



Condominium Law Q&A

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Question – I live in a PUD, Evergreen Club, Palm City. We received a newsletter today that states: “CONTRACTORS: As a reminder, while you are anxious to get your home repaired, it is your responsibility to ensure the contractors you use and bring on property are licensed and insured. Starting in November, we will be asking all contractors who do work in Evergreen to provide Security with a copy of their license and insurance paperwork. This is consistent with the policy in place at several other property owner associations in this area and is being done as a protection for all of us. A sign will be posted at the entrance in the near future to warn away unlicensed workers.” It is my feeling that requiring contractors to provide proof of insurance and license while performing work inside my home is a violation of my privacy. Whom I contract for work inside my home is really no one’s business but mine. If the Property Owners Association’s argument is that the roads are private and they can restrict who is allowed inside the gates, I would want to remind the board that, although the roads are private, they are owned by the homeowners, not the board. If I authorize someone to enter the community, then there should be no further questions. Can you provide me with your opinion regarding this matter? M.M., Palm City

Answer – Actually, in this case, I totally agree with your board. As a matter of fact, an unlicensed contractor in Florida is subject to criminal liability. Furthermore, to get to your lot, more than likely the contractor will have to cross the association property

and/or common areas; thus, ensuring that the vendor is licensed and insured is in everyone’s best interest.

Question – Our 110 unit condominium building on South Hutchinson Island received serious damage as a result of Hurricanes Frances and Jeanne. It was no surprise when, in March, we received a letter from the condominium association stating: “At the board of directors meeting March 16, 2005, after much unit owner discussion on the assessment issue, a motion was made by XXXXXXXX, seconded by XXXXXXXX, that the assessment to repair hurricane damage be \$4,000.00 per unit. Soon thereafter, we received a letter from the accounting firm for our association stating: “The board of directors has passed a special assessment for costs incurred due to hurricane damage. The total amount of the special assessment is \$4,000.00 per unit...” A list of damages was provided along with the amount of insurance proceeds, leaving a shortfall of \$440,000. Among the items listed was “Loan \$320,000.00.” I assumed (as I am sure others did) that this was for money borrowed to pay emergency repairs after the hurricanes. Under the declaration of condominium “special assessment means a share of the funds required for the payment of common expenses, which are unbudgeted or for which insufficient provision is made in the budget occasioned by unforeseeable and fortuitous events which, from time to time, is assessed against the apartment and apartment owner.” Hurricane expenses would certainly fall into this category. I have since learned that the \$320,000 loan listed and paid from the \$440,000 assessment was an existing loan taken out

several years ago for balcony restoration! The board had already tried once before to get that loan paid off by special assessment and was voted down. This loan was a budgeted item. I was under the impression that special assessments had to be used for the purpose stated, in this case hurricane damage. I believe that the unit owners have been deceived and that this action was an improper use of funds. Am I right? I welcome your comments. R.W., Fort Pierce

Answer – You are correct; a special assessment can only be used for the purpose for which it was levied.

That said, should there be any excess from the Special Assessment, the Board can elect to return it to the unit owners or apply it to future assessments, including those unrelated to the original assessments. If, in fact, the board acted improperly, you can file a complaint with the Division of Florida Land Sales, Condominiums and Mobile Homes, which will look into the matter. The contact information for the Division's Bureau of Compliance is 1940 N. Monroe Street, Northwood Centre, Suite 16, Tallahassee, FL 32399-1031; 850.488.1122; <http://www.state.fl.us/dbpr>.

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