Condominium Law Q&A

June 30, 2008

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Question - In May 2008, our Board of Directors approved a special assessment payment of $625 as a first installment assessment for new roofs. I later learned that a 14 day notice of assessment letter had been sent to unit owners. I sent this letter, and planned to ratify the above motion after the 14 day period passed. In the meantime, our Board decided to apply for a bank loan (I have sent a 2/3rds unit owner approval letter out to owners), so we never ratified the special assessment payment of $625. When we decide how to assess the unit owners to pay back the bank, do I need to do another 14 day letter, or can the Board just vote for the new assessment amounts? Our HOA by-laws provide the Board the authority to assess. I just am uncertain if I need another 14 day notice to assess, since we have not voted on the amount of the assessment and are changing the amount from the $625. Thank you for your attention. I really appreciate it.
J. E., Daytona Beach

Answer - The HOA Act requires that notice of the Board Meeting at which an assessment will be levied be sent to the unit owners not less than 14 days before the meeting. In addition, notice of the meeting must be posted in a conspicuous place in the community or broadcast on closed circuit television. Given that the Board never ratified the special assessment, I 'd recommend re-noticing and approving the new special assessment.

Question - A fish filet table (app. 4' long x 4' high x 3' deep) was erected on the walkway between the pool and the docks. The table is in nobody's way and blocks nothing. It was erected approximately 5 years ago. A new owner with a grudge against the builder of the table wants it removed. Does this type of item ever get protection by a "Grandfather Clause"? Or, for that matter, can anything protect it? Thank you. S.S., Stuart

Answer - There is no such thing as "grandfathering" of an improvement built on property which you do not own. The property owner, in this case the Association, can always require the removal of an improvement and/or object placed on the common areas.

Question - I have another question and appreciate your help. Our Board does not like the residents to know much of what is going on. Anyway, they post meeting notices that say the agenda is "open." When I told them that was against Florida Statute 718.112, they now post an agenda that does not list specific issues, but says: Roll Call, Reading of Minutes, Committee Reports, Old Business, New Business, Adjournment. This seems to be a format for a meeting, not an agenda. Shouldn't an agenda be listing specific items of old or new business to report so that residents (as well as Board members) can be informed beforehand what will actually be discussed and possibly voted on. Is what they have done all that is required by Florida Statutes, or does the

Statute require agenda items to be specific - and not just old business, new business? Thanks in advance. E.S., Boca Raton

Answer - I agree. The Condominium Act requires that the notice "specifically incorporate an identification of agenda items." Merely stating "Roll Call, Reading of Minutes, Committee Reports, Old Business, New Business, Adjournment," does not meet either the technical requirement or spirit of the law which is to ensure that every unit owner knows what matters are being discussed and what policies are being considered, so that they have the opportunity to speak to those matters. Also, be advised that the Act further requires delivered notice to all unit owners when the Board is debating budgetary matters and proposed changes in the rules and regulations.

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