



Condominium Law Q&A

August 9, 2010

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Question: In my HOA signs are prohibited on lawns. Can someone put up an election sign, notwithstanding due to free speech, any cases or decisions in this area? S.R., Weston

Answer: Florida Courts have held that community associations and covenant restriction enforcement do NOT rise to the level of State action, as they are private covenants and can be more restrictive if agreed to by unit owners. In other words, unit owners can agree to restrict free speech such as no for sale signs or political posters.

Question: I am the President of my association. Earlier this year I spent \$10,000 of association funds to pave a grass parking lot which was already a guest parking lot and common element because guests would not park there due to sprinkler water occasionally hitting their cars. I was later told I could not spend the money without unit owner approval because I was paving but I could remove the sprinkler system. The word "paving" is key to my authority or not. I considered it an emergency as many unit owners wanted the paved parking lot but I did not seek a vote of 66 percent of 242 unit owners and I considered it my purview. Could we, as a Board, have done it and could we have agreed in advance and formally voted to approve in a future monthly board meeting? A.E., Stuart

Answer: It comes down to the question as to whether paving over the grass parking lot with asphalt is a "material alteration." If "yes" then it does require the prior approval of the unit owners. Based on the

court's definition of that which constitutes a material alteration, I'd say it does require unit owner approval.

Question: I live in a 20 condominium unit building. We have a president, vice-president, treasurer and secretary. My question is: Is there a requirement as to the minimum number of board members which must serve along with the officers? And are they voted upon or appointed by the officers? I thank you for your kind attention. S.A.

Answer: You have it backwards. The board is elected by the members; the board makes policy. The board elects the officers from among the board members; the officers carry out the day to day affairs of the association. The articles and the by-laws generally define the number of officers and their duties.

Question: I'm serving my second year as President of a country club condominium. We are a community of 8 buildings with 4 units in each. Almost 1/3 of the units are for sale. Right now we have a 5 member board but there has been interest from the community to increase it to 7. There is the potential that a few residents whose condos are for sale will become board members. I've heard that there is no restriction keeping residents whose houses are for sale from becoming board members, but it seems to me to be a conflict of interest. There has been a lack of support to fully fund a reserve and our buildings are approaching 6 to 7 years old. Those opposing are residents who want to keep our

quarterly dues at a minimum. Has there been any opinions rendered by condo experts supporting the idea that residents whose homes are on the market tend to have board objectives focused more on the short term than the long term? M.B.

Answer: The only qualification to serve on 99.99% of the condominiums is that one be a record title

owner, be current in payment of assessments and not be a convicted felon whose rights have not been restored. The other fraction of 1% is for those condominiums which do not require ownership to serve. There are also no residency restrictions. Accordingly, a record title owner who is either selling or leasing their unit can qualify to serve on the board.

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