

Countdown to 7/1/18 and the New Website Requirements for FL Condominium Associations

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By: Donna DiMaggio Berger



By July 1, 2018, a Florida condominium association with 150 or more units which does not manage timeshare units must have an independent website or web portal wholly owned and operated by the association or a website or web portal operated by a third-party provider.

Creating an in-house website may prove to be too daunting for all but the biggest and most technologically sophisticated communities which means most Florida associations will contract with a third party provider for their website.

Many management companies provide their association clients with a webpage or website to facilitate owner payments and distribution of association information. These websites can be quite useful. However, under this new law, an association could be thrown into violation status if a change in management or a payment dispute with their management company results in their web portal being shut down, even for just a short period of time. Most management company agreements specify that the association webpage or website provided belongs to the Management company and NOT to the association. As such, your board may wish to establish its own independent website (even in addition to the one provided by your management company) to prevent any interruption in service and, thus, violation of the statute. Another alternative is to negotiate ownership of the association website in your agreement with your management company.

If your Florida condominium association consists of 150 or more units, you now must start evaluating your options for compliance. If you have a website provided by your management company, you must review your agreement to confirm whether or not that website is owned by your association or by the management company. What does your agreement provide in terms of transitioning your website content in the event you or the management

company terminate your agreement? If your association currently has its own website independent of your management company, do you have a Content Management System (CMS) for that website or do you rely on a website designer to upload your content? If the answer is the latter, you must review that protocol with your webmaster as association documentation must be uploaded timely to your website in order to comply with the new law.

If your condominium association has 150 or more units and you do not have any website at this time, you have a lot of work to do in the coming months. The starting point is to organize your association documents into digital format for ease of uploading to your future website.

The association must post the following documents on its website:

- a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.
- b. The recorded bylaws of the association and each amendment to the bylaws.
- c. The articles of incorporation of the association, or other documents creating the association, and each amendment thereto. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.
- d. The rules of the association.
- e. Any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility. Summaries of bids for materials, equipment, or services must be maintained on the website for 1 year.
- f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.
- g. The financial report required by subsection (13) and any proposed financial report to be considered at a meeting.
- h. The certification of each director required by s. 718.112(2)(d)4.b.
 - i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.
 - j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2) and 718.3026(3).
- k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website, or on a separate subpage of the website labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.
- l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no

later than the date required for notice pursuant to s. 718.112(2)(c).

The association must ensure that privileged information and privileged records are not posted on the association's website. If protected information or information restricted from being accessible to unit owners is included in documents that are otherwise required to be posted on the association's website, the association must be sure to redact the privileged content before posting the documents online.

The association's website must be accessible through the Internet and must contain a password-protected section that is inaccessible to the general public and accessible only to unit owners and employees of the association. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website that contain any notices, records, or documents that must be electronically provided.

In a highly functioning community, a website is just another technological tool along with online voting and electronic transmission of meeting notices which can make a board's job easier and the members' experience more positive.