



Condominium Law Q&A

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Question –I enjoy your newspaper column very much. I learn from your advice as a homeowner first and as a HOA board member second. Keep up the good work. I recently received a letter sent to all members of the HOA, by the manager. It was sent, “at the request of the board.” Now here is the rub. I am president of the association. I did not know the letter was being sent, was not asked to provide any input into the letter, nor did the board approve sending the letter. The letter was sent by a member of the board who happens to own the management company. I found the letter to be disturbing, totally inaccurate and misleading. Can the property management company send out letters to homeowners, or take action against a homeowner, make decisions such as determining which landscaping to replace, or levying special assessments, without approval of the board? I should note that ours is a three person board, with there currently being a vacancy. The other two seats are held by myself and the owner of the property management company. W.B.

Answer – The simple answer to your question is “no,” the property manager cannot take any action that is not authorized by the board. This is particularly true of actions which constitute alterations or additions to the common areas and the levy of a special assessment. The apparent dilemma which your association faces is that of a “deadlocked” board. For the board to act it requires the prior approval of two directors. In this case, one, who happens to also own the management company, is acting alone; that is not legal. If the two of you

cannot agree upon the person to fill the vacancy, a special meeting of the members should be called to do so. As president of the association you have the right to call meetings of the board and the membership. You should do so and stop this maverick board member from acting unilaterally. I trust that when matters concerning management are debated and approved that the board/manager abstains from voting as he must?

Question – I read your column with great interest particularly about Florida Statutes, Section 163.04(2), Florida Statutes (Energy devices based on reasonable resources). Our board of directors does not allow residents to use a clothesline on their personal property. Nor do they permit us to install our permanent shutters in the event we are snowbirds and away from our home during hurricane season. They will severely fine you if you do any of the above. Coming from the North, I have always used a clothesline and respectfully adhered to common sense behavior regarding my immediate neighbors. When my clothes dried, they were removed from the clothesline and the line was placed in the garage. In my current home, our patio is screened in and although we are on a corner, the only side visible to my neighbors would be our west side. We installed pull down screens on the inside of our patio for protection during the intense summer sun, so my clothesline (which is portable) would not be seen by anyone. My clothesline would solely be used on my screened in porch, no where else. Yet, the board passed a ruling that no clotheslines of any kind are permitted on our

property; my assumption is that also includes my screened in patio. I feel that our screened in patio is included as part of my house, not outside my house. Therefore, I feel it is an invasion of my personal rights to use the interior of my home as I see fit. S.K.Z.

Answer – The board rule prohibiting your use of a clothesline is a violation of Florida law and is therefore not enforceable.

NOTE: Be advised that effective January 1, 2009, the purchaser of a condominium unit in the State of

Florida is required to receive from the seller(s) a disclosure form prepared by the Florida Department of Business and Professional Regulations which details the rights and responsibilities of Condominium Boards and unit owners, voting rights, meeting notices and other governance matters. The form developed by the DBPR is available in PDF form from the DBPR website: <http://www.myflorida.com/dbpr/lsc/documents/GovernanceForm.pdf>

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