



## Condominium Law Q&A

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**Question** – I looked through our building documents and found no reference to ownership of assigned parking spots. It seems unfair to me to have new owners get the choice spots. In the past, I've heard that unit sellers use their parking spots as a selling point. Please advise me, as a new building president, how to handle this problem. The manager has told me that spots are deeded. Where can I check on this? M.P.P. – Palm Beach

**Answer** – 99.99% of the time parking spaces are part of the common elements (condominium) or common area (homeowner associations), and, as such, cannot be deeded but, rather, are assigned as a use right. In some rare cases, parking spaces are declared units, in which case they are deeded. Most condominiums and homeowner association documents provide that, once assigned (usually by the developer), a parking space is deemed to be an appurtenance (belongs to) the unit and cannot be separated from it. A recent amendment to the Condominium Act allows assigned parking spaces to be reassigned among unit owners, so long as the declaration provides for same. If the documents are silent as to the assignment of parking spaces, they can be amended to clarify unit owner and association rights.

**Question** – The covenants, conditions and restrictions for our townhome association state that we may have annual assessments for the purpose of obtaining fire, windstorm and flood insurance. This

method has been used since we were incorporated over 25 years ago. We recently employed a management company, and they have informed our board of directors that, despite our covenants, conditions and restrictions, the cost of insurance must be included in the monthly maintenance fees, even though it will increase our fees well over the allowable 20%. A number of our homeowners feel that we have been incorrectly advised and should stay with the annual insurance assessment. Thank you for your advice. S.E., Indialantic

**Answer** – The Homeowners Association Act mandates that an annual budget be prepared and that the budget contain the annual operating expenses. The budget must reflect the estimated revenues and expenses for the year and the estimated surplus or deficit as of the end of the year. A copy of the budget must be provided to, or made available upon request, at no charge, to all unit owners. Given that insurance premiums are annual, recurring expenses, it should be contained within the budget and not assessed as a separate annual charge.

**Question** – Can you clarify the law as it relates to restrictions on leasing of units? Our condominium association is considering amendments prohibiting owners from renting during the first year of ownership, only allowing a single lease in a given year, for a minimum term of three (3) months. J.C., Port St. Lucie

**Answer** – The Condominium Act, as amended, effective October 1, 2004, provides that any amendment restricting unit owners’ rights relating to the rental of units applies only to unit owners who consent to the amendment and unit owners who purchase their units after the effective date of that amendment. Translated, what this means is that, if the declaration of condominium had restrictions against leasing units in place prior to October 1, 2004, those amendments are binding on all the unit owners. After October 1, 2004, any new restrictions or amendments to the existing leasing restrictions

are only binding upon those owners agreeing to be bound and all new owners who purchase subsequent to the effective date of the amendments. The restrictions only apply to condominiums. Accordingly, homeowners associations can amend their covenants, conditions and restrictions to impose leasing restrictions, and if approved by the requisite number of members, the restrictions are binding on all unit owners, both those approving and those opposed.

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