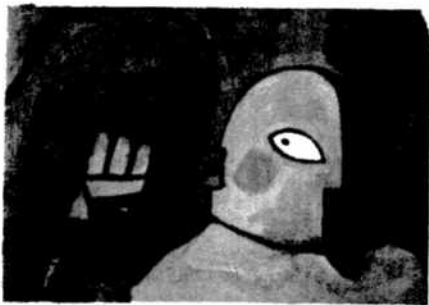


# Openly Discussing Volunteers

By Daniel Brannigan

**PROBLEM:** Executive sessions are necessary for discussing contracts, delinquencies, legal matters and personnel. In fact, in most states, that's all executive sessions can be used for. When a board needs to discuss potential volunteer or committee member appointments and their relevant credentials, the rules become a little vague. Is it appropriate or necessary to discuss potential volunteers and committee members in executive session? Does that group fall under the protected realm of personnel? Examining a particular volunteer's strengths, weaknesses and history with the association or rules violations in an open meeting could greatly embarrass that person. In addition, board members may not be as candid about a potential volunteer's qualifications if the discussion is taking place right in front of the candidate. Would a truly open discussion make the board or association vulnerable to a defamation of character suit? An association board has a right to go to executive session because of privilege and privacy protection. Does a homeowner's right-to-know trump privacy protection when the board is discussing volunteer and committee appointments?

**SOLUTION:** Many managers believe that any appointment, disciplinary or human-relations issue that is confidential, including those involving volunteers, can be discussed in executive session as a personnel matter. Under California's Davis-Sterling Common



Interest Act, executive sessions are privileged; and the only topics that can be discussed are litigation matters, contract negotiations, disciplinary hearings, personnel issues and delinquencies.

"Volunteers are looked upon as volunteer 'staff' by the board," says Nancy J. Davis, PCAM, manager of PGA West Fairways Association in La Quinta, Calif. "As manager, I recommend to the board that once they have reached a decision (in executive session), to place the item on the agenda for regular session and act on it in the open meeting so owners know

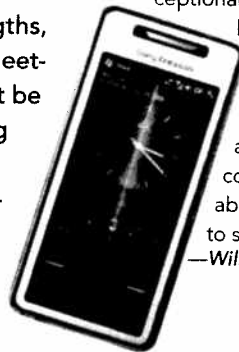
what the board is doing."

Many legal experts may not agree with that approach. Attorneys often recommend that their association clients discuss volunteer and committee appointments in open session, keep to the facts and refrain from discussing personalities. But to debate the true merits and qualifications of an individual, board members may not be able to keep discussions to just the facts.

A few years ago at Silver Lakes Association in Helendale, Calif., that's just what happened. "During the open meeting, an appointment came up about someone that one of the board members didn't particularly care for," says Sandy Wojecki, CMCA, AMS, general manager of Silver Lakes. "Before the board member could finish the derogatory statement, I had to stop the meeting."

From that point forward, Wojecki has always held volunteer appointment discussions in executive session. By doing that, the board avoids any chance of accusations of defamation of character. Of course, the final decision and appointment of volunteers and committee members is made in open session.

Not only will the board be more comfortable and more open discussing



Sony Ericsson has produced exceptional handsets, but no phone in the company's history has caused more of a stir than the XPERIA X1a, a smart, touch screen-based device. Even though this one is lagging behind most other smart phones in terms of time to market, the X1a is still a formidable rival. The quality of the 800 x 480 resolution display is striking. The operating system is Windows Mobile 6.1. The device has exceptional battery life, a top-notch Web browser and great productivity apps. From the menus to the players, the X1a is an excellent multimedia experience and would be a great traveling companion, even abroad. At about \$800, you might first want to see what else is available.

—William F. Hession, CMCA, AMS, PCAM

an appointment in executive session, but a closed-door discussion will also be more comfortable for the candidate. The prospect of a public examination of character may be enough to scare away all potential volunteers—and let's face it, associations need all the volunteers they can get. **CM**

Daniel Brannigan is editor of Community Manager.

## PROBLEMSOLVERS

State requirements for executive session vary widely, but they generally follow one of two approaches. Some states prohibit a board from always meeting in a closed session by requiring occasional open meetings. Others compare community associations to governmental bodies and have "sunshine laws" requiring open meetings. What boards are permitted to do during executive session also varies considerably. Some may only be able to discuss issues, while others can vote on motions.

If your state statutes require you to discuss volunteer appointments in open session, assign a code number to each person being considered. This allows the board to speak candidly without embarrassing anyone or indicating who is being discussed.