

# apm NEWS

NEWS, ISSUES & INFORMATION FOR COMMUNITY ASSOCIATIONS - WINTER 2000

## EFFECTIVE BOARD OF DIRECTORS FOR COMMUNITY ASSOCIATIONS

By John R. Math, LCAM

An effective Board of Directors works together as a unit in carrying out the duties and responsibilities of the Association. Each Officer should have a place on the Agenda for Reports of the Officers and they will detail the activities of their position at each Board Meeting. The following is a description of the duties of each officer. The By-Laws of the Association set forth each officers duties in more detail, please check your documents for further clarification.

**President/Chairman** - The presiding officer helps the Board to make effective decisions by fulfilling the following duties; open the meetings, determine whether there is a quorum, establishes the schedule of the meeting, subject to the agenda keeps discussions on track and generally keeps the meetings from becoming too long. This can be accomplished by having most of the business that is brought to the floor in the form of a motion, as this will then focus the discussion. If there is no second to the motion, then there will be no discussion and the Board can then go on to the next agenda item. If the motion is seconded and the

ensuing discussions become confused or too long, the President will refocus the discussion or have the motion tabled, if there is no chance of a decision on this matter. Think of the President as an expediter of meeting, the agenda, and the discussions at hand.

**Vice President** - The Vice President will perform the duties of the President, in the Presidents absence, and may perform other duties that may be requested by the Board of Directors from time to time.

**Secretary** - The Secretary shall be in charge of setting up all notices of meetings, taking all meeting minutes, and be entrusted with maintaining the records of the Association. Many of these duties would normally be handled by a management company, but the Secretary would still have to oversee that they were being handled properly, and kept in accordance with the governing documents.

**Treasurer** - The Treasurer is in charge of all association funds. This includes overseeing the billing to the unit owners, collections and the disbursement of funds,

presentation to the Board of a proposed operating budget, and the monitoring of the budget throughout the year. Duties may also include putting various contracted items out to bid and monitoring of those contracts. Many of these duties would normally be handled by a management company, but the Treasurer would still have to oversee that they were being handled properly, and kept in accordance with the governing documents.

In addition to the Officers duties, most associations have Committees to help the Board of Directors to operate the association. These committees are also made up of individuals from the Board of Directors and resident volunteers. Some proposed committees are:

**Maintenance Committee** - assists the Board in preserving and maintaining the physical condition of the common elements of the association. They would not only identify future problem areas but monitor the ongoing maintenance as well and report to the Board.

**Communications Committee** - assists the Board in keeping the

residents informed about the purpose and function of the association, its programs and activities. This would be in the form of newsletters, new resident packages, directory etc.

**Architectural Control Committee** - assists the Board in insuring that the aesthetics of the community are followed.

**Finance Committee** - assists the Board of Directors and Treasurer in creating and maintaining financial controls and reporting of same.

Committees may also include Documents, Nominating, Safety & Welfare, Social, Violations and Welcoming.

Each Officer and each committee will be provided a time on the meeting agenda to report to the Board their activities if any action is required on the Board's behalf.

As you can see, a Board of Directors is made up of many individuals who have specific duties and responsibilities, as required by the Documents of the Association. Each Officer and each committee has a specific role to play in the functioning of the Board. The Board as a whole will hear each report and contained in that report may be, or may not be, specific action that will have to be taken by the Board.

The Board is being informed of the activities of the association, and if the agenda is properly compiled, and the officers and committees communicate consistently, then the Board should be able to take action on the items that are important to the management of the Association.

**Associated Property Management of the Palm Beaches, Inc. is an eleven year old full service association management firm. APM serves more than 90 associations in Palm Beach County. If you have any questions or comments you may contact us at 400 South Dixie Highway, Suite 10, Lake Worth, Florida 33460 or you may call us at 561-588-7210. [assocpropmgt@bellsouth.net](mailto:assocpropmgt@bellsouth.net)**

## Ask The Attorney

by Edward Dicker, Esq.

