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# MONTHLY NEWSLETTER

JANUARY 2020



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# The Community Association Bill is Back

FRANK A. RUGGIERI

AS INDICATED IN A RECENT NEWSLETTER FROM OUR FIRM, I FULLY EXPECTED THE FAILED COMMUNITY ASSOCIATION BILL OF 2019 TO LARGELY BE REINTRODUCED THIS YEAR (2020) AND IT APPEARS THAT HAS COME TO PASS.

House Bill 623 appears to be progressing through the legislative process, and was recently added to the Business and Professions Subcommittee agenda. House Bill 623 reintroduces many of the same proposed legislative changes which were introduced last year but failed to successfully maneuver their way through the legislative process. Below are highlights of the proposed changes:

- Exempts community pools serving communities with no more than 32 units or parcels from Department of Health requirements
- Limits rights of subrogation against a Condominium Association under unit owner insurance policies
- Expands on official records in condominiums to capture those which are not "written records", implicating electronic correspondence, text messages, security camera footage, and other electronic data.
- Permits compliance with electronic official records for condominiums through applications that can be downloaded to a mobile device
- Specifically voids any provision in a condominium's governing documents which diminished or infringe upon equal rights protected under the 14th Amendment to the United States Constitution, or those which have a discriminatory effect or otherwise violate equal protection.
- Clarifies that only service on a Condominium Board that occurs on or after July 1, 2018 is used when calculating the Board members term limit for purposes of the eight-year term limit of the statute.
- Removes the blanket prohibition in condominiums against contracts with directors
- Expands upon electronic notice for Homeowners Associations to explicitly permit providing notice via an Association website with a hyperlink included in the required email to those who have consented to receive notice electronically

- Expands upon official records for Homeowners Associations to include electronic or digital records such as emails, text messages, and surveillance video footage
- Removes the requirement that the Association utilize information on the property appraiser's website for membership meeting notices in Homeowners Associations
- Provides that provisions in a Homeowners Association's governing documents which violate the equal protection provisions of the 14th amendment are void and unenforceable

As stated above, this is not an exhaustive list and we anticipate additional changes and additions to the proposed legislation as it moves through the legislative process. Please contact our law firm with any questions or concerns and always consult Association legal counsel when in doubt concerning the current state of legislation or your governing documents. ■





# Internet Trolling or a Potential Lawsuit – The Fair Housing Act and Association Websites

ANTHONY T. PARIS, III

BY THE TIME OF THIS ARTICLE'S PUBLICATION, MOST CONDOMINIUM ASSOCIATIONS HAVE COME INTO COMPLIANCE WITH SECTION 718.111(12)(G)(1), FLORIDA STATUTES, WHICH REQUIRES THAT ALL ASSOCIATIONS MANAGING A CONDOMINIUM WITH 150 OR MORE UNITS MAINTAIN AN INDEPENDENT WEBSITE OR ONLINE PORTAL WHICH SHALL HOST A SERIES OF STATUTORILY ENUMERATED DOCUMENTS.

Likewise, many Florida homeowners' associations, although not required, host their own websites which contain their documents and the community's news. This is generally seen as a step in the right direction as the ubiquity of internet service has largely made the transaction of various businesses paperless. Unfortunately, there are those who see the changing times as an opportunity to enrich themselves.

Specifically, it has been reported by numerous communities in Florida that entities holding themselves out to be not-for-profit watchdog groups for the protection of disabled rights have been sending them threatening demand letters. One such group has been identified as Victim's Awareness Inc. These demand letters claim that the association's website is not in compliance with the State and Federal versions of the Fair Housing Act, which requires, (at least according to these entities) that the website be accessible by the visually impaired and blind. This would require the website to be reengineered so that the website's content can be read automatically to the disabled user. In addition to this, these entities will demand that the Association cover their legal fees incurred in bringing about the website's compliance with the Fair Housing Act.

We find the business practice of Victim's Awareness Inc., and entities like it, concerning and problematic from a legal standpoint. First, the services of these entities are unsolicited by the members of the particular community which they contact and threaten. It may very well be that there is not a single member in the community in question who suffers from a condition which would place the association's website out of compliance with the Fair Housing Act. Further, it is uncertain whether a visually impaired member would even take issue with the website or have their own means of transcribing the information contained therein. Hence, these entities' standing to file a lawsuit or complaint with HUD against the association is shaky at best. There may be other parties outside of the association's member class who may have standing

to file such claims, but these would likely have to be individuals directly impacted by the website.

Next, we wish to point out that the issue in question resembles in some ways the mandates of the Fair Housing Act pertaining to the granting of reasonable accommodations to individuals who are mobility impaired. For example, the Act requires that the association must permit reasonable modifications, such as a wheelchair access ramp, to be made upon a request by a disabled individual. However, while the Act requires the association to approve the request, the individual seeking the modification remains responsible for the cost of the modification. Thus, in the instance of websites, we do believe that their redesign may be necessary to make them accessible to the visually impaired upon request; however, this should be done on a case-by-case basis, upon a specific request, and at the cost of the requesting party. This approach takes much of the wind out of Victim's Awareness Inc.'s sails.

There has been no definitive court ruling which would shed more light on the accessibility requirements for an association's website or provide us with a framework for implementing same. We will continue to monitor the progress of suits filed up to this point for a better understanding of how the courts approach the issue.

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

## **HOA & Condo Board of Directors Certification Training 101 Workshop**

January 25, 2020  
Windermere, FL

BREVARD COUNTY

## **Board Member Certification Class**

March 5, 2020  
Viera, FL

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](mailto:contact@ruggierilawfirm.com).

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