



Condominium Law Q&A

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Question – I enjoy your weekly column. My question is: What is the status of hurricane shutters that have been permanently added to a building? This is work that I had done with permission of the condo association and with proper municipality building permits to the outside unit of my condominium. Am I, the unit owner, responsible for the outside shutter enclosure boxes once they are installed, or is it the condo association's responsibility? In particular, the horizontal roll-up shutters are enclosed in a box attached to the outside of the building when they are in the up position. Our five story (35 unit) building is being painted and the ends of the box enclosures have peeled. My fourth floor outside end unit has six windows shuttered. I feel that the shutter boxes, or at least the end places, should be painted with the rest of the building. The condo association says it is the unit owner's responsibility. I will be interested in your opinion in this matter since it must affect a wide range and number of installations. W.J.S., Cape Canaveral

Answer – The maintenance of hurricane shutters installed by unit owners is the responsibility of the unit on which they are installed. Maintenance of hurricane shutters installed by the association, pursuant to a vote of a majority of the unit owners, is the responsibility of the association, and a common expense of the association. What is less clear is whether the association or the unit owner is responsible for the cost of removal and replacement of shutters installed by a unit owner which must be removed by the association during the

repair of the condominium. There are conflicting opinions on this. I am of the opinion that the better position is that it is the obligation of the unit owner who installed the shutters.

Question – I live in a condominium of just over 100 units. There are two or three owners living here that, contrary to our documents, insist on planting plants, trimming plants and even removing plants at their discretion, without the benefit of board approval. One of these owners has told me directly that he is intentionally trying to interfere with some owners' view of the river. The condo board seems to have no effect. My question, if an owner plants something without board approval, do I have the right to remove it? Just what recourse do I have as an owner? G.W., Cocoa Beach

Answer – No. No unit owner has the right to act for or on behalf of the association. On the other hand, the board should not permit any unit owner to make modifications, including installing or trimming plants or other landscaping maintenance, to the common elements.

Question – I own a home in a resident owned community. It has an amazing view of the Intracoastal Waterway. I am one house back. We all have 40-44 feet homes, the first home was a 40 ft home which allowed me my view. Now, it's a 52 foot home. We paid a lot for our home because of the view and, now, most of it is gone. Our community

has rules regarding this, but she got a form signed by 2 of 7 board members -- the president and one other. Do they have that kind of power? Help. P.O., Daytona Beach

Answer – Plain and simple, the law in Florida is that one does not have a right to a view. This question comes up all the time when individuals buy units in a condominium along the ocean, only to have someone else build an adjacent building which blocks their view or casts a shadow on their pool. Other common causes of lost views are the development of golf courses and changes in landscaping caused

by natural growth of trees and/or other foliage. Then, there were the dozens of inquiries following the recent hurricanes of lost privacy caused by the destruction of fences and landscaping. I am aware of shifts in the sand caused by a hurricane, which created a beach where there was none previously, eliminated the beach, and even created an entirely new island. When these developments occur during the site plan approval process, neighboring residents, through the exertion of public input and political pressure, can cause changes in set-backs, landscaping and height restrictions to minimize the impact of the new development on the community. ■

Gary A. Pdiakoff is a founding principal of [Becker & Pdiakoff, P.A.](http://www.becker-poliakoff.com) 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.

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