

THE CO-OP ASSOCIATION

September 1, 2024

DIRECTORS' DIGEST

37

YEARS

A Publication of the Law Offices of Lobeck & Rowe

2024 Legal Update





For years, the Florida Legislature has piled on increasing micromanagement of Community Associations.

Led by big-government lawmakers in Miami, isolated incidents of Director misconduct in southeast Florida are cited as an excuse to make it even more difficult to recruit owners to serve on Association Boards.

Cooperative Associations, however, lucked out in 2024. This year, the Legislature imposed incredibly onerous new laws on Condominium and Homeowners Associations. They include criminal penalties of Board members for a long list of offenses relating to records access by owners, election conduct and otherwise, prohibitions on enforcing certain HOA restrictions, such as vehicle parking and otherwise.

Co-Op Associations should count their blessings, while we can.

MEET

Brett Paben



Brett Paben joined our firm in 2023 after years as a successful solo practitioner. He was admitted to the Florida Bar in October, 2000.

He earned his Juris Doctorate from University of Oregon School of Law and went on to further his education by receiving his Master of Law in Environmental Law from Georgetown University Law Center.

Brett's legal experience began in the nonprofit sector focusing on environmental subjects and he later expanded to land use and zoning in his private practice.

Brett has experience providing litigation and counseling in environmental, nonprofit organization corporate and tax matters, as well as experience with wills and trusts and otherwise.

Additionally, Brett has worked as a professor teaching environmental law and taught land use law while serving as a visiting professor.



Lobeck & Rowe

***Your* Association Attorneys**

Serving Sarasota and Manatee Counties and beyond since 1987

2024 Legislation

HB 1203 mainly concerns legislation governing Condominium Associations. However, there are a few provisions which amend Chapter 719, Florida Statutes, and more which amend the statutes governing managers of Community Associations, including Cooperative Associations.

The bill passed unanimously in the Senate and with only two “no” votes in the House.

The new laws have an effective date of **July 1, 2024.**

Mandatory Management Duties

A manager or management company for a community association is required to perform the following duties:

Attend “in person” at least one membership or Board meeting annually.

Provide to the members of the Association (which the Association shall also post on its website) the name and contact information for each manager or “management company representative” assigned to the Association, such persons’ hours of availability and a summary of the duties for which each such person is responsible. The manager or management company shall update the Association and its members within 24 hours of any change in that information.

It is unclear how the manager or management company is to provide this information and updates to the members, whether by mail, email (when available) or other means. Notification by posting on the

Association website would not seem sufficient, however, as the statute provides that notification (by the Association) is to be provided as a supplement to the notification by the manager or management company.



There is an issue as to whether these requirements may validly impair a management contract existing before their effective date on July 1, 2024, by imposing obligations (and arguably expenses) not included in the contract, without additional compensation.

It would appear to be an unconstitutional legislative impairment of contract, and as such applicable to new management contracts only.

Management Records Transfer

Creates a deadline of 20 business days for a terminated management company or manager to turn over Association records to the new management, subject to a CAM license suspension and a civil penalty of \$1,000 a day up to ten business days.

Management Conflicts of Interest

Requires written disclosure to the Association Board by a management company or manager or any director, officer and person with a financial interest in the company or a defined relative thereof, of any conflict of interest, including a contract or business with the Association for other than management services.

In such an instance, if the bid for goods or services

exceeds \$2,500, the Association must solicit multiple competitive bids from other providers. Disclosure of the conflict must be disclosed in agenda text and attachments and meeting minutes. Board approval of a contract or transaction with a conflict requires approval by 2/3 of the Directors present, and disclosure at the next membership meeting, unless the conflict is disclosed in the management services contract. A violation allows the Association to cancel the contract for management services without penalty and subjects the manager or management company to license discipline.

Electronic Voting

It is clarified that a unit owner may consent to participate in electronic voting “electronically” rather than only “in writing” as at present.

Also, if the Board authorizes online voting, the board must honor a unit owner's request to vote electronically at all subsequent elections, unless such unit owner opts out of online voting.

Structural Integrity Reserve Study Notices

In 2022, the Florida Legislature passed new laws in response to a condominium building collapse in Miami the year before.

For any building three stories of more in height, Cooperative Associations as well as Condominium Associations are now required to have a certain building inspection and obtain and implement a Structural Integrity Reserve Study (SIRS), with deadlines.

This affects very few Cooperatives, at least in southwest Florida, as almost all Cooperatives consist of manufactured home communities.

The new law provides that if a Cooperative Association is required to obtain a SIRS, certain notices need to be provided to the members and to the Division of Florida Condominiums, Timeshares and Mobile Homes. It also provides for a Division website database of Condominium and Cooperative As-

sociations which have obtained a SIRS.

Notwithstanding the lack of a SIRS requirement for a building of less than three stories, a developer turning over control of a Cooperative Association is required to provide a SIRS for a list of components that are part of the cooperative property. This would apply to the roofs, structures, waterproofing, fire protection, windows and doors of common area buildings, as well as plumbing and electrical systems throughout the Cooperative property.

Chapter 723 — Mobile Home Act

Some Cooperative Associations in a manufactured home Cooperative act as landlord in the rental of lots, often those which were not sold in the creation of the Cooperative by conversion of a park. As such, they often become subject to Chapter 723, Florida Statutes.

HB 613 was enacted this year to make various changes to the mediation procedures of Chapter 723, in disputes between the landlord and tenants regarding matters such as rent and rules.

Also, notably, it allows tenants to have live-in health care aides under the Fair Housing Act without paying additional rent, but with payment for a screening if that is required. The statute also provides:

The live-in health care aide does not have any rights of tenancy in the mobile home park and the mobile home owner must notify the park owner or park manager of the name of the live-in health care aide and provide the information required to have the background check, if one is necessary. The mobile home owner has the responsibility to remove the live-in health care aide should it become necessary and to cover the costs associated with such removal.

This legislation does not apply to regulation by a Cooperative Association of occupancy of lots owned by Association members or the tenants or guests of members, but only to rentals of Association-owned lots governed by Chapter 723.



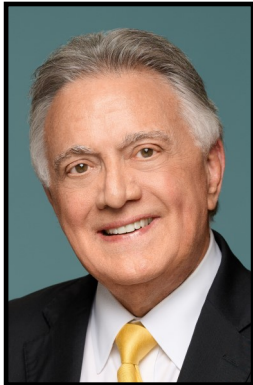
Law Offices

Serving Southwest
Florida and Beyond

Lobeck & Rowe

P.A.

**A Full Service Law Firm With an Emphasis on Representing
Condominium, Cooperative and Homeowners Associations**



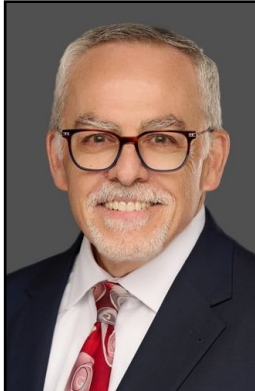
Dan Lobeck



Michelle Rowe



Brett Paben



Joe Gugino

Assessment
Collections
Rules
Enforcement
Construction
Defect Claims
Neighborhood
Protection
Document
Revisions
Contracts
Association
Meetings
Legal Advice

Also: Land Use, Estates,
Personal Injury, Family
Law and Other Services

2033 Main Street, Suite 403, Sarasota, Florida 34237

(941) 955-5622

law@lobeckrowe.com

Check Out Our Website at www.lobeckrowe.com

Legal Advertisement