



Condominium Law Q&A

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Question – Our condominium sustained significant damage from a hurricane. To pay for the repairs while waiting to settle our claim with Citizens, the association borrowed a million dollars. The manager had all the checks signed by the president, who admitted he didn't know how to run our condominium, but no one wanted the job, so he continued as the president. We ended up having to do the roofs twice, as the first contractor was not licensed. Soon, all the borrowed money was spent without adequate accounting. A special assessment of \$200.00 a month was levied to pay off the loan. I am 69 years old and have to go back to work full time to pay off the ill advised debt of the association. Is it legal to make us pay as much money as they want, so we have to lose our condominium. This was my life savings, as I have nobody, and I am afraid I am doomed soon!. What do you suggest?
S.S. Boca Raton

Answer – This question was received nearly a year ago. It causes me to remind my many and loyal readers that I am fortunate to receive thousands of letters, and it is physically impossible to respond individually or on a "time urgent" basis. I do appreciate your readership and invite your inquiries; I will respond to as many as possible given the limitation of the human capacity and space allocated to my column. First, needless to say, there are a number of issues raised by the reader which are troubling. An officer or director who abdicates his/her/their fiduciary duty to a manager without oversight or supervision is unacceptable. Unit owners who are damaged by such callous actions do

have a cause of action for breach of the fiduciary duty and resulting damages. Second, every unit owner and prospective unit owner needs to understand **that** they are owners and not tenants. As an owner, they are responsible for the common expenses regardless of how high those expenses may be. Contrary to the mantra used to sell condominiums in their infancy, shared ownership is not "care-free or maintenance free." If the association needs money to cover contingencies (unit owners who are not paying their share of the common expenses, uninsured casualty losses, capital improvements, judgments against the association, etc.), the unit owners will be obligated for their share of the expenses, and failure to pay will result in a lien being placed against their unit and the potential for foreclosure. That is why every unit owner should play an active role in the association, attend board meetings and unit owner meetings, read the minutes, review the financial statements and where possible, qualify for the board and offer to serve on committees.

Question – I own a rental unit in a condo complex. I received a letter from the condo association board of directors informing me that my tenant's lease would not be renewed. The letter states that complaints from 2 different neighbors claim that "fighting has been heard often." One of the complainants lives on the opposite end of the building, approximately 50 feet away on another floor. My local police department informs me that they have been called out one time to this unit, but no report was filed as not seen needed by officer.

The board has no evidence other than hearsay. There have been previous complaints made by other residents in this building regarding these two particular ladies, that they have nothing better to do but complain. Can you clarify, in general, the board of directors' power through the bylaws, as opposed to state renters' rights? I would hope that one could not be asked to leave their home based on hearsay. L.C., Port St. Lucie

Answer – I assume that the declaration of condominium grants the board the power to approve or disapprove leases, which is a necessary prerequisite. That said, the board should not act on pure hearsay and, prior to denying an owner the right to renew an expiring lease, the board should give notice to the unit owner and tenant of the grievances filed against them and hold a hearing wherein witnesses can testify and the tenants can respond. In law, this is known as due process and equal protection.

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