

A publication of:
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WELCOME ABOARD



As our readers know, this firm's practice is devoted to the representation of condominium and homeowner associations.

We are proud to announce the addition of the following associations to our list of clientele: **La Perla Condominium** and **Coastal Towers Condominium** in Sunny Isles Beach, **Magnolia Lane Condominium** and **Coral Gate West Condominium** in Miami, **El-Ad Villaggio Condominium** in Miramar, **Belmont at North Lauderdale Condominium** in Coral Springs, **Vista Del Sol Condominium** in Fort Lauderdale, **Townhouses of Plantation Condominium** in Plantation, **Treasure Bay Condominium** in North Bay Village, **Pompano By The Sea Condominium** in Pompano Beach and **Misty Bay at Silver Lakes HOA** in Pembroke Pines. We can assure you that we appreciate the business and confidence placed in our firm.

THANK YOU!



The firm thanks all of its current clients for making 2007 the most successful year in its history. 2008 will no doubt be incredibly challenging for Florida community associations as the lending crisis and the decline in the real estate market will continue to place immense financial burdens on the association's residents. We look forward to helping our clients through these stressful times by continuing to provide quality and effective legal representation. Don't forget that South Florida is still a unique area of the country, with year round sunshine and natural beauty found almost no place else. We will ultimately rebound, as we have done before from situations like Hurricane Andrew, the S & L crisis in the 80s and 90s, and the Dolphins' 1 and 15 season. We no doubt have a bumpy ride ahead, but this too shall pass.

INVITING CANDIDATES



In this election year, condominium unit owners should take note that The Florida Condominium Statute states that no entity or entities shall unreasonably restrict any unit owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in common elements, common areas, and recreational facilities. Any owner prevented from doing so may bring a court action against the association and, upon favorable adjudication; the court shall enjoin the enforcement of any provision contained in any condominium document or rule which operates to deprive the owner of such rights.

FORECLOSURE FIASCO



As all our readers know, first mortgage foreclosures are at an all time high. Condominium associations are suffering through economic conditions never before seen in South Florida. Although *Legal Beat* has discussed this topic in prior issues, it bears repeating that when the bank takes back title to the property after a foreclosure sale, the bank owes the association the lesser of six months of unpaid assessments or 1% of the original amount of the mortgage. While this amount will likely be less than the total of unpaid assessments owed to the association, often times the bank may still owe several thousand dollars to the association. In addition, the bank must begin paying the monthly or quarterly assessments, just like any other unit owner, once they obtain title to the unit. If they fail to pay, their unit can be liened and foreclosed just like any other unit located within the condominium.

RESERVE FUNDS – A REVIEW



There is perhaps no other issue more often asked about than the establishment and use of reserve funds. In sum, each year the association must prepare a budget that includes reserves for roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved is computed by estimating the remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. Reserves can be waived only by the unit owners when they have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, **the reserves as included in the budget shall go into effect.** Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all non-developer voting interests, voting in person or by limited proxy at a duly called meeting of the association.

AMENDING THE DOCUMENTS



Many of our readers would be surprised to learn how often we come across errors that associations have made when attempting to amend their governing documents. Generally speaking, the Board cannot on its own, change procedures or provisions already discussed in the declaration of condominium or the bylaws, as that change would require an amendment to said documents and a unit owner vote. Additionally, proposed amendments to these documents must be mailed to the unit owners with proposed additions to the present text underlined and proposed deletions to the present text ~~stricken thru~~.

RECORDING MEETINGS



Any unit owner may tape record or videotape meetings of the board of administration, committee meetings, or unit owner meetings, subject to the following restrictions:

- (a) The only audio and video equipment and devices which unit owners are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions.
- (b) If adopted in advance by the board or unit owners as a written rule, audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting.
- (c) If adopted in advance by the board or unit owners as a written rule, anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording.
- (d) If adopted in advance by the board or unit owners as a written rule, advance notice shall be given to the board by any unit owner desiring to utilize any audio or video equipment.

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The firm is devoted to representation of condominium and homeowner associations in the South Florida area. The firm has represented hundreds of associations since its inception in 1994, regarding all facets of association law. In addition, the firm routinely litigates, mediates and arbitrates association cases in state and federal courts and before the Division of Florida Land Sales, Condominiums and Mobile Homes, Arbitration Section.

The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.