

Report on Public Policy Position**Name of section:**

Real Property Law Section

Contact person:

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[SB 0549](#) (Basham) Housing; condominium; bylaws; revise to include rights of co-owners regarding board of directors meeting, and require notice of the meetings. Amends secs. 54 & 90a of [1978 PA 59](#) (MCL [559.154](#) & [559.190a](#)).

Date position was adopted:

July 17, 2010

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

18

Number who voted in favor and opposed to the position:

14 Voted for position

0 Voted against position

0 Abstained from vote

4 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

This bill, among other things, would permit co-owners of a condominium association to attend all meetings of the board of directors. The only exceptions to this open-meetings requirement, as provided in the proposed bill, are as follows:

1. To consider the dismissal, suspension, or disciplining of; to hear complaints or charges brought against; or to consider a periodic personnel evaluation of an officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue is considered only in open sessions.

2. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.
3. To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the association of co-owners.
4. To review the specific contents of an application for employment if the candidate requests that the application remain confidential. However, all interviews for employment shall be held in open sessions.

The Section opposes this bill for the following reasons:

1. Directors of condominium association boards are not public officials making public policy decisions, which is the main reason for requiring governmental bodies to have open meetings.
2. There is concern that having open meetings will deter owners from volunteering to serve on boards because of the increased possibility of the board members having to deal with belligerent co-owners.
3. The action items often considered by condominium association boards are personal in nature, such as collection of delinquent assessments or enforcement of restrictions, and the co-owners involved often want their personal information protected.
4. Material changes to the condominium documents already require a super-majority of the co-owners to approve; thus the board will not be able to effect material changes without participation of the co-owners. In short, nothing is gained by requiring open meetings.
5. Directors are subject to certain duties and responsibilities whether the meeting is open or closed; thus, there is nothing gained by having open meetings.
6. The relationship between co-owners and the board of directors is by way of a private contract and the legislators should not be interfering with that contractual relationship.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report. <http://legislature.mi.gov/doc.aspx?2009-SB-0549>