



Condominium Law Q&A

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Question – With regard to condominiums, does it matter if you are on the recorded deed when you declare yourself a candidate for the board, as long as you are on the deed in time for the election? I very much appreciate your consideration of my question. Thank you. C.R., West Palm Beach

Answer – Yes, a candidate must qualify for the board at the time he or she declares his or her intent to run for the board. If the candidate is qualified, he or she must be placed on the ballot.

Question – Our condominium complex has docks that are assigned on a first come, first assigned basis. The condominium board has to approve the application for a dock. Furthermore, over the years, boatlifts have been approved for installation on some of the slips at the boat owner's expense. Now, there is a moratorium on approving any more boatlifts. A few years ago, there were many empty boat slips; now, there seems to be more demand. Also, one final comment, the last hurricane took out the docks so they are almost rebuilt at this point. Here are my questions: There is presently discussion about amending the boat rules to say that if someone doesn't use or move their boat for a period of 5 months or even 8 months (the number of months is still in question), their boat slip will be reassigned. This could be especially bad for an owner who has also installed a boatlift and then their slip was given away. It also seems to discriminate against the winter residents. Is there some law or rule about changing rules, or that those owners that were assigned boat slips prior to the new rules would be

“grandfathered” to follow the rules in place when they were assigned their slips. It seems like every two years a new condo president wants to rewrite the rules. Second, what is the legal remedy when someone has made a financial investment in putting in a boat lift and wants to give up his or her slip. It would seem like they could sell the lift to the next person assigned to that slip. My understanding of how the board wants to treat this is that the person must remove the lift and isn't allowed to sell it. The next person must then get approval for a lift. Finally, now that the docks are being rebuilt, one owner will not be able to even get to the controls for their lift with the rebuilt dock. It seems that at some point prior to putting in the lift, someone had built an extension on the dock and the new board will not allow any additions, steps or alterations to make the lift functional for this owner. Any comments. V.P., Fort Lauderdale

Answer – Boat docks can be either “units” or common elements. If the latter, depending upon the condominium documents, they can be limited common elements, which are common elements which are reserved for the exclusive use of one or more unit owners. Based upon the information provided, I assume that the boat docks in your condominium are part of the common elements [that part of the condominium property owned in common by all the unit owners]. If so, the assignment of the use rights, and/or leasing of the docks, is totally within the discretion of the board. It is common practice for association's which assign the exclusive use of any part of the common elements [parking

spaces, storage bins, boat docks, etc.] to do so utilizing a written instrument which sets forth the rights and responsibilities of all the parties. Common sense would dictate that a unit owner would not spend significant dollars making improvements to property which he/she does not

own, but is solely assigned a use right, without making sure that their rights are protected. If they failed to do so, there is little that can be done, since, as I advised, the board controls the use rights of assigned common elements.

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