

OFFICIAL MINUTES

FINNS COVE II HOMEOWNERS ASSOCIATION BOARD OF DIRECTORS MEETING August 13th, 2024

CALL TO ORDER:

The meeting was called to order at 5:35 p.m. by the President, Carla Kilgo at the Waterford Lakes Community Center.

STATEMENT OF QUORUM:

A quorum was not met. The following directors and officers were in attendance:

- **Carla Kilgo**, President - **Hermi Velazquez**, VP **Sylvia Braswell**, Secretary
- Bob Seltzer (LCAM) from MSI was in attendance.

PROOF OF DUE NOTICE:

The meeting sign was posted at the front entrance 48 hours in advance in accordance with FL Statutes.

MANAGEMENT ISSUES:

Approval of Previous Meeting Minutes:

The draft minutes from the June 4, 2024 Board Meeting were reviewed in advance and at the meeting by the Board members for accuracy. No edits were provided, as such Carla motioned that the minutes be approved as submitted, Hermi seconded the motion and the motion was unanimously approved.

Official Board:

Management Report: The report was submitted in advance of the meeting by e-mail. A copy of the report was provided for the HOA files. MSI reviewed the report with the Board and highlighted the noteworthy items. Highlights and updates from the report are noted under “Old Business”.

Old Business:

- A) **Previous Year Assessments:** There are no previous year assessments delinquent.
- B) **2024 Assessments:** As of Mar 27th, all (143) Homeowners have paid with (79) by PayPal (2023: (70) used PP; 2022: 71 used PayPal; In 2021: 66 used PayPal; 2020: 50 used PP);
- C) **YTD Financial Summary:** Projected Aug-end assets: **\$18,877** (Chk: \$12,565 + MM: \$6,311)
- D) **Closings:** None this period
- E) **Welcome Letters:** None this period
- F) **Landscaping:**
 - **Pond:** Looks fine
 - **Entrance:** Looks good – except Carla mentioned that she plans to: 1) remove the grassy plants, 2) clean up the area by the rock and 3) Buy and install one more Ixora.
- G) **Island Rock Cleaning:** The VP (Hermi) cleaned the rock in the entrance island with a product with good results.
- H) **Homeowner Correspondence for Sale:** Numerous maintenance e-mails sent.

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- I) **Community Walk-Through:** MSI performed the latest community walk-through on Aug 9th.
See appendix Table at end of minutes.
The President mentioned that there are sometimes up to (10) cars parked in front of 623 Hallowell.
She will send MSI a picture the next time it occurs.
- J) **Homes for Sale:** None currently.

New Business:

- **2025 Draft Proposed Budget:** The BoD reviewed the current 2024 budget versus the YTD and projected year-end 2024 expenses. AS result of the review, just two changes were made as follows: 1) Reduced Capital Projects from \$1,500 to \$500 (line 9) and 2) Reduced Annuals from \$150 to \$50 (line 10)
- **New FL HOA Statues Effective Jul 1st 2024:** Extensive new HOA Statues that were passed by the legislature and signed by the governor on May 31st. The new statues go into effect July 1st. MSI cut and paste and summary of the new laws at the end of the minutes. The entire legal text can be found at: [Click here for Text of House Bill 1203](#) [Click here for Text of House Bill 1203](#). Also attached as a separate PDF file and a summary provided at the end of this Report (The BackerReport).

The portions of the bill that most affect the HOA are as follows:

- Provide owners with a summary of the manager's duties. The homeowners' association is required to post this information on the association's website.
 - The law revises the **education requirements for the directors of homeowners'** associations to: Require a newly elected or appointed director to, within 90 days after being elected or appointment to complete an approved course and submit a certificate of having completed the educational course. The certificate is good for up to four years.
 - 720.3075 now restricts HOA's from prohibiting the parking of **work vehicles** that are not defined as Commercial vehicles in the driveway or public streets
 - **Boats, sheds, etc. cannot be disallowed** if stored out of view (see pg 10)
 - For HOAs with more than 100 parcels there are substantial changes for document storage on the HOAs web site. See pg 8 for details.
- **Two Spooky Awards:** The BoD discussed and approved adding a 2nd Spooky award to the Halloween contest in October. This is based on the significant community participation.
 - **Bamboo:** There was some discussion regarding the overgrown bamboo in he backyard of 914 Hallowell. It was brought to the attention of the BoD by the adjacent neighbor at 821 Havenwood. She has complained of constantly having to trim it back and of the debris it leaves on their roof. MSI offered to speak to the owner of 914 Hallowell.
 - **MSI Resignation:** MSI mentioned that with strong certainty he will be resigning as the FC II Community manager effective 31 Dec 2024. MSI suggested using Liam Poole with Homevest as the next Community manager. MSI had some information about him and the Homevest company that he will send the BoD.

