

Royale Management Services, Inc.  
Condominium & HOA Board  
Member Certification Course  
2020

Presented by:

Steven J Weil, PhD, EA, LCAM

# Topics Covered

- The Law
- Fiduciary Responsibility
- The Governing Documents
- The Board of Directors & Officers
- Official Records
- Financial Reporting
- Budgets: Maintenance & Reserves
- Enforcement
- Elections

# The Law

- F.S. 718 – The Condominium Act
- F.S. 719 – The Cooperative Act
- F.S. 720 – The Homeowners Association Act
- F.S. 617 – Corporations Not For Profit
- Federal Fair Housing Laws
  - Prohibits discrimination on the basis of race, color, or national origin.
  - Prohibits discrimination based on disability.
  - Prohibits discrimination based on age.
- State, County & Local Laws
  - Building Code
  - Fire Code
  - .....



# **FLORIDA STATUTES 718**

## **CONDOMINIUMS**

### **July 1, 2018**

#### **PART I**

**GENERAL PROVISIONS (ss. 718.101-718.127)**

#### **PART II**

**RIGHTS AND OBLIGATIONS OF DEVELOPERS (ss. 718.202, 718.203)**

#### **PART III**

**RIGHTS AND OBLIGATIONS OF ASSOCIATION (ss. 718.301-718.303)**

#### **PART IV**

**SPECIAL TYPES OF CONDOMINIUMS (ss. 718.401-718.405)**

#### **PART V**

**REGULATION AND DISCLOSURE PRIOR TO SALE OF RESIDENTIAL  
CONDOMINIUMS (ss. 718.501-718.509)**

#### **PART VI**

**CONVERSIONS TO CONDOMINIUM (ss. 718.604-718.622)**

#### **PART VII**

**DISTRESSED CONDOMINIUM RELIEF ACT (ss. 718.701-718.708)**

**[HTTP://WWW.CCFJFOUNDATION.NET/CONDO718STATUTES.HTML](http://www.ccfjfoundation.net/condo718statutes.html)**

May 13, 2019

Search Statutes: 2018  Search

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& Laws of Florida
- Florida Statutes
- Search Statutes
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- Laws of Florida
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Other Entities
- Historical Committees
- Florida Government  
Efficiency Task Force
- Legislative Employment
- Legistore
- Links

Select Year: 2018

## The 2018 Florida Statutes

<a href="#">Title XL</a>	<a href="#">Chapter 720</a>	<a href="#">View Entire Chapter</a>
REAL AND PERSONAL PROPERTY	HOMEOWNERS' ASSOCIATIONS	
	CHAPTER 720	
	HOMEOWNERS' ASSOCIATIONS	
	PART I	
	GENERAL PROVISIONS	
	(ss. 720.301-720.317)	
	PART II	
	DISCLOSURE PRIOR TO SALE OF RESIDENTIAL	
	PARCELS	
	(ss. 720.401, 720.402)	
	PART III	
	COVENANT REVITALIZATION	
	(ss. 720.403-720.407)	
	PART I	
	GENERAL PROVISIONS	

Interpreter Services for the  
Deaf and Hard of Hearing







# First Lesson

## When A Legal Question Comes Up

### **Call your attorney.**

In most cases board members don't have the knowledge or skill required to make legal interpretations.

Managers are forbidden by Florida Law from providing legal advice or interpreting laws or legal documents.

# Fiduciary Duty

- Fiduciary relationships often concern money, but the word fiduciary does not, in and of itself, suggest financial matters. Rather, fiduciary applies to any situation in which one or more persons justifiably places confidence and trust in someone else and seeks that person's help, advice or empowers them to act on their behalf.
- It creates an obligation to act in the best interest of the person or organization one is charged with advising or making decisions for.
- Examples of fiduciaries: agents, executors, trustees, guardians, and officers of corporations.
- Unlike people in ordinary business relationships, fiduciaries may not seek personal benefit from their transactions with those they represent.



# But to whom?

- Those that elected you
- The board
- The owners
- The Association

# FCAP Florida Community Association Professionals

## www.fcapgroup.com

### A Layman's Look at Fiduciary Duty

By Betsy Barbieux, CAM, CFCAM, CMCA / Published April 2020



Photo by iStockphoto.com/stevanovicigor

**H**ave you ever wondered why the Florida Statutes make our boards of directors meet in the “open,” when other types of for profit and not for profit corporate boards of directors do not? And have you wondered why members and unit owners have the right to attend a board of directors meeting? After all, the meeting is not for the members; it’s for the board of directors to get the business of the corporation accomplished. The board meeting is not an informational meeting for the members and unit owners. So why on earth are owners allowed to attend a board meeting? (Section 718.112(2)(c), and Section 719.106(1)(c), and Section 720.303(2)(a), Florida Statutes.)

