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PAGE 2

Is the Writing on the Wall for Homeowners Association Recalls?

By Frank A. Ruggieri

PAGE 3

Common Sense Regulation for Traffic and Parking in Associations

By Anthony T. Paris, III



Is the Writing on the Wall for Homeowners Association Recalls?

FRANK A. RUGGIERI

IT APPEARS INEVITABLE, IF NOT EXTREMELY LIKELY, THAT CHANGES ARE COMING TO CHAPTER 720 GOVERNING HOMEOWNERS ASSOCIATION RECALL OF BOARD MEMBERS.

The 2019 Legislative session included a proposed change to Chapter 720 which would have required that homeowners participating in a Homeowners Association recall of Directors be limited to those who declare the property to be their homestead, effectively barring part-time residents from participating in a recall effort. This legislation failed, along with numerous other proposed changes. It now appears that new changes are on the table for 2020, indicating it may simply be a matter of when and not if significant changes will be made to the recall process.

HB 137 includes a proposed change to 720.303, Florida Statutes, significantly modifying the recall effort. First and foremost, the recall petition must be signed by at least 60% of the parcel owners whose parcels are their homesteads. The requirement for full-time

residents is again on the table. The Board would also be required to hold a "referendum" within 30 business days after receipt of the petition including notice of the date by which ballots must be returned in accordance with the **14 day** notice requirements of the statute. A majority of votes cast in connection with the referendum must be in favor of recall to trigger an obligation by the Board to notice and hold a meeting of the Board within five business days after the closing date for submitting ballots in the referendum.

With significant changes yet again on the table in 2020, Homeowners Associations should remain vigilant regarding upcoming legislative changes which will more than likely include changes to the Board recall procedure. Please be on the lookout for updates in our future newsletters. ■





Common Sense Regulation for Traffic and Parking in Associations

ANTHONY T. PARIS, III

COMMUNITY ASSOCIATIONS ARE CREATED NOT ONLY TO PROTECT PROPERTY PRICES OF THE INDIVIDUAL HOMES IN THEM, BUT TO ENSURE THE SAFETY AND COMFORT OF THEIR RESIDENTS AS WELL.

That is what makes them attractive to so many purchasers of real estate in Florida. The goal of ensuring the safety and comfort of those living in the community is achieved in large measure through the adoption and/or enforcement of rules. So, when a community becomes congested with traffic caused by unsafe parking practices the association can and will take steps to alleviate the problem.

For example, many communities have restrictions in their governing documents explicitly stating where, what type, and how many vehicles may be parked to an individual lot. This is especially true of gated communities and/or ones with private roadways. For those communities whose documents do not explicitly set the parameters for parking, their Board of Directors will generally be granted the authority to make “house rules” to curtail on-street parking and number of vehicles parked. This is fairly obvious and intuitive for communities with their own roadways.

Next, just because a community’s roadways are public does not necessarily mean residents are free to park any number of vehicles in any manner they desire. Communities may rely on local ordinances which often prohibit parking vehicles in a manner which obstructs traffic or creates a hazardous environment. More importantly still, the association may still promulgate rules as to the *residents* of the community. Put another way, the association still has the right to control the conduct of owners, tenants, and their guests which extends to the method in which vehicles are parked in the community. An example of this would be a rule requiring that the garage must first be used for parking with subsequent vehicles parked on the lot’s driveway not to extend onto the streets. It is important to remember that once the association’s governing documents are recorded in the public records, they run with the land and affect it, regardless of whether the roadway running through it is dedicated for public use.

It is important to keep in mind that these broad powers to regulate traffic and parking in the association community are meant to protect the residents’ safety and quality of life. No one wants

to find their car blocked in on their way to work in the morning, or worse yet, have to navigate around narrow streets after dark with cars parked nearly on top of each other on either side of the street. The ability to regulate and enforce parking restrictions is at the core of a community association’s ultimate mission of ensuring a high quality of life for its residents. ■



UPCOMING EVENTS

ORANGE COUNTY

Board Member Certification Class

January 14, 2020
Windermere, FL

BREVARD COUNTY

Board Member Certification Class

January 30, 2020
Viera, FL

OSCEOLA COUNTY

Board Member Certification Class

February 11, 2020
Kissimmee

Final locations and times TBD. Refreshments and light hors d'oeuvres will be served.
If you have any questions or to RSVP, email us at contact@ruggierilawfirm.com.

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