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Celebrating Committees

Committees are an underutilized tool available to Boards of Directors. They can alleviate stress caused by the day-to-day operations of a homeowner or condominium association, and can help groom future Board members. It is important Boards understand how committees are defined by law, and what authority they have to achieve their objectives.

While the Florida Homeowners' Association Act does not define a committee, the Florida Condominium Act states a committee is "a group of board members, unit owners, or board members and unit owners appointed by the board or a member of the board to make recommendations to the board regarding the proposed annual budget or to take action on behalf of the board." Fla. Stat. § 718.103(7). Board members have the authority to create committees, appoint committee members, and define committee goals. Committees should be created at properly noticed meetings where committee members will be appointed. A committee must have at least three members. Board members may serve on committees, though in some circumstances (discussed below) they are foreclosed from doing so.

Committees are established to reduce the burden of management on the Board. They exist to serve the Board, and while they are assigned tasks, the ultimate decision making and final approval of a committee's findings or recommendations will fall on the Board. Of course, Boards should be mindful to carefully consider the committee's recommendations or risk creating low morale, and possible committee member attrition. If a committee is not performing up to par, the Board may remove the members and appoint new members to lead. The more a committee's responsibilities and assignments are defined, the greater likelihood that committee will perform.

Fining Committee

Homeowner and condominium association Boards may be familiar with the concept of a "fining committee." While such a committee is not required by law, if a Board wishes to levy fines the process cannot be legally completed without a properly established fining committee. The fining committee's only role is to act as an appellate court and determine whether or not a fine levied by the Board should be confirmed or denied. To properly fine, an owner must be

provided 14-days' written notice that a fine has been levied. The fining committee must then meet in its oversight capacity to determine, by majority vote, if the fine should be affirmed.

Requirements detailing who may serve on a homeowner and condominium association fining committee may be found in Fla. Stat. § 720.305(2)(b) and Fla. Stat. § 718.303(3)(b). Although other committees may include members of the Board, both statutes require fining committees be independent entities. As with other committees, the fining committee must be at least three members, but may not include directors, employees of the association, or spouses, parents, children or other relatives of Board members or association employees.

Architectural Review Committee

The Florida Homeowners' Association Act explicitly authorizes an architectural review committee in Fla. Stat. § 720.3035. Florida law does not require a homeowners' association to establish such a committee, though an association's governing documents may. The statute merely provides the authority this committee is allotted. The architectural review committee's role involves reviewing and approving "plans and specifications for the location, size, type, or appearance of any structure or other improvement to a parcel, or to enforce standards for the external appearance of any structure or improvement located on a parcel." *Id.* However, to enforce these standards homeowner associations *must* have clear guidelines and standards. Oftentimes, associations improperly infer or assume they have authority to disapprove plans simply because a section of their Declaration calls for an architectural committee. However, having a section with the words "architectural committee" alone in a Declaration does not give the committee carte blanche authority to regulate everything in the community. Thus, guidelines and standards are vital to enforcement.

Conclusion

Unfortunately, many communities suffer from a lack of enthusiasm to participate in association activities or be on the Board. Those with low participation may be prohibited from fining because they cannot find the requisite members to join a fining committee. When available, committees are an excellent way to delegate responsibility and alleviate pressure from the Board. A final note -- at the next Board meeting where a member raises their hand and voices a complaint, the Board can offer to appoint that member to lead a committee to resolve the complaint, thereby putting the onus on that member rather than the Board.

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