



Condominium Law Q&A

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Question – Our new management company is now requiring a \$50.00 charge to any owner that wants to look at any of our documents that are over one year old. They claim that they only have to have on hand documents that are one year old or less. Then they store them off site, requiring someone to take the time to go and retrieve the documents. Is this legal? B.P., W.P.B.

Answer – Most modern associations and management companies can transfer records to CD ROM for both safekeeping in the event of a casualty and easy retrieval of historical information. Unit owners are entitled to access to the official records, and other than being charged for copying them, I know of no authority for the association or manager to charge for access.

Question – Ours is a residential mobile home park. The problem began over a year ago, when a resident's son moved into the park. He was actively engaged in drug trafficking. This situation was brought to the attention of both the board and the police. The board refuses to address the problem, saying it is a police matter. Evidence which we have presented to the board, including pictures of individuals coming into the community to buy drugs, along with their license plates, are ignored. The residents are rightly upset and are looking for some advice as to what can be done. T & R S., Palm Bay

Answer – The association, acting through the board, has an obligation to protect the residents from known criminal conduct occurring within the community, and to abate nuisances which impact the safety, health and welfare of the residents. It is not enough to say, "It is a police problem." While I am baffled as to why the police have not responded to the evidence furnished them, the board of your park association should take action to abate the nuisance and enjoin the unit owner and her guests from the conduct described.

Question – Recently, a contractor hired by a unit owner for a project in his unit noticed water backed up in the bathroom sink. Without authorization from the unit owner or any board member, he took it upon himself to call in a plumber to fix the problem. The contractor then presented the board with a bill for over \$500.00. The board has refused to pay because the work was not authorized and because the bill was for more than twice the amount our usual plumber would have charged. In addition, our plumber, our maintenance manager, or any board member, would have known that there is a clean-out buried just outside the unit owner's door, which the owner's plumber did not. As a result, his crew carried equipment to the roof and used the air stack to rooter the line, thereby incurring the extra expense. Is the board correct in refusing to pay the bill? T.S., Delray Beach

Answer – Needless to say, the unit owner, not the association, is legally responsible for work which was performed without authority. On the other hand, the contractor should be commended for taking action to correct a developing situation before it became a problem with potential consequences far greater than the repair bill. I would recommend speaking with the plumber who did the work, explain the situation and try to reach a mutually agreeable settlement.

Question – I reside in a condominium complex divided into three sections. Each section is ruled by its own board. There is a property association having two members from each section for decisions that involve things like the common ground, gate house etc. My question is, can an owner who has 2 or 3 units which he rents out, and who does not

reside in the complex, serve as President of a section and as President of the property association, or is that person considered to be a contractor? If not, what is our recourse? L.L., Fort Pierce

Answer – Under the Condominium Act the only pre-requisite for one to qualify to run for the board is that he/she be a “unit owner.” That is generally described by the documents as being a record title owner of the unit. There are no residency requirements. Accordingly, a unit owner who rents out his or her unit can qualify to serve on the board of both the condominium association and the property owner’s association.

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.

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