

UPDATE ON PROXIES

As previously reported, the Detroit office of HUD has issued a statement that the provision in many coop bylaws that restricts who may carry a proxy in the case of married couples is violative of the Elliot-Larsen Civil Rights Act. That much we agree with. However, HUD has suggested that Boards may correct this situation by adopting an amendment to the bylaws. That is patently incorrect. Here is what we suggest:

* Only your membership can amend the bylaws - even when, as here, the existing language violates the state law. So we suggest that Boards prepare proper language, consistent with the current law, and offer it at the next annual meeting for membership approval - with strong endorsement from your coop attorney with the support of the Board.

* Until then, we recommend that you follow the state law since it supercedes the unlawful aspects of the current bylaw provision. Thus, at any special membership meetings, and at the annual meeting of the members, we believe that it is proper to disregard the language in the bylaws that offends the state law, and follow that state law instead.

You should, of course, consult with your cooperative attorney for an opinion on this matter, and for help in preparing the amendment.