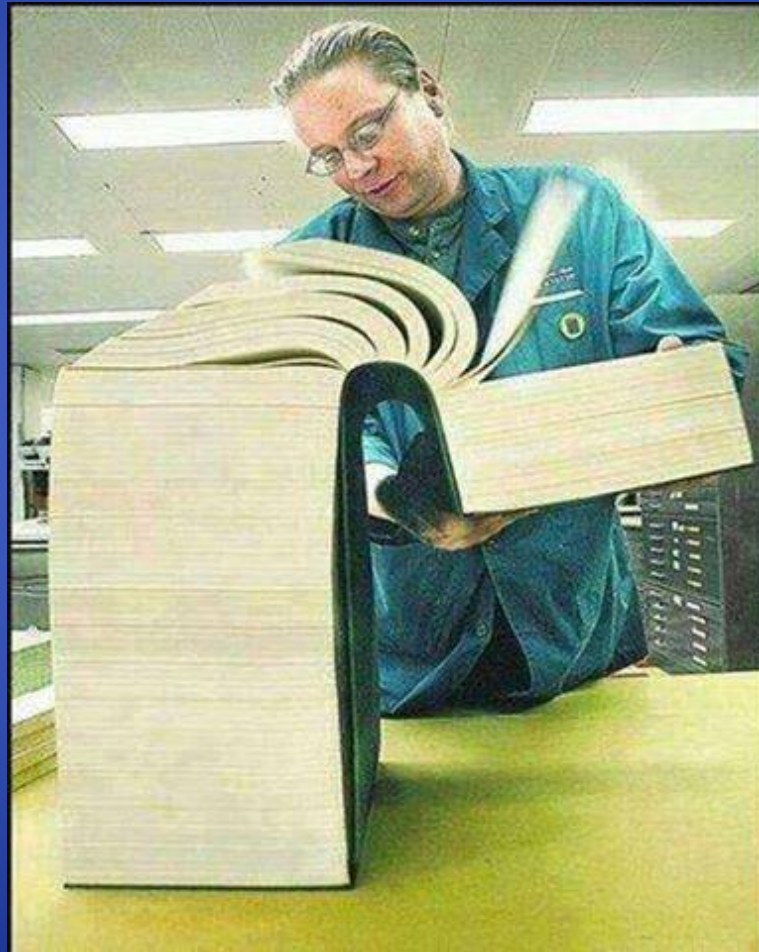
Section 617.0830, Florida Statutes, The Florida Not for Profit Corporate Act, seems to describe what might commonly be called the “prudent man rule.” Since most of our community associations are organized

[https://www.fcapgroup.com/flcaj/flcaj-articles/a-laymans-look-at-fiduciary-duty/?utm\\_source=FCAP+Member+Advantage&utm\\_campaign=7766b495ff-&utm\\_medium=email&utm\\_term=0\\_4a9d0c3f63-7766b495ff-107808549](https://www.fcapgroup.com/flcaj/flcaj-articles/a-laymans-look-at-fiduciary-duty/?utm_source=FCAP+Member+Advantage&utm_campaign=7766b495ff-&utm_medium=email&utm_term=0_4a9d0c3f63-7766b495ff-107808549)

# Law

- An officer director or manager may not solicit, offer to accept or accept anything of value or kickback for which consideration has not been provided for his or her own benefit or that of his family.
- Violation of this rule is subject both civil and criminal penalties.

# The Governing Documents





# Condo & Coop Governing Documents Include

- Articles of Incorporation
- Bylaws
- Condominium Documents
- Policies
- Rules

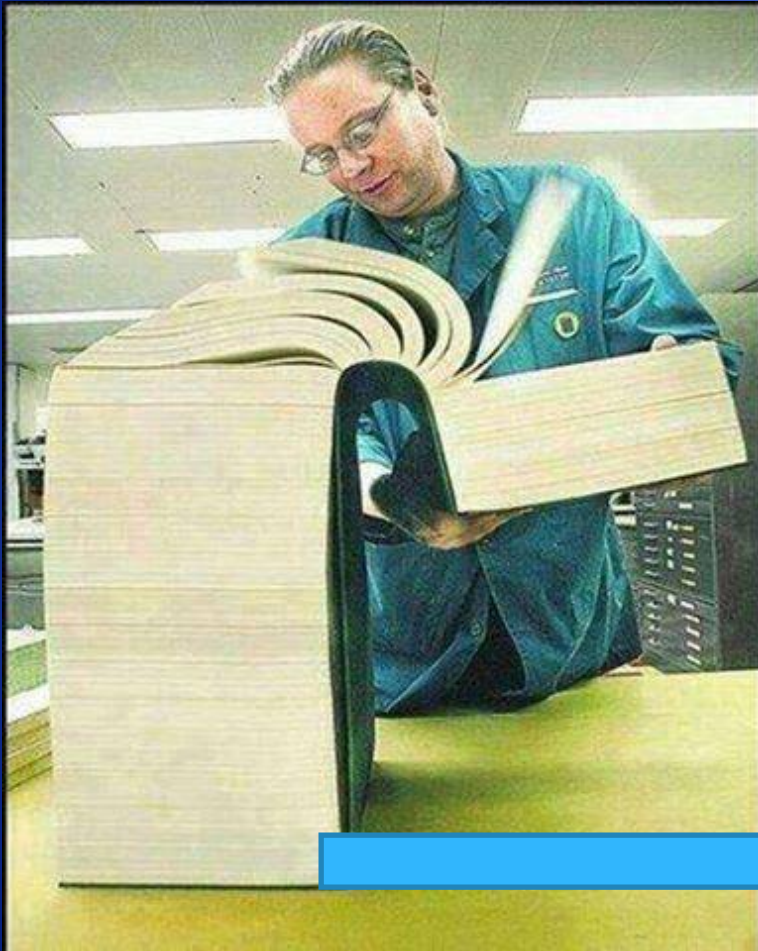
# HOA Governing Documents

- Articles of Incorporation
- Bylaws
- Declaration of Covenants and Restrictions
- Policies
- Rules

# HOA Covenants and Restrictions

- Expire if not preserved 30 years from the date on which they were originally filed.
- Merely amending or restating the covenants does not restart the 30-year clock. The statutory process for preservation, must be followed. See the HOAs Attorney for assistance with this and determining the date on which you need to begin this process.
- What if you miss the deadline? Then you must rely on the much more complicated and costly “Revitalization” process.

# All Board Authority



The governing documents both give and limit the authority of the board.





# For Example

Governing Documents Say –  
No pets of any kind shall be permitted to visit or reside in the association.

- The board cannot make rules that allow pets of any kind.