**Q.** *We have an owner who wants to install a satellite dish on our roof of our condominium. Do we have to allow this?*

**A.** If the roof is a common element, the association can prohibit installation of the satellite dish.

The Telecommunication's Act of 1996 ("Act") mandated that the Federal Communications Commission ("FCC") adopt rules concerning restrictions on viewers' ability to receive programming from direct broadcast satellites, multichannel, multi-point distribution service (wireless cable), and television broadcast stations. In compliance with this mandate the FCC adopted the "Over-the-Air Reception Devices" ("OTARD") rule. This rule prohibits restrictions that impair the installation, maintenance or use of small satellite dishes that are less than one meter (39 inches) in diameter. Prohibited restrictions include those that (1) unreasonably delay or prevent installation, maintenance or use, (2) unreasonably increase the cost of installation, maintenance or use, or (3) preclude reception of an acceptable quality signal. The rule is designed to promote competition and consumer choice and was enacted to ensure that viewers can install, use and maintain an antenna or satellite dish on property they own.

The rule does not apply to condominium common areas and common elements. Consequently, if the owner wants to install the dish on a common element roof, the rule does not apply and your association

is not required to approve the installation of the dish. The rule does apply to areas on the condominium property that are under "the exclusive use or control" of the unit owner. This would include a patio or balcony that is part of the unit or is designated a limited common element for the exclusive use of the owner.

Recently, the FCC rendered a "Declaratory Ruling" that held that a unit owner could install a satellite dish on the exterior wall of a unit next to the patio where the dish was bolted to the common element wall. Based upon this decision, it may be difficult for a condominium association to prohibit the installation of satellite dishes that must be bolted to a balcony or patio common element floor slab or wall. This decision should not effect your association's authority to prohibit satellite dish installations on the roof. However, the association should keep the

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## REMINDERS !

1. Be sure to update your files to include a new Question & Answer Sheet as of January 1, 2000.
2. Fees to the Division are coming due and are late if not paid by March 1, 2000. The amount is \$4.00 per unit, for all condominiums and cooperatives.
3. Corporate Annual Reports will soon be mailed and must be filled out and received by the Secretary of State by May 1, 2000. The Fee is \$61.25 for Not-For-

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## COMMON INTEREST REALTY ASSOCIATIONS YEAR END REPORTING REQUIREMENTS

By Michael Martin, CPA

Florida Common Interest Realty Associations, better known as Condominiums, are all subject to rules dictated by Chapter 718 of the Florida Statutes as interpreted and implemented in the Condominium Administrative Rules promulgated by the Division of Florida Land Sales, Condominiums and Mobile Homes, Chapters 61B-15 through 61B-24, Florida Administrative Code.

This statute and the Florida Administrative Code spell out several year-end requirements with which associations must comply and also spell out possible penalties for non-compliance.

The first year-end requirement deals with adoption of the ensuing years budget.

The board must hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association, a meeting notice and copies of the proposed annual budget of common expenses not less than 14-days prior to the meeting of the unit owners or the board at which the budget will be considered. Evidence of compliance with this 14-day notice must be made by an affidavit executed by an officer of the association or the manager or other person providing notice of the meeting and filed among the official records of the association. The meeting must be open to the unit owners. If an adopted budget requires assessments against the unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, the board, upon written application of 10 percent of the voting interests to the board, shall call a special meeting of the unit owners within 30-days upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners will consider and enact a budget. Unless the bylaws require a larger vote, the adoption of the budget requires a vote of not less than a majority vote of all the voting interests. The board may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests in writing, the budget is adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors goes into effect as scheduled.

