



Condominium Law Q&A

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Question – We have a situation in Hypoluxo Mariner’s Cay, where the towing company is instantly towing automobiles. The Rules and Regulations Committee revised the rules in 2007 for instant towing in most situations. The residents very much object to some of the rules and wish to have them amended. We need advice on how to do this. The towing situation has really gotten out of hand. You are not giving a warning, you are towed within 30 minutes. I am going to enclose the old rules of 2004 and the revised rules from 2007. By the way, there were 3 people on this committee at this rules and regulations meeting, that made these rules. Other committee members were not present, and when it went to the board of 5 for approval, only 3 members were present. Otherwise the rules would have never passed. Please advise us on how to amend them. M.H.B., Hypoluxo

Answer – Towing of automobiles is regulated by Chapter 715 of the Florida Statutes (Vehicles or vessels parked on private property; towing.) Among the requirements is the prominent posting of signs at each driveway or curb cut allowing vehicular access to the property, in not less than 2-inch high, light-reflective letters on a contrasting background, stating that unauthorized vehicles will be towed, along with the name and current phone number of the firm towing the vehicle. That said, if the members are dissatisfied with the manner in which the board is running the complex, attend board meetings at which you voice your concerns.

Question – I am a new board member of a 93 unit condominium located in Brevard County, Florida.

I’ve run into some “we’ve always done it that way” thinking. Need some advice on budget mandates/reserves. Also, the new law on engineer inspections -- timing and expense. My president states that we do not have to do it for 3 years. This seems to me to be a subject of budget reserve potential. Also, audits – when and how often? Also, how can I get comparison condominium fees for Brevard County? How can I find out about charges for condominium management companies? And, how can I get a list of condominium bookkeepers and charges? I love your column, and thank you for your patience and advice. C.M., Port St. John

Answer – The amended Condominium Act, effective October 1, 2008, requires that any condominium building greater than three stories in height shall have the building inspected at least every five (5) years to provide a report under seal of an architect or engineer authorized to practice in the State of Florida, attesting to required maintenance, useful life, and replacement costs of the common elements. The engineering study requirement can be waived for a particular 5 year period, upon the approval of a majority of the voting interests present, in person or by proxy, at a properly called meeting of the association at which a quorum is present. What concerns me about the mandated engineering study is, what if it is done and prior to the board being able to effectuate repairs, a hurricane hits, causing substantial damage to the condominium. Isn’t the report going to be used by the insurer as a sword against the association’s insurance claim? The legislature should consider the dilemma this

mandate imposes. Insofar as audits are concerned, they are required as frequently as provided for in the governing documents. And, if not required more frequently by the documents, condominiums with annual revenues in excess of \$400,000 must have an annual audit, unless waived annually by a majority of voting interests present at a meeting at which there is a quorum. Note, however, that the waiver of the statutory audit cannot be done for more than 3 consecutive years. Translated, that means for associations with annual revenues in excess of \$400,000, there must be an audit at least once every

4 years; that is, unless the documents require an annual audit, in which case the documents control. Finally, insofar as where to obtain comparables for condominium maintenance fees, managers, bookkeepers, see if there is a Community Association Institute Chapter (www.caionline.org) in your County, and try to contact Space Coast Condominiums Association, Inc., an umbrella group of Associations in Brevard County, at 321-868-1790 or log on to www.SpaceCoastCondo.com.

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