



Condominium Law Q&A

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Gary A. Poliakoff, JD

gpoliakoff@becker-poliakoff.com

TEL: 954.987.7550

FAX: 239.433.5933

Question – Our homeowners association board held a meeting without notifying association members. They indicated it was an organizational meeting and that they did not need to notify the association in general. They held another meeting, first calling it an emergency meeting for which no notification was needed, citing the following: “...notice of special meetings must be posted 48 hours in advance, except in an emergency.” (our covenants and restrictions and State Statutes). To me and others in the association, the underlined words indicate there may not be 48 hours to post in an emergency, but posting should still occur. They also said it was another organizational meeting. We do know one other person who was not on the board attended this meeting. When the board was questioned about who else was present, they did not say no one was there, but that they just couldn’t remember! The meeting was held one week after the regular board meeting and dealt with several issues, including “instruction” in the use of motion cards. (Motion cards are used to write down a motion so as to be able to remember after discussion what the original motion was.) Is this permitted? J.J., Ormond Beach

Answer – No. The only time a homeowners association board can meet in closed session is when meeting with the association’s attorney to discuss pending or threatened litigation. Otherwise, any time a quorum of the board meets, the meeting must be noticed and open to the members. The right of the board to meet in an emergency without posting 48 hours notice, does not mean that an emergency

meeting can be closed to the members, nor does it permit discussion of any matters other than the “emergency.” In addition, an emergency is generally defined as a matter upon which the failure to act can result in imminent damage to the community. Without question, the organizational meeting of the board is not an emergency and must be noticed and open to the members.

Question – We have resided in a condo building with fewer than 100 units for 15 years. Our unit, as well as others, sustained window and patio door damage after Hurricane Wilma. Previous to the storm, about half of the units replaced all windows and doors with hurricane proof windows at about \$10,000 per unit, with each owner individually contracting and paying for it. The old units had aluminum frames. The new units have white frames of various sizes. I have two questions. Is the condo association legally responsible by law to contract and pay for all unit owners’ windows and patio doors? If not, then do individual units have carte blanche as to type, color, hurricane proof or not, etc.? We have a group of ten unit owners ready to contract work to see if we can get a volume discount? A.A., Hillsboro Beach

Answer – The Condominium Act does not address the question as to whether the association or the unit owners are responsible for the repair or replacement of the windows and patio doors. It is totally within the discretion of the developer at the time the condominium is created to specify

within the declaration of condominium the extent and limits of the association's and the unit owners' responsibility for the maintenance and repair of the units and the limited common elements. That said, it is totally within the discretion of the board and/or the architectural review committee to establish guidelines for the style, color, quality and construction of the building improvements. Given the fact that, as you advised, half of the units replaced the doors and windows at their sole expense prior to Hurricane Wilma, I am assuming that the unit owners had the right to do so and that the board approved same. I am also assuming that the unit owners, to the extent required by the documents, obtained the necessary approval for what is clearly a "material alteration or

addition" to the condominium property. That said, an interesting dilemma is now raised by the fact that the units which did not replace their windows, suffered window and door damage as a result of Hurricane Wilma. In that case, the cost of repairing the damaged windows and doors is the obligation of the association. The net effect is that, assuming the nature and extent of the damage from Hurricane Wilma warrants same, the unit owners without the new doors and windows are entitled to have their windows and doors repaired/replaced from insurance proceeds or as a common expense. Bottom line, the unit owners who waited may now find that they are entitled to the same windows and doors as installed by the other units, only without the expense. ■

Gary A. Poliakoff is a founding principal of Becker & Poliakoff, 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. Poliakoff 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. Poliakoff can be contacted by emailing gpoliakoff@becker-poliakoff.com.