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Effective January 1, 2008, the Open Meeting Act (Civil Code § 1363.05) has been amended to require that agendas be included with the notices of open Board meetings posted in the common area or delivered to the owners four days in advance.

While owners may discuss anything during open forum, the Association's directors, managing agents, and other Board agents or staff members are prohibited from discussing any item not listed on the disclosed agenda, with certain specific exceptions. Attached is a chart of these exceptions.

Boards will need to be careful to list on its agenda any item that it reasonably anticipates it may need to discuss at the upcoming meeting. Note that this statute only applies to agendas for open meetings, not for executive session meetings.

You can view the full text of the revised Open Meeting Act on my website at www.jhmlawoffice.com.

Civil Code Section 1363.05
Summary of Comments Allowed at Open Board Meeting
on Topics Not Listed on Agenda Disclosed to Owners

Party Speaking	Discussion re: Item Not on Agenda	When Allowed
The Board and its agents	<ul style="list-style-type: none"> - Brief response - Question for clarification - Brief announcement - Brief report on their activities 	In response to owners' statements or questions at the meeting
The Board and its agents	<ul style="list-style-type: none"> - Question for clarification - Brief announcement - Brief reports on their own activities 	On their own initiative
The Board	<ul style="list-style-type: none"> - Provide a reference or other resources for factual information - Request a report back to the Board at a subsequent meeting - Direct someone to place item on a future agenda - Direct someone to perform administrative tasks necessary to carry out the Open Meeting Act's agenda restrictions 	Addressed to the Board's agents
The Board	Discuss or take action on an item of business not on the agenda, but only after the Board openly identifies it to the owners attending the meeting	<ul style="list-style-type: none"> - At the meeting, a majority of the directors present determine that an "emergency situation" exists - This is defined as being where reasonably unforeseen circumstances require immediate attention and possible action by the Board, and where it is impracticable to provide four-day notice
The Board	Discuss or take action on any item of business not on the agenda, but only after the Board openly identifies it to the owners attending the meeting	<ul style="list-style-type: none"> - At the meeting, at least 2/3 of the directors present agree there is a need to take immediate action and that the need for action came to the Board's attention after the agenda was posted and distributed - If 2/3 of the directors are not present, this Board vote must be unanimous - (This differs from an "emergency situation" in that the Board's lack of knowledge may not have been due to "reasonably unforeseen circumstances")
The Board	Discuss or take action on any item of business not on the agenda, but only after the Board openly identifies it to the owners attending the meeting	The item appeared on an agenda that was posted and distributed for a prior Board meeting that was held 30 or fewer days before the current meeting and, at the prior meeting, action on the item was continued to the current meeting