*Note: Service Animals and ESA Animals are not pets.*

Governing Documents Say – 4 legged pets are allowed subject to rules enacted by the board.

- The board can set the size and number of 4 legged pets that may be permitted on association property.

*Note: Service Animals and ESA Animals are not pets.*

# Articles of Incorporation

- Creates the Corporation
- Sets the initial board of directors
- Sets the initial registered agent

# The Bylaws Spell Out

- The duties, responsibilities and authority of each officer
- How officers are elected or appointed
- How meetings are called and by whom
- When member meetings must be held
- Terms of board members
- Other important operational information

# Condominium Documents

- Set basis for all rules
- Define who is responsible for what
- Contain allocations for maintenance & other assessments
- Define unit owner rights
- Define association responsibilities
- Designate common and limited common elements



# HOAs

- Authority comes from the Declaration of Covenants and Restrictions

These become a part of the deed encumbering each property in the HOA.

# Policies

- Define and provide specific board instructions for management and officers
- Clarify and set procedures for operations
- Instruct management
- Limits or expands the scope of officers' responsibility

# Rules

- Define and clarify items for which the condominium documents give the Board of Directors authority over
- Provide a road map for owners, residents, board members, and managers to comply with the governing documents
- Spell out what is and what is not permitted by owners, guests, and residents

# Welcome To The Board

(C) Royale Management Services, Inc.  
954-563-1269



# THE BOARD OF DIRECTORS



All Directors  
are Equal

Directors act at  
meetings

# Board of Directors

- Florida law requires even non profit including condominium, HOAs and Coop to have a minimum of 3 directors at all time.
- Failure to have the required 3 directors could force your association to a receivership set-up by the state.
- Between elections when a board member quits or dies the remaining board members can replace that board member.

# Officers

- Elected by the Board of Directors\*
- Serve at the pleasure of the Board\*
- Oversee day to day operations
- Implement the policies and procedures of the board
- Report to the Board of Directors

\* Unless otherwise specified in Governing Documents

# Basic Officers Required

- **President**
  - Implements decisions of the board and supervises management or oversees association operations in the absence of management
- **Treasurer**
  - Oversees association financial matters, including payments and collections from owners
- **Secretary**
  - Oversees official records, including minutes of meeting, and signs official documents approved by the board



# Board Meeting

- Regular meetings must be properly noticed, no less than 48 hours in advance of the meeting.
- Budget meetings must be properly noticed, with a copy of the proposed budget sent to all owners, not less than 14 days prior to the meeting.
- Rules meetings must be properly noticed, no less than 14 days prior to the meeting.
- Special Assessment Meetings must be properly noticed, no less than 14 days prior.

# Board Meeting (Cont.)

- Proper notice includes date, time, location and meeting agenda.
- Emergency meetings do not require 48 hour notice. The recent stay home and other COVID-19 state local and federal orders or a hurricane would be examples of where emergency meeting could be held without notice.



# OFFICIAL RECORDS

F.S. 718.111(12)  
(C) Royale Management Services, Inc.

954-563-1269

# The Official Records Subject to Owner Inspection Include:

- Developer provided documents, plans and permits
- Recorded Governing Documents & Rules
- Minutes of all association, board and owner meetings for last 7 years. (All meeting minutes forever after 7/1/2018\*)
- Current Roster & Voting Certificates
- Insurance Policies
- All Contracts
- Bill of sale for any association property sold
- Accounting Records
- Ballots, sign-in sheets, voting proxies and all other papers relating to voting by unit owners. (1 Year) Including Electronic Voting Records.
- All rental records when the association is acting as a rental agent.
- Current Frequently Asked Questions and Answers sheet.
- Other documents related to the operation of the association.
- A copy of the inspection report as required in s. 718.301(4)(p)



# The Official Records Not Subject to Owner Inspection Include:

- Records prepared by or at the direction of an association attorney
- Certain information obtained by an association in connection with the approval of a lease, sale, or a transfer of a unit
- Personnel records of association or management company
- Medical records of unit owners
- Social security numbers, driver's license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements
- Electronic security measures that are used by the association to safeguard data, including passwords
- The software and operating system used by the association which allows the manipulation of data, even if the owner owns a copy of the same software used by the association.



# Records Inspections

- The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 5 working days after receipt of a written request by the Board or its designee.
- An Association may comply with the Florida Statutes by having a copy of the official records available for inspection and copying at the Association or viewable by electronic means via a website or computer screen that is printable upon request.

# Inspection Request –Cont.

- A unit owner has the right to inspect the records, which includes the right to make or obtain copies, at the reasonable expense to the unit owner.
- The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying.
- Owners are permitted to use cell phone cameras to make copies of records if so desired.

# Access Denial

- The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with the request.
- A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply.
- Minimum damages shall be \$50 per calendar day up to 10 days, the calculation begins on the 11th working day after receipt of the written request. Therefore the Association is subject up to a \$500.00 fine for failing to comply with inspection requests.

# WEB Site Requirement

Condominium Associations with 150 or more units must have a website for owners in place by 1/1/19.

- The site can be operated by the association or a third party provider.
- The site must allow secure access to unit owners, which is not accessible by the general public.
- Must provide owners access to specific documents and records.



