

“Master Association Elections Can Be Confusing,” News-Press

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Q: What are the Florida requirements for election of the board of directors and the eventual election of officers in a multicondominium association? Can anyone who is a member of any of the individual boards run for election? Does each association get a single vote? Does each association choose a representative who then becomes a member of the board which then elects officers? How does it work? (J.J., via e-mail)

A: The legal structuring of multi-tiered condominium communities is a rather complex issue, and the manner in which the developer chose to set up the community will be of the most relevance. Developers usually set up multi-building projects under some sequential development scheme, using “phase” condominiums, “series” condominiums (which then often involve a “master” association and “association property”) and “multicondominiums.”

Since your question mentions “individual boards,” I assume you are really asking about a “master association” since a multicondominium by definition is one association that operates more than one condominium, since there is only one board. In multicondominiums, you still sometimes see bylaws that provide for representational board seats from the various condominiums operated by the association, although it is my experience that the majority follow “at large” voting procedures where any unit owner from any condominium has an equal opportunity to run for the open board seats.

For multicondominium associations created on or after July 1, 2000, Section 718.405 of the Florida Condominium Act requires, among other things, that the voting rights of the unit owners in the election of the directors be described in the condominium documents. Section 718.103(30) of the Florida Condominium Act also states the voting interests of the association are the voting rights distributed to the unit owners in all condominiums operated by the multicondominium association. For matters related to a specific condominium,

the term “voting interests of the condominium” is used, sometimes referred to as “class voting.” So for true multicondominium associations electing directors, the simple answer is “follow the documents.”

If, as I suspect, you are actually dealing with a “master association,” the situation is decidedly more complicated. The first question to resolve is whether the association is governed by the condominium statute, or some other statute. At the risk of oversimplification, if any members of the association are not condominium unit owners or their governing representatives (e.g. “subassociations”) you are not covered by the condominium statute. If all members are condominium unit owners or their representatives, you would fall under the condominium statute although there is a different rule for pre-1991 communities where there is a split of authority under the Florida case law.

I have seen many different types of board election procedures for “condominium master associations.” Obviously, the simplest, and most clearly compliant with the statute is the “regular” condominium election procedure where “at large” elections are held and anyone can put their name in to run for the board. Beyond that, there are many different types of procedures I have seen, including where the president of each subassociation is a master board member, where the board of each subassociation appoints the master board member, where the unit owners in the subassociations elect their master board representative, and where all members get to vote on all candidates, even those from another condominium (an “at large” election).

The law in this area is different for condominiums than it is for homeowners’ associations. For condominium master associations, the basic rule is, again, “follow the documents.” However, there are some issues that have not been addressed by the courts, and have proven problematic for the state agency which enforces the statute, such as how you square a particular voting procedure with certain provisions of the statute, such as the provision stating “any unit owner” wishing to run for the board may do so by following certain procedures. This is definitely an area where there are some “holes” in the law which I hope are someday fixed.