

Summer-ize Condo Before Leaving Area

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By Joe Adams

jadams@becker-poliakoff.com

TEL (239) 433-7707

FAX (239) 433-5933

Easter traditionally marks the end of “season” in our area. Many of our winter friends are packing up to head for northern destinations, while the rest of us get ready to sweat out another Southwest Florida summer. We wish you safe travel.

I would also like to pass on a few tips to avoid angering your neighbors or your association while you are away, ensuring a warm welcome when you return:

If your unit is properly equipped, turn off the water while you are away. One of the largest pet peeves in condominium living, especially high-rises, is water damage incidents. Someone once told me that water follows two laws: the law of gravity and Murphy’s law.

If you are going to be having guests use your unit or home while you are away, check your association restrictions. Some associations permit it, some don’t. In all cases, courtesy notification to the association is appropriate. This enables the association to ensure that those using your unit are properly there, and also serves a security and safety function.

If you leave a car in Florida, and it is not garaged, check the regulations. Some associations do not like seeing cars left with plastic or cloth covers, some don’t mind. Further, you should leave a key to the vehicle with management, in case the parking lot needs to be maintained while you are away. Obviously, leaving a car with flat tires, broken windows, etc. is not pleasing to your neighbors. Also, some associations try to control storage of absentee owners’ vehicles, to avoid the property being perceived as “empty” by potential burglars or others with bad intent.

Leave management with a phone number where you can be reached during the summer, including an emergency number if you are away on vacation, visiting

family, travelling, etc. Remember, summer is hurricane season here, and there may also be a need to reach you if there is some emergency with your unit.

Leave a key. Most condominium associations require unit owners to leave keys to their apartments, for access in the event of an emergency. Even when the association does not mandate a key, I think it is a good idea to leave one with someone in a position of trust, such as the association manager or a neighbor.

Make sure your insurance is up to date. Remember that insurance laws have changed effective January 1, 2004 (See Insurance changes are some help, January 22, 2004). Make sure that all of the items you should be covering under your individual insurance policy are now covered, since the association will no longer take care of them.

Arrange for periodic inspection of your unit. Most associations do not offer “care-taker” services. However, experience has shown that summer-time is prime time for water intrusion incidents and mold. Florida’s high heat and humidity, combined with a high percentage of absenteeism, all add to the mix.

Take responsibility for temperature and humidity control in your unit. Many owners, wishing to “save money” turn off air-conditioning while they are away for the summer. Even without an exterior leak involved, poor climate control in individual apartments can generate mold and mildew, and potentially significant remediation costs.

Your board or manager may also have some additional specific recommendations, developed from experience in your particular community, which will assist you in protecting your investment while you are gone. ☺

Failed Candidate has Right to Inspect the Ballots

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QUESTION: Recently, I ran for one of the open seats on my condominium association's board. Unfortunately, when the votes were counted, I was out of the country and unable to attend the meeting. I am told that the annual meeting did not attract a quorum of members. However, the votes were counted at the meeting, and I did not win a seat. I asked to look at the ballots, and was told that they are not given out. What is your opinion? D.K. (via e-mail)

ANSWER: First, the Florida condominium law states that only twenty percent of the eligible voters need to cast a vote in order for an election to be held. Therefore, even though there was no quorum at the annual meeting, it was proper for the election of directors to proceed.

The voting documents, including all ballots and envelopes, are part of the official records of the association and must be maintained for a period of one year from the date of the annual meeting. You are entitled to inspect all of these documents, and the association is subject to various penalties if it refuses you the right to do so.

QUESTION: The owners' manual for our condominium association contains an election flow chart which shows how the annual meeting and ballot counting is to be handled. Our manual states that the "polls are closed and the inner envelopes are separated from the outer envelopes." Then, the manual goes on to state that the "inner envelopes are opened, ballots counted, and results announced at the annual members' meeting." Despite these instructions, our association manager opens the outer envelopes in his office. He claims that he is looking for proxies and wishes to ensure a quorum for the annual meeting. Is this the correct procedure? J.W. (via e-mail)

ANSWER: Unless your association has opted out of the voting procedures contained in the condominium statute, your manager is not handling the ballots correctly.

The procedure for voter verification and ballot counting is contained in Rule 61B-23.0021 of the Florida Administrative Code. You can find this law by going to the web-site of the Florida Division of Florida Land Sales, Condominiums and Mobile Homes at www.state.fl.us/dbpr/lsc. From there, you can navigate to the Administrative Rules and Rule 61B.

As you will note from reading the rule, the election committee must verify the outer envelopes at the time of the annual meeting. The only exception is when the board calls a special meeting to verify outer envelope information, which must then be handled in the same manner as a board meeting (posting required, owners entitled to attend, and the like).

QUESTION: My wife and I recently purchased a condominium unit. Two days after closing, the board met and enacted a four hundred dollar assessment, which we are told was for a deficit incurred by the association in 2003. I was never told about the pending assessment prior to closing, even though the management company had sent out a letter to every owner fourteen days prior to the board meeting where the assessment would be considered (twelve days prior to my closing). What are my rights? J.R. (via e-mail)

ANSWER: First, the obligation to pay assessments runs with title to the unit, and therefore becomes your responsibility the day you take title. Further, the association has no obligation to inform prospective purchasers about pending or proposed actions, only assessments which have actually been levied. Therefore, your beef is with the seller of your unit or the real estate agent involved.

Florida's law states that a seller of property (and in some cases their agent) have a duty to disclose known matters affecting the value of the property. Most of the reported court cases involve construction defects. I am not aware of any cases involving disclosure of potential assessments.

Since most real estate contracts are signed at least thirty days before closing, I assume that the notice of the board meeting was not sent out until after you had signed your contract. Therefore, it is questionable whether the seller of your unit had any control over the situation, or had enough information in hand giving rise to a duty to disclose.

I would chalk this one up to bad timing.

QUESTION: We are trying to sell our home, which is located in a deed-restricted subdivision. Our current real estate agent says that it is difficult to sell the home because we cannot put a "for sale" sign in the yard, and the "weekend lookers" do not know it is for sale. What are your thoughts? N.K. (via e-mail)

ANSWER: I have heard both sides of this argument, and I suppose both points of view have merit.

Sign proponents will tell you that a high percentage of home sales arise from “drive bys.” Their argument would be that higher sales prices will result from having more people interested in a home, thus improving neighborhood property values.

Sign detractors will tell you that the proliferation of yard signs can create an eyesore, or make it look like everyone is trying to bail out of the community (thus creating the impression that the community is undesirable).

I am aware of no formal study on the issue. The bottom line is that this is why covenants are recorded, putting both sign-lovers and sign-haters on notice of what they are getting into before they buy. Therefore, if the covenant prohibits signs, that is what you agreed to, and you are legally obligated to follow up. Of course, there is a procedure for amending most covenants, and that is the best way to seek change.

I would also point out that Florida’s courts have upheld yard sign restrictions against claims of infringement upon free speech. ⚖️

Mr. Adams concentrates his practice on the law of community association law, primarily representing condominium, co-operative, and homeowners’ associations and country clubs. Mr. Adams has represented more than 600 community associations and serves as managing shareholder of the Firm’s Naples and Ft. Myers offices.

Send questions to Joe Adams by e-mail to jadams@becker-poliakoff.com This column is not a substitute for consultation with legal counsel. Past editions of this column may be viewed at www.becker-poliakoff.com.