ABC Widget Inc (Budget)  
Balance Sheet  
December 31, 2009, 2010, 2011, 2012, 201

	Historical 12/31/2009	Historical 12/31/2010	Historical 12/31/2011
<b>Assets</b>			
<b>Current Assets</b>			
Cash and cash equivalents	\$103,548	\$1,052,951	\$706,352
Accounts receivable	322,913	332,528	370
Inventory	271,520	278,538	291
Prepaid expense	473	223	13
Other Current Asset			
<b>Total Current Assets</b>	<b>698,454</b>	<b>1,664,240</b>	<b>1,363</b>
<b>Property and Equipment</b>			
Land	150,000	150,000	150
Buildings and improvements	3,542,542	3,542,542	3,542
Equipment	604,547	604,547	604
Office equipment	20,546	20,546	20
Autos	114,575	114,575	114
def			1,000
Accumulated depreciation	(837,600)	(1,675,200)	(1,396)
<b>Total Property and Equipment</b>	<b>3,594,610</b>	<b>2,757,010</b>	<b>4,036</b>
<b>Other Assets</b>			
Goodwill	500,000	500,000	500
Amortization of Goodwill	(8,150)	(8,150)	(8)
<b>Total Other Assets</b>	<b>491,850</b>	<b>491,850</b>	<b>491</b>
<b>Total</b>	<b>\$4,784,914</b>	<b>\$4,913,100</b>	<b>\$5,892</b>
<b>Liabilities and Equity</b>			
<b>Current Liabilities</b>			

ABC Widget Inc (Budget)  
Statement of Operations  
For the years ending December 31, 2012, 2013 a

	12/31/2012 Budgeted	%	12/3 Budgeted
<b>Revenue</b>			
Rev Type 1 Total	\$2,609,685	56.03	\$2,796,788
Test	1,428	0.03	1,572
Rev Type 2	1,359,600	29.19	1,483,200
Rev Type 3	420,000	9.02	420,000
Rev Type 4	262,296	5.63	289,224
Returns and allowances	5,000	0.11	(177,022)
<b>Total Revenue</b>	<b>4,658,009</b>	<b>100.01</b>	<b>4,813,762</b>
<b>Cost of Sales</b>			
Cost Type 1	2,527,411	54.26	2,652,933
Cost Type 2	922,008	19.79	1,005,804
Cost Type 3	154,836	3.32	170,676
Cost Type 4	156,204	3.35	164,451
Cost Type 5	1,470	0.03	
<b>Total Cost of Sales</b>	<b>3,761,929</b>	<b>80.75</b>	<b>3,993,664</b>
<b>Gross Profit</b>	<b>\$896,080</b>	<b>19.26</b>	<b>\$819,898</b>
<b>Expense Class 1</b>			
C1 > Exp Type 1	288,002	6.18	292,320
C1 > Exp Type 2	273,401	5.87	285,108
C1 > Exp Type 3	(144,000)	(3.09)	(108,000)
<b>Total Expense Class 1</b>	<b>417,403</b>	<b>8.96</b>	<b>469,428</b>
<b>Expense Class 2</b>			
C2 > Exp Type 1	71,055	1.53	72,123
C2 > Exp Type 2	58,371	1.25	59,245

ABC Widget Inc (Budget)  
Statement of Operations  
For the year ending December 31, 2

	Historical
<b>Revenue</b>	
Rev Type 1 Total	\$2.34
Rev Type 2	1.04
Rev Type 3	36
Returns and allowances	(13)
<b>Total Revenue</b>	<b>3.62</b>
<b>Cost of Sales</b>	
Cost Type 1	1.06
Cost Type 2	60
Cost Type 3	14
Cost Type 4	13
<b>Total Cost of Sales</b>	<b>1.94</b>
<b>Gross Profit</b>	<b>\$1.68</b>
<b>Expense Class 1</b>	
C1 > Exp Type 1	25
C1 > Exp Type 2	14
C1 > Exp Type 3	3
<b>Total Expense Class 1</b>	<b>43</b>
<b>Expense Class 2</b>	
C2 > Exp Type 1	6
C2 > Exp Type 2	5
C2 > Exp Type 3	3
C2 > Exp Type 4	1
Depreciation	83

ABC Widget Inc (Budget)  
Statement of Operations  
For the years ending December 31, 2012 and 2013

	Budgeted 12/31/2012	Budgeted 12/31/2013
<b>Revenue</b>		
Rev Type 1 Total		
Rev Type 1 > Sub 1 (Adjust Prior)	\$1,501,289	\$1,576,353
Rev Type 1 > Sub 2 (Trend)	794,773	836,737
Rev Type 1 > Sub 3 (% of another)	287,959	303,163
Rev Type 1 > Sub 4 (User entered)	25,664	80,535
<b>Total Rev Type 1 Total</b>	<b>2,609,685</b>	<b>2,796,788</b>
Test	1,428	1,572
Rev Type 2	1,359,600	1,483,200
Rev Type 3	420,000	420,000
Rev Type 4	262,296	289,224
Returns and allowances	5,000	(177,022)
<b>Total Revenue</b>	<b>4,658,009</b>	<b>4,813,762</b>
<b>Cost of Sales</b>		
Cost Type 1		
Cost Type 1 > Sub 1	2,012,499	2,079,796
Cost Type 1 > Sub 2	339,736	357,676
Cost Type 1 > Sub 3	160,290	168,733
Cost Type 1 > Sub 4	14,884	46,708
Cost Type 1	2,527,411	2,652,933
Cost Type 2		
Cost Type 2 > Sub 1	287,100	313,200
Cost Type 2 > Sub 2	260,292	283,944
Cost Type 2 > Sub 3	155,364	169,458
Cost Type 2 > Sub 4	68,796	75,048

For the se

	01/31/2012
Beginning Retained earnings	\$(317,322)
Net Income(Loss)	(95,323)
Ending Retained Earnings	\$(412,645)

