

A Publication of

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WELCOME ABOARD



While the firm practices in several areas of the law, such as commercial litigation in both the state and federal courts, bankruptcy and personal injury, the majority of the practice is devoted to the representation of condominium associations. This issue, the firm is proud to announce the following clients to our growing list of association clientele: Villas of Golfview, Grace Villas II and Paradise Villas in Kendall, Bonavista in Aventura, Plaza Towers South in Hallandale, and Cambridge Towers and Pecan Tree Condominiums in Hollywood, If we don't say it enough, we can assure you that we appreciate the business and the confidence placed in the firm.

WE'RE ON THE WEB



If you would like to obtain a current profile of the firm, log on to the firm's web address at:

www.lawyers.com/condominiumlaw

where you can view a biography of the firm's attorneys, a current list of condominium clients, a list of published articles by the firm's attorneys and more. The firm's new web site will be ready in the next thirty (30) days and will be located at:

www.condo-laws.com

YEAR-END-CHECKLIST



Now is the time to ensure that the Association is ready to proceed with their annual elections. Many condominium by-laws require the annual meeting and election to occur in the first three months of the year. Unfortunately, we find that many condominium associations easily forget this requirement. However, unless the Association has voted to opt-out of the required statutory method, the Board must give notice of the election at least 60 days in advance. Unit owners who want to run for the Board must give notice of their intention to run at least 40 days prior to the election, and the Board must then send out a second notice of election and the ballots with the candidates names listed in alphabetical order. Unit owners cannot vote by proxy for Board members. The actual election is not necessary if there are fewer candidates than there are vacancies on the Board.

There is no quorum requirement, however at least 20% of all eligible voters must cast a ballot in order to have a valid election. Also, the Board should appoint an election committee composed of non board members and non candidates to count the actual ballots and otherwise oversee the election.

The newly elected Board should hold their organizational meeting immediately following the election, in order to decide who will become the Association's President, Vice President, Secretary, Treasurer, and any other officer as allowed under the association's bylaws.

MATERIAL ALTERATIONS



Generally speaking, material alterations cannot be made to the common elements of the condominium, by either the Board or a unit owner, unless approval is obtained from the unit owners in the manner outlined in the declaration of condominium or by-laws. If these documents are silent in this regard, 75% of all unit owners must vote in favor of the alteration. Examples of material alterations include changing the color of the building, placing a satellite dish on the common elements, replacement of a chatahoochee pool deck with paver bricks, installation of a pool heater and conversion of a game room into an office for the condominium's manager.

THE DUTY TO REPAIR

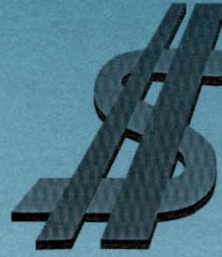


Often times, unit owners are under the misconception that should a common area pipe burst, or a common area roof leak and cause flood damage to their unit, the association is automatically liable for the unit owner's damages. This simply isn't always the case. Unless a unit owner alleges and proves negligence on the part of the association in failing to maintain the common elements, the unit owner cannot recover for the damages caused to the unit. The unit owner would need to prove that the association knew or should have known that the roof or pipe was broken, failed to take necessary action to correct it, and as a result of the failure, the unit owner eventually suffered damages.

AMENDMENTS

In some older condominiums, many Boards of Directors believe that just because their declaration of condominium was written many years ago, it is somehow "out-dated" and is no longer applicable. On the contrary, the terms of the declaration are still in effect unless they have now been overruled by a subsequent state or federal statute. Generally speaking, if the declaration hasn't been amended in a few years, the association should amend the provisions on interest and late fees, prohibitions against children, amendment procedures, the screening process and transfers of units.

CONDO QUIZ COLUMN



Prudent Peter is the President of Purple Place Condominium. The condominium currently has an operating account with \$6,000.00 and a reserve account with \$7,000.00. The two accounts each earn a paltry 3% interest rate at the condominium's current bank. However, Prudent Peter is now advised by Popular People's Bank that if Peter opens up an account with a minimum \$10,000.00 investment, Purple Place Condominium will receive a 6% interest rate. Prudent Peter transfers Purple Places' operating and reserve accounts totaling \$13,000.00 to Popular People's Bank, where they are combined into one account and now earn 6% interest rather than the previously earned 3%.

Question: Did Prudent Peter act proper or did he make the cardinal sin of commingling operating and reserve funds?

Answer: Peter acted proper. Pursuant to Fla Stat. 718.111(15) reserve and operating funds can be commingled for investment purposes as long as they are accounted for separately and that the combined account balance may never be less than the amount identified for reserve funds.

GETTING INVOLVED



The Northeast Dade Coalition is comprised of approximately 100 different condominium associations located in Northeast Dade County. Member associations meet approximately every six weeks to discuss condominium related issues. Guest speakers routinely include elected officials, attorneys, manager's, accountants and businesses that serve the condominium community. If your association hasn't joined the Coalition please contact its President, Paul Libert at 305-933-9775. We can assure you that every meeting is fun, educational and a great breakfast buffet is enjoyed by all.

The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.