HOA Board Can Purchase Bulk Cable and Internet

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By: Joseph E. Adams

Q: The board of directors of my homeowners' association is considering a bulk contract for cable television and internet service for our community. The association has never previously provided cable or internet service to the residents. If the contract is signed, all of the owners would be forced to pay for the service as part of their assessments. Is this permissible without a vote of the membership? (E.E., via e-mail)

A: Section 720.309(2), the Florida Homeowners' Association Act, states that if the governing documents authorize the association to incur the cost of communication services, information services, or internet services obtained under a bulk contract, such expenses shall be deemed an operating expense of the association.

However, even if the governing documents do not provide for these bulk services, the law states that the board can contract for bulk telecommunication services, and the costs of such services shall be an expense of the association. However, if the governing documents do not address such bulk service contracts, the board must allocate the cost of the bulk service on a per parcel basis, rather than on a percentage basis, even if the governing documents contemplate assessments being allocated on a percentage basis rather than a per-parcel basis.

Therefore, the short answer to your question is yes. The board of directors, without a vote of the membership, can enter into a contract for bulk services, even if the association has not historically provided such service. This law was first enacted in 2011, so there may be some room to argue about its retroactive application to communities created prior to that date.

The statute also provides that any such contact may be canceled by a majority

vote of the voting interests present at the next regular or special meeting of the members of the association. However, if the vote is not taken at the next membership meeting, the contract is deemed ratified.

Chapter 718, the Florida Condominium Act, contains similar provisions regarding bulk telecommunication service contracts.

Q: Our condominium was originally 7 different associations who went through a "merger" into one condominium. Our biggest association is 48 units, and we have 242 overall. We have gotten conflicting information on whether the new website law applies to us. What do you think? (F.S., via e-mail)

A: It probably does not. A new Section 718.112(2)(g) was first added to the Florida Condominium Act in 2017.

That law required any association "with more than 150 units" to have a website. The law was amended in 2018. Among other changes (including deferring the effective date of the law to January 1, 2019), the statute was amended to apply only to associations managing a condominium with 150 units.

Based on the information you provided, it appears that you have 7 separate condominiums (not associations) operated by one corporation (the association) as the result of a "corporate merger." Therefore, your association is what is known as a "multi-condominium association." The new law would not apply to your association because although it operates more than 150 units in the aggregate, no single condominium has 150 units or more.

That does not mean that your association cannot have a website, it can. It does mean that you do not have to comply with all of the technical requirements of the new statute, including some detailed provisions on documents required to be posted on mandatory websites. In addition, if you do have a "voluntary website," my interpretation of the law is that your "estoppel certificate" (the form people fill out before closings to make sure there are no unpaid maintenance fees) have to be posted on that website.

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