After mentioning this, Carla indicated that she will also research the idea of being managed under the Master Assoc. similar to the Estates. She plans to call the Estate's representative and report back to the BoD the results.

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TREASURER ASSESSMENT REPORT:

- Previous Years: All have paid
- 2024: See page 1

FINANCIAL REPORT:

- Monthly Financial Report: The Aug. Monthly Financial Report was reviewed with the Board with no items for discussion.
- YTD Financial Summary: See pg 1.

Association Bills Paid between Meetings:

Chk #	Date	Amount	Description
EFT	7/25/2024	\$41.20	Electricity: Progress Energy
995173	7/1/2024	\$15.89	Community Events: 4th of July Flags - Reimb. Carla
995177	7/11/2023	\$58.05	Admin: Revere Legal Update 2024-2 (Inv. #24220)
995172	7/11/2023	\$44.34	Web site: GoDaddy 2-year Domain Renewal - Reimb. J. Kilgo
		\$159.48	

Association Bills Paid/Approved at this Meeting:

Chk #	Date	Amount	Description
On-line	8/12/2024	\$1,875.00	Mgmt Fee (Jul-Sep 2024)
ON-line Chk	8/12/2024	\$1,800.00	Contract Main.: Jul-Sep (Merrick Landscaping)
ON-line Chk	8/12/2024	\$19.96	Community Events: 4th of July Flags - Reimb. Hermi
EFT	8/X/24	\$48.61	Electricity: Progress Energy
	TOTAL:	\$3,743.57	

ARCHITECTURAL REVIEW: ARB's: This period (6) ARBs were submitted with (5) approved. Additionally, one was approved at the meeting (shed at 819 Hallowell)

ADDRESS	DESCRIPTION	SUB	MASTER	COMMENTS
819 Hal	Install Shed in back read corner of backyard	8/13/24	TBD	
705 Hal	Roof – Arch, Color = Burnt Sienna; Drip=White	N/A	APP: 8/6/24	
546 Hall	Windows – Replace with Pella Single Hung	N/A	APP: 7/23/24	
709 Hal	Back Door -Replace with nonimpact Fiberglass	N/A	APP: 7/9/24	
814 Wood	Fence – White vinyl 6ft and 2 gates	N/A	APP: 7/9/24	
553 Hal	Paint – Scheme #19; Frt Door Polished Mahogany	N/A	APP: 6/18/24	
709 Hal	Pavers – Driveway and walkway – tan/brown	N/A	DIS: 6/18/24	Needs Plot Plan

HOMEOWNER MAINTENANCE:

Community Homes:

- **Current House of the Month:** In 2024 Carla is now running the



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selection as of March 2024.

→ **Jul/Aug 2024 Winner: Was not selected; Carla will resume starting Sept.**

- **2024 Homes:** Jan: None; Feb: None; Mar: None; Apr: 839 Hal.; May: 908 Wood.; Jun: 836 Ard; Jul: N/A; Aug: N/A; Sep: TBD; Oct: TBD; Nov: TBD; Dec: TBD.
- **2023 Homes:** Jan: 839 Hall; Feb: 811 Hall; Mar: 820 Woodmeade; Apr: 818 Julliard; May: 800 Ard. Jun: None; Jul: 808 Ard.; Aug: 12412 Will; Sep: 12419 Will; Oct: None; Nov: 809 Wood; Dec: 818 Hall.
- **2022 Homes:** Mar: 725 Hall; Apr: 806 Jul; May: 810 Hav; Jun: 546 Hall; Jul: 837 Jull; Aug: 814 Woodmeade; Sep: 522 Hallowell; Oct: 844 Hall; Nov: 12429 Marleigh; Dec: 943 Hall

• **Community Walk-through:**

- MSI completed the latest drive-thru inspections on Aug 9th. Results and actions taken are documented in the Appendix report.

STREET	CLOSED [10]	OPEN [11]	WATCH [0]
Ardenleigh (2)	823(L)	801(L) , 820(Beds)	
Hallowell (3)	509(L), 619(shrubs), 631(Fen. Posts), 737(Fence), 822(L),	737(Roof), 819(Paint), 835(Beds)	
Havenwood (2)	810(Broken DW),	810(Broken DW), 814(PWD)	
Julliard (1)		806(L)	
Marleigh (0)			
Willcox (0)	12420(L, DW/H), 12424(L)		
Woodmeade (3)	814(Stump)	803(Trim Paint), 814(Stump), 845(PWD/H/DW)	

COMMUNITY FORUM: There were no residents present other than the (3) Board members.