The budget must show all estimated common expenses of the association including the following categories:

1. Expenses for the association and condominium:
  - a. Administration of the association.
  - b. Management fees.
  - c. Maintenance
  - d. Rent for recreational and other commonly used facilities.
  - e. Taxes upon association property.
  - f. Taxes upon leased areas.
  - g. Insurance.
  - h. Security provisions.
  - i. Other expenses.
  - j. Operating capital.
  - k. Reserves.
  - l. Fees payable to the division.
2. Expenses for a unit owner:
  - a) Rent for the unit, if subject to a lease.
  - b) Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used facilities, which use and payment is a

mandatory condition of ownership and is not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

Reserves must be included in the budget and cannot be waived prior to mailing to unit owners.

The second year-end requirement is the furnishing of "Financial Reports" or "Financial Statements" to unit owners.

Associations having less than \$100,000 of annual assessments or less than 50 units are required to provide at a minimum, a cash basis "Financial Report" to unit owners within 60-days following the end of the fiscal year. The report must show the amounts of receipts by accounts and receipt classifications and must show the amounts of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- b. Costs for security;
- c. Professional and management fees and expenses;
- d. Taxes;
- e. Costs for recreation facilities;
- f. Expenses for refuse collection and utility services;
- g. Expenses for lawn care;
- h. Costs for building maintenance and repair;
- i. Insurance costs;
- j. Administrative and salary expense; and
- k. Reserves for capital expenditures, deferred maintenance, and any other category for which the association maintains a reserve account or accounts.

Associations having more than 50 units must provide accrual basis financial statements (delivered to unit owners 90-days after year-end) as follows:

<u>Annual Assessments</u>	<u>Report</u>
100,000 - 200,000	"Compilation Report"
200,000 - 400,000	"Review Report"
over 400,000	"Audit Report"

Reviewed financial statements must be reviewed in accordance with standards for accounting and review services and audited financial statements must be audited in accordance with generally accepted auditing standards. Reviews and audits of an association's financial statements must be performed by an independent certified public accountant licensed by the Florida Board of Accountancy.

The three levels of financial statements above must include the following components:

- b. Accountant's or Auditor's Report
- c. Balance sheet
- d. Statement of Revenues and Expenses
- e. Statement of Changes in Fund Balances
- f. Statement of Cash Flows, direct method
- g. Notes to financial statements.

Disclosures must also be made of all reserve activity and the specific purposes of any special assessments and the disposition of such.

The requirement to have the financial statements compiled, reviewed, or audited does not apply to associations when a majority of the voting interests of the association present at a duly called meeting of the association have determined for a fiscal year to waive this requirement. The waiver of the

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requirement to provide compiled, reviewed, or audited financial statements is valid for one year only. If the requirement for audited, reviewed, or compiled financial statements is waived the minimum report

Where the association's articles of incorporation, declaration of condominium, or bylaws imposed such a requirement, however, the requirement may not be waived except as provided in those documents.

Penalties may be assessed for minor discrepancies, such as failure to timely notice a budget meeting of from \$1 to 5 per unit but not more than \$5,000 for a single violation. Major "budget" penalties include failure to propose/adopt a budget and can be up to \$50 per unit but not greater than \$5,000 for a single violation. Similar penalties of up to \$50 per unit may be imposed for failure to provide year-end financial statements.

In summation, associations should exercise caution in designing and timing their annual budget installation. Associations also need to exercise care in determining which "Financial Reporting" is appropriate for them and making timely delivery of it.

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## LANDSCAPING & WEATHER NOTES

Keep an eye on how wet or dry your plants get throughout the next few months. Depending on the how cool the weather remains, watering needs may be reduced or increased, as cold weather slows the metabolism of plants. Do not fertilize or prune any shrubs or trees at this time! Wait until April to do any pruning or transplanting. Young and newly planted trees are susceptible to stress during cold weather. Same applies to the root pruning of trees and shrubs, as it takes at least six weeks for new roots to develop outside the root ball to ease the stress of transplanting or root pruning. Otherwise, it is a good time to enjoy our beautiful, mild winter weather and the time of the year when we do not have to work as hard to keep our gardens and landscapes looking good.