“Frequency of Board Meetings Not Set by Law,” News-Press

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By: Joseph E. Adams

Q: The board of my homeowners’ association has decided to meet only quarterly. Is this legal? I thought that by law the Board needed to meet ten times per year. (S.B., via e-mail)

A: Section 720.303(2) (a) of the Florida Homeowner’s Association Act states that a meeting of the board occurs “whenever a quorum of the board gathers to conduct association business.” The statute does not have a specific requirement as to the frequency of board meetings.

Section 617.0820 of the Florida Not For Profit Corporation Act also regulates board meetings, but likewise, does not specify a required number. The association’s bylaws may contain specific requirements regarding the frequency of board meetings. Every set of bylaws I recall reading require one meeting of the board each year for the purpose of electing officers. This is usually called the “organizational meeting.” Some bylaws require at least quarterly board meetings, but I would not say that is the norm. Some boards meet monthly, but this frequency is rarely imposed by the bylaws. Ten (10) meetings is not a number with any significance in the law.

The “right” number of board meetings for any association will vary on a case by case basis and may ebb and flow depending on the level of activity in the community. The purpose of the board is not to “operate” the association on a day to day basis, but to set policies and make decisions.
A community with a good committee system and competent management should be able to operate smoothly with quarterly board meetings, though I would say that the norm for most associations is a monthly board meeting, sometimes with a hiatus in summer months.

Q: We purchased a house at the foreclosure sale of a homeowners’ association’s lien. We thought that the association’s foreclosure wiped out other claims on the property, including a first mortgage. Now we are

being told that the first mortgage is still in place. Does a homeowners' association's lien foreclosure eliminate the first mortgage? (N.I., via e-mail)

A: Probably not. While a comprehensive answer would require a review of the pleadings of the foreclosure lawsuit as well as the association's governing documents, HOA liens are usually inferior to a first mortgage of record.

Depending on the language of the governing documents and when they were recorded, the association's lien may be superior to other encumbrances on the property, such as second mortgages and judgment liens. Section 720.3085(1) of the Florida Homeowners' Association Act states that when authorized by the governing documents, the association has a lien on each parcel to secure the payment of assessments. The lien "relates back" to the date on which the original declaration of the community was recorded.

However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the public records of the county in which the parcel is located. Since the first mortgage is almost always recorded before the association's assessment lien, the first mortgage is typically superior.

This language was added to the statute in 2008. Therefore, if the governing documents pre-date the statute, you would have to have an attorney closely review the documents to determine if they have been amended to comply with the statute or provide for different lien priority. Some older governing documents state that the association's lien only relates back to the date it was recorded and therefore, would be inferior to any previously recorded encumbrance against the property. While rare, I have also seen older documents state that the assessment lien is superior to a first mortgage.

The law for condominiums is quite similar, although the Florida Condominium Act was amended in 1992 to address lien priority.

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