ACTION ITEMS:

- **MSI:** Send out draft Board minutes within one week of the meeting.
- **MSI:** Oder a 2nd Spooky sign from Fastsigns
- **MSI:** Send the BoD info. about Community Mgr Liam Poole/Homevest
- **Pres.:** Plant Ixora and remove grassy plants at entrance
- **Pres.:** Call the Estate’s representative to see about being managed under WLCA like the Estates and report back to the BoD the results.
- **MSI:** Change Annual mtg date with WLCA from Oct 9th as needed.
- **MSI:** Contact 914 Hallowell about overgrown Bamboo plants in backyard
- **Pres.:** Have WLCA share what violation types (e.g., lawns, power washing, driveway weeds, poor lawns, etc.) and how many violations WLCA took past the 3rd violation letter and pursued mediation and what the results of the mediations were that were pursued.
- **MSI:** Do follow-up inspection of homes with outstanding maintenance violations each month
- **MSI:** Will coordinate ARB issues with Master Assoc./President

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NEXT MEETING:

The next regular Board of Directors meeting is scheduled for Aug 13th, 2024 at the Waterford Lakes Community Center.

2024 Board Meeting Schedule:

All meetings are at the Waterford Lakes Community Center on the **2nd Tuesday** of even months at 5:30PM. WLCA POC: Reagan Rivard

Feb 13th — Status collection/Gen. Updates	Aug 13th — Budget planning for 2025
April 9th — Status collections/Gen. updates	Oct 9th Annual Meeting/Set Budget
June 11th — General updates	Dec. 10th Finalize next year billing

ADJOURN:

As there was no further business before the Board, the meeting was adjourned at 6:25 pm.

OFFICIAL APPROVAL OF MINUTES:

Approved for Entry to the Finn's Cove II Records, this _____ Day of Oct 2024

Sylvia Braswell

Secretary, Finn's Cove II HOA: _____

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Aug 9th, July 19th, Jun 3rd and May 11th 2024 (W/Carla) Property Review Follow-up Rept

YELLOW = RENTAL;

Address	Violation Description	Status
ARDENLEIGH		
801 Mario Flores & Ana Regus / Blanca & Eduardo Flores	3/6/24: Lawn care needed 11/28/23: PWH & Gutters 2nd	OPEN: 8/9/24: Sent EM to plug lawn; HO responded that he would. 7/19/24: Plugs would help at this pt 5/11/24: Fill-in Bare spots – send Owner Text 3/31/24: N/C – sent – texted homeowner on 4/1/24 homeowner said he would work to improve it. 3/6/24: Lawn care whiteflowersALF@msn.com; floresjosh@msn.com;
801	11/28/23: GC	On-hold until new Guidelines come out
802	11/28/23: GC	On-hold until new Guidelines come out
804	11/28/23: GC	GC On-hold until new Guidelines come out
820	8/9/24: Weed Beds	OPEN: 8/10/24: Sent EM Notice
823 DiWolters@msn.com;	6/3/24: Lawn care needed – bare spots and weeds	CLOSED: 7/19/24: OK Now 6/4/24: Sent Owner EM 6/3/24: Observed
828	11/28/23: 11/28/23: GC	On-hold until new Guidelines come out
832 Truc Tran & Quyen Nguyen tructran251289@gmail.com; rucquan170893@gmail.com;	5/11/24: Lawn Care - Weeds	WATCH: 6/3/24: Just adequate 5/15/24: Sent homeowner EM 5/11/24: Observed
HALLOWELL		
509 (Rental)	3/31/24: Lawn needs fertilizer and water	CLOSED: 7/19/24: OK Now 5/11/24: Needs water – Send Owner EM 3/31/24: Emailed homeowner 3/30/24: Observed
619	7/19/24: Trim fir Pordocarpus	CLOSED: 7/19/24: OK Now
631 Tah Ms Borrower LLC Jenny E. Rico –	11/28/23: ARA: Remove fence posts 2nd for Main. Issues jerico@triconresidential.com	CLOSED: 7/19/24: DONE! Yea. 5/15/24: N/C – Sent EM 3/31/24: Posts still there – spoke to tenant – would do it if he had the tools.
737 Luis Hernandez	5/11/24: Clean roof trim, lawn needs care, replace left fence 3/6/24: Replace roof 11/28/23: BDF-3rd – left side	OPEN: 8/9/24: Roof – badly needs to be replaced CLOSED: 8/9/24: Fence fixed on left & Right Side 7/19/24: Lawn just OK 5/11/24: Sent Property Mgr 2 nd EM 3/29/24: Spoke to Prop. Mgr at length – he will communicate to the owner the importance of replacing the fence and cleaning the gutters. If he has no luck with owner...this is one worthy of being fined or brought to mediation. 3/8/24: Called Property mgr and left voice mail. 3/6/24: Call Property Mgr – Cory (321-436-7189)

