



Condominium Law Q&A

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Question – We have 3 separate buildings: two buildings have 104 units and one building has 24 units. Three separate budgets and three separate reserves but one set of Directors. It seems we are a multi-condo. The condo President says we are not. It seems he also practices selective enforcement of the Rules and Regulations. Our rules state: one dog, one cat, or one bird, yet the Rules and Regulations enforcement person has two cats and insists on forcing other people to get rid of their dogs and cats. The Rules also state the animal must be under 25 lbs. yet their animals are over this weight. How should we get him and the Rules and Regulation person to comply?

Answer – To determine whether each of the buildings is a separately declared condominium or are collectively a single condominium, all you need do is total the percentage of ownership of the common elements set forth in declaration of condominium. If each building totals 100%, then you can safely assume you are a multi-condominium, requiring separate budgets for each and a fourth budget for shared expenses. To maintain the validity of the covenants and rules and regulations, the board must timely and uniformly enforce them or they otherwise will be waived. The only way to compel a non-responsive board to act is for the unit owners, by petition or in person at a board meeting, demand that the board do so. The other alternative is to remove the board and replace it with one more willing to fulfill its fiduciary obligations.

Question – I would appreciate some advice as to whether a board can limit the choice of electricians, A/C contractors and plumbers that we can choose to use in the privacy of our own units. I live in a townhouse and our Board has mandated specific contractors for us to use. If we don't use them and it turns out to be the Association's problem or fault (i.e., house service panel problem that affects 4 units outside building), we were informed that we will not be reimbursed for our expenses. Is this legally enforceable by our Board? M. S., Jensen Beach

Answer – It is a good question. I know of a number of community associations which have approved vendor lists. Similar to your own community unit owners are restricted to using a contractor on the approved list. I know of no challenge to such policies either at the Division or Court level. Personally, I feel that the better approach is for the association to establish rules, such as all contractors must be licensed and insured, and all work permitted and inspected and the association and its members identified and held harmless from claims arising out of the work. The test, if challenged, is whether the rule is "reasonable." That is designed to protect the safety, health and welfare of the members.

Question – My question is with regard to my 79 year old mother's over-55 condo. For many reasons we have decided to set up her will so that her granddaughter (my daughter) will inherit, bypassing myself (her son, age 55). I have already passed the screening process of the board, since I am an

ongoing caretaker of her and spend many nights there. This is a “no annual rental” community. They have adopted it to be rentals can only be for the winter season of a few months. Upon the eventual demise of my mom, will I be able to remain in the unit? I’m not an owner but since I’m not paying any sort of rent, am I still considered a renter? Again, the unit will be owned by my adult daughter (30 yrs old). R.K., Palm Springs, FL

Answer – Speak with your attorney and tax advisor as to whether it would be beneficial to deed the unit to your 30 year old daughter but give a life estate to your mother. She then is vested with all rights as a unit owner during her life time. The determination as to whether a unit qualifies as “over 55” is based on occupancy not ownership, so the fact that your daughter holds title does not impact the community's “Housing For Older Persons” exemption.

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