For the ten months

	01/31/2012	02/29/2012	03/31/2012	04/30/2012
<b>Current Assets</b>				
Cash and cash equivalents	\$715,761	\$749,299	\$710,622	
Accounts receivable	138,865	101,486	102,949	
Inventory	467,022	461,301	479,406	
Prepaid expense	22,574	21,727	20,803	
Other Current Asset	10,050	10,050	10,050	
<b>Total Current Assets</b>	<b>1,354,272</b>	<b>1,344,863</b>	<b>1,330,060</b>	
<b>Property and Equipment</b>				
Land	150,000	150,000	150,000	
Buildings and improvements	3,542,542	3,542,542	3,542,542	
Equipment	604,547	604,547	604,547	
Office equipment	20,546	20,546	20,546	
Autos	114,575	114,575	114,575	
def	914,356	828,712	743,068	
Accumulated depreciation	(1,396,000)	(1,396,000)	(1,396,000)	
<b>Total Property and Equipment</b>	<b>3,950,566</b>	<b>3,954,922</b>	<b>3,779,278</b>	
<b>Other Assets</b>				
Goodwill	500,000	500,000	500,000	
Amortization of Goodwill	(8,150)	(8,150)	(8,150)	
<b>Total Other Assets</b>	<b>491,850</b>	<b>491,850</b>	<b>491,850</b>	
<b>Total</b>	<b>\$5,796,688</b>	<b>\$5,791,635</b>	<b>\$5,601,188</b>	
<b>Current Liabilities</b>				
Accounts payables 1	\$120,074	\$120,074	\$120,074	
Accounts Payable 2	34,940	34,940	34,940	
Current portion of LTD	54,318	54,318	54,318	
Withheld and accrued taxes	1	1	1	

Budgeted January Budgeted February Budgeted March

	Budgeted January	Budgeted February	Budgeted March
<b>Revenue</b>			
Rev Type 1 Total	\$212,162	\$208,204	\$227,167
Test	119	119	119
Rev Type 2	113,300	113,300	113,300
Rev Type 3	35,000	35,000	35,000
Rev Type 4	21,632	21,632	21,632
Returns and allowances	8,000		
<b>Total Revenue</b>	<b>397,203</b>	<b>378,136</b>	<b>397,286</b>
<b>Cost of Sales</b>			
Cost Type 1	208,874	204,196	216,200
Cost Type 2	78,834	78,834	78,834
Cost Type 3	12,771	12,771	12,771
Cost Type 4	12,789	12,813	13,642
Cost Type 5	100	1,220	150
<b>Total Cost of Sales</b>	<b>311,368</b>	<b>307,034</b>	<b>319,871</b>
<b>Gross Profit</b>	<b>\$75,835</b>	<b>\$70,901</b>	<b>\$77,415</b>
<b>Expense Class 1</b>			
C1 > Exp Type 1	23,642	23,070	26,167
C1 > Exp Type 2	22,490	22,203	23,466
C1 > Exp Type 3	(10,000)	(18,900)	(12,000)
<b>Total Expense Class 1</b>	<b>36,132</b>	<b>26,773</b>	<b>36,633</b>
<b>Expense Class 2</b>			
C2 > Exp Type 1	8,800	8,800	8,214
C2 > Exp Type 2	4,771	4,876	8,168
C2 > Exp Type 3	3,880	3,821	3,848
C2 > Exp Type 4	1,866	1,624	1,773
Depreciation	85,844	85,844	85,844
<b>Total Expense Class 2</b>	<b>101,422</b>	<b>101,168</b>	<b>102,363</b>

ABC Widget Inc (Budget)  
Statement of Cash Flows

	01/31/2012	02/29/2012	03/31/2012	04/30/2012	05/31/2012	06/30/2012	07/31/2012	08/31/2012
<b>Cash Flows from Operating Activities</b>								
Operating revenues	\$387,233	\$378,135	\$397,208	\$375,215	\$363,394	\$403,972	\$414,722	\$394,912
Change in Accounts receivable	213,664	37,339	(7,603)	7,873	6,893	(16,012)	(7,253)	7,640
Cash received from customers	600,897	415,514	389,575	383,188	370,287	387,960	407,489	402,552
Operating expenses	363,208	349,821	373,237	356,870	335,006	382,151	392,264	373,666
Interest Exp	(1,200)							
Provision for Taxes	34,904	38,723	37,814	39,724	37,522	36,339	40,397	41,472
Change in Inventory	175,227	(5,721)	18,125	(22,827)	(12,150)	(41,817)	11,148	(20,207)
Change in Prepaid expense	9,136	(647)	(924)	(833)	(781)	(946)	(969)	(906)
Change in Other Current Asset	10,050			1,500				6,000
Change in Withheld and accrued taxes	(1)							
Cash paid to supplies and employees	591,324	381,976	428,252	374,434	359,567	459,361	442,820	399,963
<b>Cash Flows from Operating Activities</b>	<b>\$9,573</b>	<b>\$33,538</b>	<b>\$(38,677)</b>	<b>\$8,754</b>	<b>\$10,720</b>	<b>\$(71,401)</b>	<b>\$(35,331)</b>	<b>\$2,589</b>
<b>Cash Flows from Investing Activities</b>								
Net Increase/(Decrease) in Cash	9,573	33,538	(38,677)	8,754	10,720	(71,401)	(35,331)	2,589
Cash at Beginning of Period	706,188	715,761	749,299	710,622	719,376	730,096	658,696	623,364
<b>Cash at End of Period</b>	<b>715,761</b>	<b>749,299</b>	<b>710,622</b>	<b>719,376</b>	<b>730,096</b>	<b>658,696</b>	<b>623,364</b>	<b>625,953</b>

# FINANCIAL REPORTING REQUIREMENTS

(C) Royale Management Services, Inc.

