



Condo Resident Has Right to Make Own Directory

Fort Myers The News-Press, October 23, 2011

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Q: When I first purchased my unit, the association presented me with a directory that listed all of the unit owners' names, telephone numbers, out-of-state addresses and e-mail addresses. Upon asking for an updated directory, I was told that it is now illegal for associations to publish and hand directories out to the residents. The association did, however, tell me that I could collect the unit owners' information and, with the unit owners' permission, could then publish the information in my own directory, which could be copied and distributed at my own expense. I prepared such a directory and included the address of the condominium and a picture of the sign showing the name of the condominium on the front cover. I also made certain to note, on the back cover, that I had created the directory. Now the board is saying that it is illegal for me to include the name and address of the condominium on the cover. The board has also said that it is illegal to state the word "association" anywhere. Do they have the right to tell me what I can include in my own personal directory? **J.P. (via e-mail)**

A: It is true that the Florida Condominium Act was amended during the 2010 Legislative Session to prohibit an association from releasing "personal identifying information" of unit owners. E-mail addresses, telephone numbers and addresses of a unit owner other than as provided to fulfill the association's notice requirements are among the

items classified as "personal identifying information." The statute does not protect a unit owner's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements from disclosure.

Additionally, the law was again amended during the 2011 Legislative Session to provide that a unit owner may consent in writing to the disclosure of protected "personal identifying information." Accordingly, an association may now publish a directory that includes "personal identifying information" disclosing certain protected information pertaining to those unit owners who consented to such publication. Remember, the owner's consent must be in writing.

Regarding the directory you personally prepared, I am aware of no restriction on the information that may be published therein, though I would recommend publishing only the information about those unit owners who have expressly consented. I suspect that the board is concerned that unit owners will think that it was the association that published the directory and is probably justified in asking that its name be removed.

Q: I am the owner of a unit in a condominium and serve on the association's board. When I

recently purchased a unit in another condominium, which I plan to make my permanent residence, other board members called for my ouster claiming that I had to be a resident to continue on the board. Is this true? **R.G. (via email)**

A: It has been repeatedly held by the Division of Florida Condominiums, Timeshares, and Mobile Homes, both in Declaratory Statements and arbitration decisions, that unit owners cannot be denied the right to be a candidate for the board of a condominium association due to their residency. This conclusion is based upon language in the Condominium Act which plainly states that “any

unit owner” who desires to be a candidate for the board may submit his or her notice of intent to run.

This issue comes up from time to time. Obviously, some believe that more than mere legal ownership is necessary in order to effectively serve on the board. While that view is really not accurate for every director, there are some obvious and good reasons why members may want a director to be regularly present in the community. But clearly, this is a political issue, as there is no question legally that a non-resident, absentee unit owner is still eligible to serve on the board.

Joe Adams has focused his practice on the representation of community associations since 1987, and has provided legal counsel to well over one thousand community associations throughout the state. Joe has served as Chairman of the State Advisory Council on Condominiums and has written this column since 1995.

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.