



Condominium Law Q&A

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By Gary A. Poliakoff

gpoliakoff@becker-poliakoff.com

Tel: 954.987.7550

Fax: 954-985.4176

Question – We live in a large condominium complex with multiple buildings. During the past year, residents of another building and their tenants have parked their cars in the limited spaces that are in front of our building and understood (by condominium rules) to be for its residents, even if not designated so by signs. In addition to occupying our parking spots – sometimes for days – these intruding vehicles create other problems. Some leak oil onto the pavement. Their owners sometimes arrive late at night, creating noise. Moreover, they are unknown and their presence creates anxiety, especially for elderly residents like us, in an otherwise controlled condominium community. (An overflow lot is nearby, and their own lot is in front of their building to park. Still they choose our lot to park.) We complained to the condominium association president, who told us to be generous in sharing our parking spots. We find this response inadequate. May we do something more firm? Would you recommend putting notes on the windshields of offending vehicles or circulating a petition? Is there any legal recourse? We would appreciate your advice. R.A.B., W.P.B.

Answer – You advised that you live in a “multiple building” condominium complex. To fully respond to the dilemma you are experiencing, one would need to know if each building is a separately declared condominium [multiple condominium association], or if the buildings collectively form a single condominium of “X” buildings. The reason this is important is that, if the former, then the parking spaces which surround your building may in

fact be “common elements” of your building, the use of which is exclusive to your unit owners. If it is a multiple condominium association, all parking spaces will be the common elements of the entire development, subject to the use restrictions set forth in the declaration of condominium. Then, of course, there are the “limited common element” parking spaces which are the exclusive use right of the unit owner to whom they are assigned. So the bottom line is that you need to read the condominium documents to determine to what extent the board can allow residents and guests of other buildings to use the parking spaces surrounding your building.

Question – Our homeowners’ association board of directors is rewriting our covenants and restrictions and bylaws, which were established in 1985. While their efforts are admirable, my concern is that one area they are changing involves the architectural control committee (ACC). This committee, according to our covenants and restrictions, functions independently of the board of directors, basing its decisions on the covenants and restrictions, paint codes, bylaws, etc., reporting to the board the decision rendered, which is final. Other associations in our area have the same language as our original documents regarding the ACC. My concern is that the board does not enforce all policies currently in effect, as it is. If the ACC were under the control of the board of directors, standards of uniformity would be at the whim of whoever was on the board at the time. In addition, questions relating to these standards would have to wait for board approval at monthly meetings. Why,

then, is there a need for the ACC? Our tree committee does not approval to determine what trees will stay or go. Our sprinkler committee does not need permission to repair broken sprinklers. Nor does our landscaping and grounds committee need approval for the plants it chooses to decorate the entrance to our community. Is this change appropriate/legal for the board to recommend to our association? Any guidance you would be able to provide is most appreciated. J.J., Ormond Beach

Answer – If, as you indicated, the covenants, conditions and restrictions provide that the ACC is to function independently from the board, any change in the ACC’s authority would necessitate an

amendment to the covenants, conditions and restrictions. While it is within the prerogative of the board to propose an amendment which would shift the ACC’s authority to the board, the ultimate authority on the question are the members which need only vote no on the proposed amendment to maintain the status quo. As an aside, the manner in which your documents are structured, namely with the ACC having authority from the board, is the rule not the exception. However, many covenants grant the board appellate authority over actions of the ACC.

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.