954-563-1269



# Annual Financial Report

- Within 90 days of the end of the Association's fiscal year, The Board of Administration must prepare a financial report detailing the year's financial activities
- Within 21 days after it is completed, but no later than 120 days after the end of the fiscal year, the Association must provide a copy of the report to each unit owner, by mail or by hand delivery, to the last known address in the Association's records
- Alternatively, the Association can send a notice that a copy of the financial report will be provided to each unit owner at no charge upon written request
- Must be delivered or mailed within 5 business days of a written request from a unit owner.

# Financial Statements Are Official Records

- Copies of the financial reporting must be maintained at the Association and be made available to any current unit owner or prospective purchaser at a reasonable cost.
- A copy must be provided to any purchaser of a condominium unit at the seller's expense and each purchaser is required to acknowledge receipt of the financial report prior to obtaining title to the property

# Annual Financial Report

718.111(13)

- Annually, the Association is required to prepare a financial report which sets forth the Association's financial receipts and expenditures and details the financial position of the Association.
- The type of financial statement reporting required is based on revenues and association size as set forth by statute.

# Type of Financial Reporting Required




- An association with total annual revenues of less than \$150,000 shall prepare a report of Cash Receipts and Expenditures.
- An association with total annual revenues of \$150,000 or more, but less than \$300,000, shall prepare Compiled Financial Statements.
- An association with total annual revenues of at least \$300,000, but less than \$500,000, shall prepare Reviewed Financial Statements.
- An association with total annual revenues of \$500,000 or more shall prepare Audited Financial Statements.
- NOTE THE GOVERNING DOCUMENTS MAY REQUIRE AN AUDIT OR A REVIEWED STATEMENT REGARDLESS OF WHAT THE STATE REQUIRES.

# What is included in Annual Revenues?

- Annual revenues include but are not limited to:
  - Regular and special assessments
  - Interest income
  - Late fees collected
  - Insurance proceeds
  - Fees and fines collected
- Your manager and/or accountant should be able to help you determine what is required



# More Extensive Financial Reporting

- Associations are permitted to prepare more comprehensive statements than those required without the approval of unit owners.
- Audited
- Reviewed 
- Compiled 
- Cash Receipts & Expenditures 

# Waiver of Financial Reporting Requirement


- If approved by a majority of the voting interests present at a properly called meeting of the association, an association may waive the statutory reporting requirements as set forth below:
  1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;
  2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or
  3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.
- Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken.
- An association may not waive the financial reporting requirements of this section for more than 3 consecutive years.

# No Debit Cards Law

- An association and its officers, directors employees and agents (managers) may not use a debit card issued in the name of the association, or billed directly to the association, for payment of any association expenses.


# Covid-19

[Coronavirus \(COVID-19\) Information](#)

  
**ROYALE MANAGEMENT SERVICES**

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## COVID-19 Updates



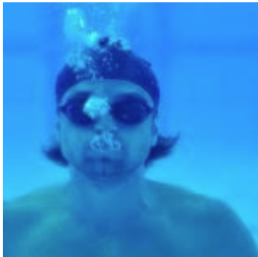
**Click A Topic Below**

- [Rules for Opening Pool Other Amenities EMERGENCY ORDER 20-08 4/29/20](#)
- [Emergency & Non-Emergency Board Meetings 4/27/20](#)
- [COVID-19 Government Loans Programs & Associations 4/23/20](#)
- [Back in the Field 4/22/20](#)
- [Stop the Spread Poster from the CDC 04/21/20](#)
- [Managers Update 4/15/2020](#)
- [Protect Yourself 4/15/20](#)
- [Some Frequently Asked COVID-19 Questions and Answers 04/15/20](#)
- [Broward County Orders Pool & Recreational Facilities Closings 4/3/20](#)
- [We need to know! 4/1/20](#)
- [The Governor's Stay Home Order 3/30/20](#)

# COVID-19

## Rules for Opening Pool Other Amenities EMERGENCY ORDER 20-08

by Steven J Weil, PhD, EA, LCAM



Broward County Emergency Order -20-08 requires pools and pool decks to remained closed unless part of a multifamily housing development, condominium, HOA or hotel and exclusively used by the residents of said property. In addition, capacity must be limited to 50% AND the use of the pool deck and pool must be supervised by a sufficient number of employees or other persons designated by the association during the hours in which it is open.

The employee or person assigned to the pool must sanitize the facilities pool chairs, railings, gates, tables showers, and other equipment on the pool deck on a regular basis; OR all pool furnishings must be removed from the pool deck.

If an association chooses to open their pools and follow these guidelines, those using the pool must maintain social distancing and other requirements as set by the CDC and county and state.

This explanation is not intended to provide legal advice and association boards should review the emergency order and its requirements with their legal counsel before taking any actions.

For a copy of Emergency order 20-08 click here.

<https://www.broward.org/CoronaVirus/Documents/EmergencyOrder20-08.pdf>



# COVID-19

## Emergency & Non-Emergency Board Meetings

by Steven J Weil, PhD, EA, LCAM

### Social Distancing & Board Meetings

Associations can hold virtual meetings during this COVID-19 emergency. The board has the right and responsibility to call emergency meetings as necessary to address the ever-changing situation which requires them to make decisions required to protect the community and residents. These meetings do require the standard 48 hours, notice normally required for a board meeting.

Non-Emergency meetings, made to address the regular operation of the association and board are still subject to the standard 48 hour notice however due to the social distancing rules, these meeting can be held by telephone conference or video conference, owners should be provided information to attend these meeting virtually by phone or computer link. However, owner input can be limited to the ability to submit questions electronically or by email.

RMS is now offering ZOOM meetings along with our traditional teleconferencing. If your board wishes to schedule a ZOOM meeting they can call our office or email us. We will reserve a time for your ZOOM meeting, get a notice, and addenda emailed to unit owners and board members.



