# Condominium Law Q&A

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**Question –** Our condominium association's "policy" for its 22 years of existence is that reserves are better kept in the pockets of the owners, and "we will just special assess when something comes up that's not reserved." Therefore, every year since construction, they have had only absolute minimal compliance with the law on reserves (paint, roof and a/c) and only in the last two years have complied with the law on voting to not to fully fund the reserves. A majority of our residents like this "policy" and procedure, so it continues. The President stated that his long range plans include special assessments. My question is: Since this "policy" and procedure exists, should sellers in this association disclose it before selling? Isn't it an egregious offense to not disclose it? If a realtor knows of this "policy" as does a resident realtor, should he disclose it under pain of legal violation? B.B., Ormond Beach

**Answer –** You would think that the experiences of the past several years, wherein thousands of associations had to levy special assessments to cover repairs following the rash of hurricanes, would awaken boards to the importance of funding and maintaining reserves. While Florida law does require sellers of real property to disclose any patent or latent condition known, I know of no case or arbitration decision extending that to cover the disclosure of the absence of reserves in condominiums, cooperatives or homeowner association. Prudent buyers should ask, and regardless, buy into a common interest ownership housing development with his/her eyes wide open, realizing that, as a unit owner, he/she will be responsible for sharing in the common expenses, regardless of how high those expenses might be.

**Question –** When does an informal meeting of board members become a board meeting? In a condo association with 5 members making up the board, can three or more board members meet informally and discuss board business? Another example: board members want to sit in a committee meeting and listen to a security company talk about common area locks. Can they question the presenter and answer owners' questions? Can 3 or more board members sit in such an audience without it being a board meeting? A.I., Daytona Beach Shores

**Answer –** Plain and simple, if a quorum of the board is present at other than a purely social event, treat the gathering as a board meeting. That is, post notice, invite the unit owners to be present, and allow the unit owners the opportunity to speak. If handled in this manner, there can be no challenge to the actions taken. The only exception is a meeting with the association's attorney to discuss proposed or pending litigation. Also, keep in mind that, in a condominium, in addition to posting notice, if the agenda includes debate concerning non-emergency special assessments, regular assessments, or amendments to rules regarding unit use, notice must be hand delivered or mailed to the unit owners. The Condominium Act makes provision for alternate means of notice, including e-mail and/or closed circuit cable television systems.

**Question –** Our master association governs five different neighborhoods. One of them has been a private rental community for 8 years. The rental is currently converting to a condominium. In the doc's/articles, the condominium is not responsible for a portion of the lake maintenance. There are only two sections that are responsible, now, and they are private home communities; the others are commercial. Once the rental converts to a condominium, is there a way we can make them pay their portion of the lake maintenance? R.H., Pembroke Pines

**Answer –** The only way the converted rental can be compelled to share in the cost of lake maintenance is by agreement to do so, or if the developer which is doing the conversion imposes the obligation in the declaration of condominium. That, of course, assumes that there are no existing covenants, conditions and restrictions recorded against the rental imposing such a burden.

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