



Condominium Law Q&A

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Question – I live in a 144 unit condominium complex. About 25 of us had board approved white hurricane shutters installed prior to December 2006 when there were no rules in regard to closing and opening them. Now, revised rules and regulations distributed to owners in December 2006 state, hurricane shutters “may only be closed when a tropical storm or hurricane watch is issued for the immediate area. Shutters must be opened no later than 72 hours after the tropical storm or hurricane watch has been lifted.” Aside from viewing this new rule as ridiculous, we with the shutters feel we should be grandfathered in, as there were no rules pertaining to the closing and opening of shutters when we had them installed. With hurricane season coinciding with summer vacation time, we feel use of our shutters should be at our discretion. I would appreciate your opinion in this matter. M.H., Stuart

Answer – I know of many condominiums, which are predominantly owned by snowbirds, all of whom close their shutters before leaving for the summer, and their association, recognizing the make-up of the community, allows for same. On the other hand, I am aware of many more associations which have adopted rules similar to what your board has drafted, which specify when shutters can be closed and when they must be re-opened. Having personally visited and being involved with the reconstruction of communities devastated by the hurricanes of 2004 and 2005 across the entire State of Florida, I am a big advocate of hurricane shutters and/or impact

glass and feel either should be mandatory. That said, I can appreciate the merits of both arguments, but do find compelling the position of full time residents who do not want to live in a community boarded up 5 – 6 months out of the year. Many associations now offer the service of closing and opening hurricane shutters. For those who do not, there is a cottage industry of companies that, not only take in patio furniture and close shutters, but also will shop for food and periodically check your unit in your absence.

Question – Because of the Article that you wrote in January 24, 2007, our condominium has gone the 80/20 that you suggested. The board did this by sending each homeowner your printed article, together with a sheet of paper allowing homeowners to vote. Wouldn't something that requires an amendment to the documents also require a meeting, so there is a discussion. The homeowners voted for the new limit on the mortgages, but after talking to quite a few of them, they didn't understand what they were voting on, nor the problems that it could cause when they are trying to sell their units. This is a great idea in a hot market, but with sales, especially in the condo market, being so slow, this is going to hamper quite a number of people trying to buy a unit, and even force those that are having to move to foreclose on their apartment. Between taxes, insurance and, now, with the 20% down requirement, it is going to be almost impossible to sell the units, especially the older apartments in the

building (1971) that will need renovations. Your advice was good in January, but when the market bottomed out in February, this rule is going to really put a hardship on those that are going to try to sell their units. I would appreciate if you could advise whether this had to be at a meeting or if what the board did was legitimate. S.M. Lake Park

Answer – The “80/20” referenced refers to the practice of precluding units from being hypothecated (mortgaged) greater than 80% of the sales price or appraised value. Given the significant increase in unit foreclosures (up 200-300%), the advice is better today than before. Why? Many who are being foreclosed upon got in way over their heads when lenders were willing to loan 100% of the purchase price. The buyers also failed to appreciate that, as a

member of the association, they would be responsible for sharing in the cost of operation, regardless of how high those costs might be. Couple this with the increasing cost of utilities, insurance and operations, in general, add on adjustments to adjustable rate mortgages, and it's no wonder associations are experiencing the problems they are. While many sympathize with the plight of unit owners, seniors under economic stress are advocating restrictions on the association's ability to lien and foreclose. They somehow forget that when unit owners delinquent in payment of assessments are allowed to defer payment, either services must be curtailed, or those owners current in their maintenance obligations must pick up the tab for those who are delinquent.

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