



## Condominium Law Q&A

June 14, 2010

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**Question** – Sometime ago (maybe even a few years) your article addressed homeowner rights vs. the authority of the condo association. My specific question is whether or not the condo association or management can dictate which form of hurricane protection the homeowner may choose as between roll down shutters vs. sliding accordion style shutters? A.N.

**Answer** – The Condominium Act specifically addresses the question of style and color of hurricane protection, granting to the board the mandate to adopt hurricane shutter specifications, which shall include color, style, and other factors deemed relevant by the board. While the Homeowners Association Act does not contain a comparable provision, there is no question but that the covenants, conditions and restrictions can set criteria for the nature of hurricane protection and even mandate the time frame when shutters can be closed and have to be re-opened.

**Question** – The board of our condominium association has issued a directive to owners and renters that all emergencies should first be reported to the security officer, who will contact the condo president, who will decide how to respond. If she is not available another board member will be called to decide what action is to be taken. Does this latest ruling make any legal sense or just add confusion at a critical time? The Veteran's Administration, Holy Cross Hospital and our primary medical doctor all start their answering machine messages, "If this is a

medical emergency, hang up and call 911." A.U., Fort Lauderdale

**Answer** – Ridiculous. If someone has an emergency warranting a response from the police, fire or medical, call 911 not the Board.

**Columnist Note:** On June 1, 2010, Governor Christ signed Senate Bill 1196, which will become law on July 1, 2010. A number of provisions in the Bill, as advised in previous columns, seek to afford relief to condominium and homeowner associations which are dealing with an economic crisis brought about from unit owners not paying their assessments timely, and foreclosing lenders sitting on their foreclosures in order to avoid having to take title and thus become liable as a unit owner, not only for assessments, but also special assessments for deferred maintenance, capital improvements and uninsured casualty losses. The following is a summary of a few of the provisions of Senate Bill 1196 which, as noted, becomes law on July 1, 2010.

- Foreclosing lenders of condominium units will now be liable for up to twelve (12) months of assessments. The current law limits lender liability to six (6) months. The Homeowners Association Act already requires lenders to pay up to twelve (12) months.
- If condominium unit owner is more than ninety (90) days delinquent in the payment of a monetary obligation due to the association,

the association may suspend the use rights for the common elements, common facilities or any other association property. Please note that the association may not suspend the right to use limited common elements, common elements that must be used to access the unit, or "utility services" provided to the unit, parking spaces or elevators. Is cable a utility? The amended Act does not say. The Homeowners Association Act, as amended, contains a similar provision, but appears to require notice and a hearing before the unit rights are suspended. Why the difference between the two Acts? Who knows?

- If a unit owner is delinquent in payment of his/her assessments, and if the unit is being rented, the association may demand, after notice to the unit owner, that the tenant pays the association the rent. Any excess collected shall be applied against future assessments.
- An officer or director who is more than ninety (90) days delinquent in the payment of any monetary obligation due the association shall be deemed to have abandoned their office, creating a vacancy to be filled by law.

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