discuss what to do to keep things in control and what to do to resume control. The presentation will also include real-life examples that will likely make you laugh, but help you to learn how to not be so entertaining during a meeting!

Registration is **required**. Please register in advance for this webinar below.

**“How To Ensure Your Association Meetings Are Not As Entertaining As A Television Sitcom” is approved by Community Association Managers International Certification Board (CAMICB) to fulfill continuing education requirements for the CMCA® certification.**

**When registering, please be sure to include your first and last name to ensure receipt of your continuing education certificate.**

**PERSONAL COMMENTARIES DURING OPEN BOARD MEETINGS:  
Avoiding Unnecessary Headaches and (Potential) Legal Actions Based  
on Association Representative**



We've all been there, whether it be in our personal or professional lives; said something that we wish we could take back. Understandably, and as the common saying goes, nobody is perfect. Yet, it is also an important reminder that in the community association setting, especially at open meetings of the board or when responding to emails, we must be careful with what is said. Comments or statements made by board members or the community association manager may not only be used against the individual making the remarks, but also against the association. Recent Illinois case law reminds us of the potential liability to a community association when too much is said in an open board meeting.

In a case decided last year by the appellate court, the Plaintiff filed a complaint for defamation, false light, and breach of contract against the association and a board member. The Plaintiff acted as both the association's attorney and its property manager from 2010-2016, at which time the association relieved him of his duties. In 2017, during a board meeting which was posted on the association's website and on YouTube, the board member and the rest of the board indicated that the board did not want someone who was drunk (Plaintiff) showing up at a board meeting nor managing their association. When asked at the meeting how the board member knew Plaintiff was drunk, the board member responded by saying in the open meeting, "Because he stood right at my face and he breathed at my face which was unbelievable[.] I wanted to pass out. And he could not speak clearly. . . . the man did not belong managing us[.] [T]hank God he's not anymore."

In another case decided by the appellate court in January of this year, a Plaintiff, who was an ordained minister and owned a unit within a condominium association, filed a lawsuit alleging defamation, false light, and intentional infliction of emotional distress against the management company of the condominium building. Plaintiff was a vocal proponent of making the condominium building smoke-free. One of the Defendants, the assigned property manager, sent an email stating that Plaintiff "brings a certain religious zeal to her opinion and thoughts about what should be done" as it relates to the building being smoke-free. Further, the manager sent another statement to the alderman, warning him that if he is contacted by the owner " . . . his

head will spin like the Exorcist.” Based on this statement, the Unit Owner alleged she was defamed.

Our office often attends meetings and we have heard statements by members of the board that should not have been made. Recently, one of our attorneys attended a membership meeting that was called for the purpose of the unit owners to challenge the recently adopted budget. Prior to voting, the owners were complaining that they were in the dark about most of the association’s expenses and that they believed the board of directors was not communicating with the owners in the open meetings as required by law. In response, the board president wanted to convey to the owners all that the board has been doing, including the communication given to the owners. Yet, instead of talking about what “we” the board have done, the president talked only about what “I” have done. This only led to the owners feeling more frustrated and believing that the association was being run by one person.

Similarly, during a recent board meeting, also attended by one of our attorneys, the board of directors was considering the adoption of amended rules and regulations. As required, the owners presented their questions and comments about the proposed rules to the board. In response to the comments being made, a board member said it was time to amend the rules as “parents these days do not watch their kids anymore and we do not want children just running all around—this is not a place for children.” She also stated, “We need to keep tenants—or at least certain kinds of tenants—out of our community.”

While not all statements made in an open meeting will become the subject of a lawsuit, such statements can have an adverse effect on the community. Statements like the ones above can destroy the board’s or management’s credibility. They can unnecessarily create tension and division within a community. They are examples of commentary being made during a board meeting that could have easily been avoided.

So, what can you do when you see your fellow colleague or board member say something out of line?

1. If you are in an open meeting, suggest to the president that the board take a 5-minute break and then talk to the board member. Have the board member either recant what he said, or perhaps another board member should address the situation.
2. If the meeting is virtual, have the host mute the person.
3. After the meeting, be sure the board addresses the statement and how it should be avoided in the future.
4. When addressing sensitive topics, in advance of the board meeting, the board should prepare as a team and remind one another what should not be said and perhaps designate one spokesperson.
5. If an inappropriate email response is sent, apologize to the recipient and let them know it should not have been sent.

Remember, conduct yourself in a professional manner during a board meeting and leave the personal commentaries and opinions out of the meeting.

---

**But we've always done it this way...**



More than ever managers and members of the board are receiving emails from unit owners. These emails include questions about what is going on within the association, complaints related to violations, and maintenance requests. Like the statements made in open meetings, often statements in emails are not kind and can be considered an admission. We often hear that an owner is bombarding management and the board with emails and we are asked, what can we do?

The following steps should be followed upon receipt of the email:

1. Before responding, the writer should confirm he does know the answer to the question being asked. If not, the response should simply be “I will look into this.”
2. Before responding, the writer should confirm that this is information an owner is entitled to receive and if so, it should be given.
3. Before responding, the writer should consider if the question is of a general nature that the information should be given to all members of the association. If so, the writer should let the owner know that the question was received and is one that will benefit the community, so it will be addressed at the next open board meeting. Then, the board should answer the question in the meeting for the benefit of all owners.
4. Before responding, the writer should consider if the written response can be misconstrued. If so, it should not be sent and perhaps a phone call or meeting is warranted.
5. Before responding, the writer should consider how many times he has tried to address this topic with the owner and the issue remains open. If it has been multiple times, the response should not be sent and perhaps a phone call or meeting is warranted.
6. Before responding the writer should consider the language used within the email and the tone of the message. If it is threatening litigation, the response should not be sent and further discussion with the board and/or legal should occur.
7. Before responding, the writer should remind himself that he does not have to respond to every email.

Remember, every effort should be made to communicate with owners. Yet, email communication should not replace discussion and communications during an open board meeting. Further, there may be a time to tell the owner that the matter is closed and no further emails related to the matter will be addressed. Lastly, not every email should be treated the same way by management and/or the board. Remember, write every email as if it will be read in a deposition—do not be too quick to press “send” and respond.

Just because you always responded to every inquiry by owners, does not mean that you have to continue with this practice, especially during these changing times.

We often provide orientations for boards of directors to help remind them of what it means to serve on the board. During these orientations, we do address the best ways to communicate with one another and the members of the community. If this orientation would be helpful for your board, please contact Dawn Moody or Gabby Comstock to schedule this virtual orientation.

Thank you for your continued support. If you have any questions, please let us know.

Chuck Keough ([cmk@kmlegal.com](mailto:cmk@kmlegal.com)), Dawn Moody ([dln@kmlegal.com](mailto:dln@kmlegal.com)), and  
Gabby Comstock ([grc@kmlegal.com](mailto:grc@kmlegal.com))

## Write Keough & Moody a Review!

Google My Business (GMB)

<http://bit.ly/2m830Py>

[Facebook](#)

Naperville

630-369-2700

Chicago

312-899-9989

[www.kmlegal.com](http://www.kmlegal.com)

[info@kmlegal.com](mailto:info@kmlegal.com)

### STAY CONNECTED



**Keough & Moody, P.C.,  
114 East Van Buren, Naperville, IL 60540**

