



Condominium Law Q&A

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Question – Can you please tell me where I can find information on the Florida law pertaining to a condo association changing the bylaws to eliminate all annual rentals and only allow seasonal ones? We are being told that we must vote on this within 60 days yet I remember reading an article of yours a few years ago that said if owners do not consent they can still rent annually. I've looked around on your website but the only thing I found was from 2006 and at that point nothing had been finalized. Also, on a personal note, thank you for all that you have done in our communities to help us understand laws relating to condo associations. J.L.M.

Answer – The law does not address whether to allow seasonal or annual rentals. What it does is state that any amendment restricting unit owner's rights relating to the rental of units applies only to unit owners who consent to the amendment and unit owners who purchase their units after the effective date of the amendment. (See F.S. 718.110(13)).

Question – 2 Questions: (1) I have been reading the updates on “no pets” in condos. I am an original unit owner since 1985 and since the rule has been in the docs it has never been enforced and pets have been here since day one. Now, the new board has decided to make life miserable for those with pets. Should they be grandfathered in due to the fact that it has never been enforced? (2) Our maintenance has always been monthly. This month, November, they decided to go to quarterly and raise it \$20.00 a month beginning December 1. I received my letter on November 25th. With the holiday season and the

economy and no raise in Social Security this year and the fact that many here are on fixed monthly incomes they cannot do this. If they do not do this they will be fined, adding more expense. For example, in December-\$210.00, in January-\$630.00. And it could be \$930.00 if we do not vote not to fully refund our reserve and many elderly people do not know this or understand this. It has not been clearly explained to them and how is no vote supposed to be done? And in December when many are away for the holidays and not here. The annual meeting is in January and this could have waited. Thank you for taking the time to read this and hopefully answer it for us. D.

Answer – The statute of limitation for enforcement of covenants, conditions and restrictions is 5 years. Thus, the board cannot now seek to remove pets which have been in the community for nearly 10 years; those pets will be grandfathered in. The Board can revitalize the restriction by republishing it and giving notice to all unit owners that effective from a given date no new pets will be permitted. Of course, accommodations must be made for service animals and properly documented emotional support animals. In so far as the levy of assessments, the Board can levy assessments monthly, or quarterly, but not more frequently.

Question – I am wondering if you could point me in the right direction regarding ARC & HOA's with respect to applications and subsequent conditions. We have submitted to our ARC to install a pool in our yard which meets all county and HOA

requirements for safety - they have sent an approval with the following conditions: (1) we send them a copy of the final inspection report, (2) we send them a copy of the permit; and (3) we sign a hold harmless agreement releasing the ARC, Board of Directors and the management company from all liability, claims, costs and expenses because we are not putting in a cage. They recommend that we have a cage and I guess because we are not they have "issues" but again, ALL county, state and local codes are being adhered to. I appreciate your input and direction. E.B.

Answer – To understand the process for architectural review and approvals within a HOA

one must first read Florida Statutes, Section 720.3035 (Architectural control covenants; parcel owner improvements; rights and privileges). The first and most important aspect of both the statute and association's right to review and approve is that the authority for same is contained within the CC&Rs of the community. You can access the HOA Act a number of ways, such as <http://www.flsenate.gov/Statutes/> or <http://www.leg.state.fl.us/Statutes/>. That said, the requirements for approval requested by the HOA sound reasonable under the circumstances; but, once again read the statute first to verify that your HOA has the right to seek approval.

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