

## RULES TO LIVE BY #1

### HB 175

# Condominium Records Examination Clarified

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**Originally, Utah Code §57-8-17 was passed to make the actions of condominium associations in providing basic services more transparent to its owners by requiring management committees to keep detailed and accurate records of receipts and expenditures affecting the common areas and making such records available for examination by unit owners.**

More recently, however, members of the Utah Legislature received several complaints that many of the basic services that were supposed to be provided by condominium associations were not being fulfilled when the developer remained in control. Furthermore, some of the developer controlled associations would not allow unit owners to examine records of expenditures under the belief that Utah Code §57-8-17 did not apply until after control of the association was turned over to the unit owners.

In response, the Legislature passed HB 175 which amended Utah Code §57-8-17 to clarify that developer controlled associations are subject to the same record keeping requirements as management committees after control of an association is turned over to the unit owners. Furthermore, HB 175 provides that any unit owner must be allowed to inspect the records of expenditures for the common areas within 14 days after a unit owner makes a written request for examination.

## RULES TO LIVE BY #2

### SB 117

# Amending Percentage Capped (Non-condominium)

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**Do your governing documents mandate a 75%, 80% or even 90% vote to pass an amendment? Is it impossible for your Association to get the attention of 75-90% of owners, let alone their affirmative vote? Thanks to SB 117, the requirements for amending governing documents should be clearer and easier for Associations.**

SB 117 amends Section 104 of the Utah Community Association Act (Utah Code Ann. §57-8a-104) and states that after developer control, “the vote required to adopt an amendment to governing documents may not be greater than 67% of the voting interests.” Similar language, with some caveats, has been contained in the Community Association Act and the Condominium Ownership Act since 2007.

However, SB 117 clarifies the question that has long been left open for Associations - does the 67% cap apply retroactively to governing documents? According to SB 117, the answer is yes. The bill specifically states that it applies to governing documents that were adopted both before and after May 10, 2011. Further, the bill states that it applies “notwithstanding a provision of the governing documents requiring a greater percentage.”

As such, Associations can safely amend their governing documents with simply 67% of the voting interests, or a lesser percentage if allowed by the governing documents. Section 104 continues to exclude from the 67% cap amendments affecting only lot boundaries or members’ voting rights.

With all the changes the Utah Legislature made this session, Associations are going to need to amend their governing documents to bring them into compliance with the new laws. SB 117 should help Associations in this process.