# Owner Communication



ROYALE MANAGEMENT SERVICES

COVID-19 UPDATES  
from Royale Management Services

### ZOOM Meetings Now Available

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RMS is now offering ZOOM meetings along with our traditional teleconferencing. If your board wishes to schedule a ZOOM meeting, they can call our office or email us. We will reserve a time for your ZOOM meeting, get a notice, and agenda emailed to unit owners and board members.

### Amenities Updates

The emergency order from the governor "Safer at Home" that instructed residents to shelter at home and avoid going out as well as requiring many businesses to close expires on April 30. Public golf courses, parks, tennis courts and pools can also open April 30. The prohibition on short term rentals also expires April 30.

Each county is establishing its own rules for the opening of pools and other amenities so have patience, while your board and management company make sure that your association is in compliance before opening amenities that have been closed due to COVID-19.

PLEASE NOTE: ASSOCIATION POOLS AND OTHER AMENITIES WILL REMAIN CLOSED UNTIL THE BOARD CAN DETERMINE WHAT NEW REQUIREMENTS HAVE BEEN PUT IN PLACE BY THE STATE, COUNTY, AND LOCAL GOVERNMENT AND CONSULT WITH LEGAL COUNSEL TO DETERMINE HOW TO MITIGATE ANY LIABILITY ISSUES AS WELL AS WHAT POLICIES NEED TO BE IMPOSED TO PROTECT THE SAFETY OF OWNERS AND RESIDENTS

### Social Distance Board Meetings

### Amenities Updates



# **BUDGETS, MAINTENANCE FEES & RESERVES**

(C) Royale Management Services, Inc.  
954-563-1269

# Operating & Reserve Budgets

- Are required to be constructed annually
- Must be submitted to the owners before being approved by the Board
- The operating budget should cover all known and estimated expenditures of operating the Association for the coming year.
- The Reserve must take into account, at minimum, the following items;
  - Roof Replacement, Painting, Paving Replacement
- Reserves should take into account all major capital items with a known useful life

# Reserves Condo & COOP

- Can only be waived by a vote of the owners.
- Cannot be used by the board without owner approval for anything other than the items for which they were reserved
- Should be based on the opinion of outside experts
- Provide an overview for owners and potential owners of future costs and funds available



# Reserves HOA

- Not Required
- Once Established Requires Owners Vote To Remove.
- Without Reserves Budget Must Include:

THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

# Component Reserve Calculations

Replacement Item	Useful Life	Remaining Life	Replacement cost	Current Fund Balance	Balance to Fund	Annual Funding Required
Roof	25	7	200,000	100,000	100,000	14,286
Painting	5	2	25,000	20,000	5,000	2,500
Paving	25	7	100,000	50,000	50,000	7,143
Windows*	30	12	500,000	0	500,000	41,666
Totals			825,000	170,000	655,000	65,595
Annual reserve amount required per unit (SL 100 units) fully funded.						6,560

\* New items added this year no prior amounts reserved.

Reserve account interest must be credit to reserve accounts.

# Commingling of Reserve Funds is Prohibited

The portion of periodic assessments that are for reserves must be deposited in the reserve account in no more than 30 days of receipt.

# Limited Proxies for Waiver or Reductions of Reserves

- Must contain the following in bold letters and a font larger than any other used on the face of the proxy:

**WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.**

# Maintenance Assessments

- Are determined by taking the budgeted expenses less other income sources and dividing by the number of units or multiplying this amount by percentage allocated to each unit in the governing documents
- Reserves per unit are calculated in the same way as maintenance assessments





## **ENFORCING THE DECLARATION AND ALTERNATE DISPUTE RESOLUTION**

# Association Obligation to Enforce

- The Condominium Act requires the Association to maintain and enforce the Declaration, Rules and Regulations, and Florida Statutes.
- The Association must timely enforce the rules and uniformly apply.
- Failure to enforce restrictions timely may result in the forfeiture of enforcement rights:
  - Unit owners may claim selective enforcement
  - The failure to enforce due to inaction may also be considered malfeasance or nonfeasance and a breach of the Board's fiduciary duty

# Violations

- Written Notice should be given to properly document any violations and give the unit owner a voluntary opportunity to correct the violation.
  - Notice violations should be uniform, contain a clear statement of the violation, reference the rule that is being violated, and provide a deadline for compliance
- If voluntary compliance is not achieved, continued documentation of the violation, and each instance thereof, is critical to enforcing the Association's rights.
  - The Association should document the date and time and set forth the details of the specific violation

# Fines

- The Condominium Act provides the Association limited tools to fine unit owners for noncompliance with the Declaration  
(But your governing documents must also permit fines)
- No fine may exceed \$100.00 per violation
  - A fine may be levied on the basis of each day of a continuing violation but may not exceed \$1,000.00 in total.
- A fine cannot become a lien against the property

# Fining Requires

- Documentation of the cause of the fine
- A fine / enforcement committee
  - the committee must be made up of non-board members and cannot include those living with board members.
  - Notice to the owner and or tenant of the right to a hearing before the fine / enforcement committee.
  - Have the ability to override or waive the fine



# Other Enforcement Actions

- Enforcement Actions can take 1 of 3 forms
  - 1. Voluntary mediation with mediators provided by the Division or through Citizen Dispute Settlement Centers
  - 2. Mandatory nonbinding arbitration under procedures established by the Division
  - 3. Filing formal legal proceedings in the Circuit Court (mandatory nonbinding arbitration is precondition to filing suit in many cases)

# Mediation – F.S. 718.501(1)(m)

- Mediation is a method of nonbinding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution. (Blacks Law Dictionary).
- The Division has a list of available local volunteer and paid mediators. Contact the Division at 1-850-488-1122 or by writing to obtain a copy.

