



Condominium Law Q&A

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Question – If a unit owner enclosed his unit balcony without association approval and, in the process, caused damage to the balcony slab, who is responsible for the cost of repair, the unit owner or the association?
S.A., Jensen Beach

Answer – The unit owner causing the damage.

Question – I live in a 171 unit condominium. Our current holiday decorating committee, “the only committee,” was formed and is headed by one of the board members. They have decided that in their decorating scene no Menorah or Christmas tree will be displayed in the lobby. We’ve had a tree and Menorah since 1973. Much to the dismay of the members, all our complaints and letters to management and the board have fallen on deaf ears. Can the board, in their grand scheme of things, make a decision like this which affects every member in the building, despite our requests to display a Menorah and Christmas tree for the holidays. Feelings between the board and the membership are strained as it is. This decision is not helping matters any. M.J., Fort Lauderdale

Answer – I was listening to a talk show host on the radio who was lamenting about how we have regressed from the days when we all were “Americans” to a nation of “hyphenated” Americans -- “African-Americans,” “Jewish-Americans,” “Latino-Americans,” etc. In the rush to be politically correct and not offend anyone, we have apparently offended everyone. The

United States Supreme Court has affirmed the right of governments to display holiday scenes with both Christmas Trees and Menorahs. I personally see no reason why boards cannot do likewise.

Question – Our complex has 178 units. About 40% have installed hurricane shutters. Our board of directors plan to change our docs to require installation of shutters by all owners. Currently, the docs state only the type of shutters. It is realized that to change the docs will require a majority vote of the owners. My question is – can the board of administration force owners, who purchased their units under the old provisions to install shutters now? Several owners contend that old-timers should be grandfathered in and be exempt from installing shutters if they choose not to. J.U., Cocoa Beach

Answer – It depends on if your community is a condominium or a homeowners association. The Condominium Act authorizes the association, upon approval of a majority of the unit owners, to make the installation of hurricane shutters mandatory. The Act further provides that unit owners who have already installed code compliant shutters are to receive a credit against their share of the assessments for monies already spent in the installation of their shutters. The Homeowners Association Act is silent on the installation of hurricane shutters, and since the maintenance and insurance of homes within a planned development is the responsibility of the

homeowner, the Association would not have an interest in regulating same.

Question – In response to vandalism done by some teens, instead of taking action against the vandals, the board has elected to padlock the community room, thus depriving the owners of its use. Is it lawful for the board to deprive the unit owners of the use of the bathroom, exercise rooms, kitchen, sauna and library, in this manner? H.B.S., Cocoa Beach

Answer – Although the board does have the right to establish the hours of operation of the amenities, the board's action must pass the test of reasonableness. I concur with you that, rather than penalize all owners for the actions of a few, the board should put up surveillance cameras or increase security to catch the perpetrators, and ensure that the hours in which the amenities are open maximize usage by the unit owners. ■

Gary A. Pdiakoff is a founding principal of [Becker & Pdiakoff, P.A.](#) and has served as its President since the inception of the Firm. He is on the Board of Governors of the Shepard Broad Law Center of Nova Southeastern University where he is an Adjunct Professor, teaching Condominium Law and Practice.

Mr. Pdiakoff is co-author of [Florida Condominium Law and Practice](#), [The Florida Bar Continuing Legal Education](#), 1982, and author of a national treatise, [The Law of Condominium Operations](#), West Group, 1988. Mr. Pdiakoff can be contacted by emailing gpdiakoff@becker-pdiakoff.com