



Condominium Law Q&A

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Question – The rules and regulations of our condominium state very specifically that all units on the first 16 floors have a storage unit on their floor. I discovered a year or so after my purchase (when I needed the storage) that a unit owner on the 25th floor was using my storage. Upon advising the board of this, they had our lawyer send that person a letter telling them to vacate that storage. However, because that owner is a long time and influential owner, the board reversed the lawyer's position and allowed that owner to continue using my storage. I have attempted to have the board enforce the rules and regulations, they have refused to do so. The board then placed the matter up to a vote by the board members, and they voted against me. Question is – can a board vote of its members, violate the rules and regulations? And, what are my remedies against such an action? Thank you for your consideration of this request. D.S., City unknown.

Answer – You need to check your condominium documents to determine if the storage unit assigned to the unit by the developer at the time of the initial purchase is defined as an "appurtenance" to the unit. The word appurtenance means "belongs to." If so, you have a right to the storage unit, which cannot be changed by the Board, unless there is language within the declaration granting the board specific authority to do so. There is an appellate decision that dealt with a situation where a unit owner discovered in examining title to the unit that the original parking space assigned to the unit (defined as being an appurtenance of the unit) was traded, at

some point, among the unit owners. No authority for same was in the documents when the unit owner using the parking space refused to give it up. The unit owner, who acquired the unit to which the parking space was initially assigned, sued to recover it. The court ordered the parking space returned to the unit to which it was initially assigned.

Question – In a prior column you advised that an homeowners association meeting was "not" a board meeting, and that any issue could be debated and voted on which for notice was duly given. Our homeowners association board refuses to consider questions concerning our security company providing additional security. What do the owners need to do to get a matter placed on the agenda for debate and/or vote. C.F., City Unknown

Answer – The Homeowners Association Act grants unit owners the right to bring matters to debate at both board and membership meetings. If 20% of the total voting interests petition the board to address an item of business, the board, at its next regular meeting or special meeting of the board, but no later than 60 days after the receipt of the petition, shall take the petitioned item upon agenda. The board shall give all members notice of the meeting at which the petitioned item shall be addressed with the 14 day notice requirement. Each member shall have the right to speak for at least 3 minutes on each item placed on the agenda by petition, provided that the member signs the sign-up sheet. Please note, the board is not obligated to take any action on the item being debated. Notwithstanding the aforementioned,

if a sufficient number of unit owners desire action to be taken, it would behoove the board to do so or be subject of recall from office. In addition to the right to speak at board meetings, members have the right to attend all membership meetings and to speak at

any meeting with reference to all items open for discussion or included on the agenda. The members' right to speak is limited to 3 minutes on any item, provided that the member submits a written request to speak prior to the meeting.

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