# The Election Process



# Board of Directors Elections HOA

- Takes Place AT Annual Meeting
  - 14 Day Notice Mailed, Hand Delivered or Electronic
  - 30% Attendance in Person or by Proxy
  - Voice Vote unless Documents Permit Secret Ballot
  - Self Nominations are Permitted
  - Elected by a Plurality of the Votes Cast by Eligible Voters
  - Ineligible if Delinquent in ANY Obligations and or Felony Conviction with in 5 Years

# Term Limits for Board Members

- Term limits for board members were established 07/01/18 then amended and clarified as of 07/01/19.
  - Directors may not serve more than 8 consecutive one year term or a total of 8 consecutive years.
    - They will not be listed on the ballot and permitted to run until they have been off the board for one term.
    - The exception to the above is that a board member may continue in office if there are not enough persons running to fill all the available board positions.



# Board of Directors Elections

- Two Notices to Unit Owners Required
  - The first notice of election must be mailed or delivered to each unit owner at least 60 days prior to the election and must contain the correct name and mailing address of the association. This notice should remind the unit owners that if they wish to run for election, they must submit their notices of intent, in writing to the association, not less than 40 days prior to the election.
  - The second notice of election must be mailed or delivered to the unit owners with the annual meeting notice and agenda not less than 14 days, and not more than 34 days, prior to the election. Included with the second notices are the printed ballots, the envelopes for returning the completed ballots and any candidate information sheets that have been submitted to the board.

# NOTICES OF INTENT

- Any unit owner or other eligible person who desires to be a candidate for the Board of Administration must give written notice to the board not less than 40 days prior to the election.
- CANDIDATE ELIGIBILITY
  - Submit Notice of Intent not less than 40 days prior
  - Not delinquent on any obligations
  - No felony convictions in last 5 years

# Section 718.112(2)(d)2 F.S. states:

“Any unit owner desiring to be a candidate for board membership must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any monetary obligation due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon’s civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony”.

# Voting Process

- Ballots must list all candidates in alphabetical order
- Placed inside inner then outer envelope
- Outer Envelope signed by owner (if joint ownership) then member with voting certificate
- Submitted before counting begins

**ELECTION BROCHURE  
FOR CONDOMINIUM  
ASSOCIATIONS**

DEPARTMENT OF  
BUSINESS AND PROFESSIONAL REGULATION  
Division of Florida Condominiums, Timeshares, and Mobile Homes  
1940 North Monroe Street  
Tallahassee, Florida 32399-1030  
Telephone: (850) 488-1122  
Facsimile: (850) 488-7149  
  
[www.MyFlorida.com/dbpr/](http://www.MyFlorida.com/dbpr/)



[www.myfloridalicense.com/dbpr/lsc/documents/ElectionBrochureEnglish2011.pdf](http://www.myfloridalicense.com/dbpr/lsc/documents/ElectionBrochureEnglish2011.pdf)

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# Recent Changes & Clean Up

- Changes to Recall of Board Members 718.112(2)(j)
- Suspension of Voting Rights requires > 90 days & > \$1,000 718.303(5)
- [www.myfloridalicense.com/dbpr/lsc/index.html](http://www.myfloridalicense.com/dbpr/lsc/index.html)

## Estoppel Certificate Fees (2017)

### *2017 Legislative Changes*

Chapter 2017-22, Laws of Florida

Chapter 2017-93, Laws of Florida

Chapter 2017-122, Laws of Florida

Chapter 2017-161, Laws of Florida

Chapter 2017-188, Laws of Florida

# Conflicts of Interest

- A conflict of interest is a:
  - a situation in which a person has a duty to more than one person or organization, but cannot do justice to the actual or potentially adverse interests of both parties.
  - A presumed conflict exists if:
    - Directors or officers, or their relatives or “corporate” alter egos contract with association.

# What to do if there is a potential conflict of interest?

- In the event of a potential conflict of interest of a board member, according to Florida Law you must attach all relevant contracts to the agenda and:
  - Disclose the Conflict
  - Leave the meeting room for discussion
  - Be Recused from the vote.

# Service Providers

Section 718.112(2)(p) FS, provides that “an association which is not a timeshare condominium association, may not employ or contract with any service provider that is owned or operated by a board member or with any person who has a financial relationship within the third degree of consanguinity by blood or marriage of a board member or officer.”

# Florida Law

- New Rules for Estoppels
  - Max Fee \$250.00 10 days plus \$100 for 3 days
  - Delinquent (in legal) plus \$150
  - Additional Information Required on Estoppel
- Criminal Penalties (Officers, Directors & Managers)
  - Kickbacks
  - Forgery (related to voting )
  - Theft & Embezzlement



# Important Resources

- The Condominium Concept, by Peter M Dunbar, Esq.
- The Law of Florida Homeowners Associations, Peter M Dunbar, Esq.
- Division of Florida Condominiums, Timeshares, and Mobile Homes Web Site  
<http://www.myfloridalicense.com/DBPR/condominiums-and-cooperatives/>
- Royale Management Services, Inc.  
[www.RoyaleManagement.com](http://www.RoyaleManagement.com)

# CERTIFICATE OF COMPLETION

THIS CERTIFICATE IS AWARDED TO

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THIS CERTIFICATE RECOGNIZES THE SUCCESSFUL COMPLETION OF A 2 HOURS COURSE FOR ASSOCIATION BOARD MEMBERS AND PERSPECTIVE BOARD MEMBERS. THE TITLE OF THE COURSE COMPLETED IS CONDOMINIUM BOARD MEMBER CERTIFICATION 2018

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SIGNATURE

DATE

---

PROVIDER #

COURSE #

**AWARDED BY: ROYALE MANAGEMENT SERVICES, INC.  
2319 N ANDREWS AVENUE  
FORT LAUDERDALE, FL 33311**