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Address	Violation Description	Status
819	7/19/24: Paint House & Clean DW	OPEN: 8/9/24: Paint House – Sent EM – 90 day notice; HO responded submitting ARA soon CLOSED: 8/9/24: DW Done 7/19/24: Sent EM
822 Teresa & Terry	5/11/24: Care for Lawn – treat Weeds 11/28/23: GC	CLOSED: 7/19/24: OK Now 5/15/24: Sent homeowner EM 5/11/24: Observed On-hold until new Guidelines come out Brent Montey & Christina Markowski
835 Franche fductant@gmail.com; iveyductant@gmail.com;	5/11/24: Weed/mulch beds	OPEN: 8/9/24: N/C – Sent 2nd EM; HO responded – trying to work it 7/19/24: Could still be better 5/15/24: Sent homeowner EM 5/11/24: Observed
914	11/28/23: GC	On-hold until new Guidelines come out
HAVENWOOD		
810 Christopher & Michelle Stevens chrisstevens@awtv.com lean DW	2/6/24: Repair Broken DW	OPEN: 8/9/24: Sent 2nd EM 7/19/24: N/C 5/15/24: Sent owner EM 5/11/24: N/C – Send Contractor Recommendation 3/29/24: N/C = Need Board recommendation – what has Master done in past? 2/6/24: Violation observed
814 Brian Applegate	8/9/24: Clean DW	OPEN: 8/10/24: Sent 1st EM Notice; HO responded submitting ARA soon
JULLIARD		
806 Kerrie & Harry Moberly 119 Jacks Terrace Richmond, KY 40475-8484	5/11/24: Repair/Re-sod lawn in Easement kerrie.moberly@gmail.com ; harrymoberly@gmail.com	OPEN: 8/9/24: Still Completely brown/Dead 5/15/24: Sent homeowner EM; Homeowner responded that they are in the process of repairing. See note at end of Table.
831	11/28/23: GC-2nd	On-hold until new Guidelines come out
MARLEIGH		
12429 Thomas Potter & Kimberly Randall	11/28/23: GC + ARA-GC-B-2 nd -bricks	On-hold until new Guidelines come out
WILCOX		
12420 Gary Noel gary.s.noel@gmail.com;	5/11/24: Clean DW + House frt 2/6/24: Lawn Needs care	CLOSED: 7/19/24: OK Now 6/3/24: Sent Owner EM regarding lawn and DW 5/11/24: Added DW/House 3/30/24: Sent 2 nd email
12424 Deborah Ballin	8/9/24: Noticed large trailer (see pic) in street – may just be temp. 2/6/24: Lawn needs to be resodded;	OPEN: 8/9/24: Send EM for trailer if it stays CLOSED: 7/19/24: OK Now : 6/3/24: Lawn still sub-par
WOODMEADE		
803 Charles Ramdatt	11/28/23: PWH-paint white trim	OPEN: 8/9/24 & 7/19/24: Still N/C 6/3/24: Left note at door

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Address	Violation Description	Status
814 terrence.s.williams.jr@lmco.com; tsw09c@my.fsu.edu ;	5/29/24: Remove stump Rt side of garage	CLOSED: 7/19/24: OK Now : 6/3/24: Sent Homeowner EM
815	11/28/23: GC + ARA-GC VB-lattice	On-hold until new Guidelines come out
845 Sherry Kiburz sherkibz@bellsouth.net ;	3/6/24: Lawn Care Needed + PWD/PWH	OPEN: 8/9/24 & 7/19/24: N/C 5/11/24: N/C 4/6/24: Sent EM 3/29/24: N/C – send 2 nd email 3/7/24: Sent Gen. EM 3/6/24: Observed

806 Julliard NOTE:

We were at our home at 806 Julliard Court last month and discovered that a large vehicle had destroyed our irrigation line between the median and sidewalk. We contacted 3 different firms for quotes on repairing and replacing the line. This necessitated shutting down the irrigation system in that Zone for several weeks until repairs could be scheduled. We were advised that this is the “busy season” for all of the landscaping/irrigation contractors. I flew into Orlando last week and the irrigation line between the sidewalk and roadway was completely replaced. The previous owner had one irrigation head and utilized a water saver feature for the entire median area. We have replaced it with four heads that have full watering capability.

We discussed with the installers replacing the sod. They advised that we should give the existing sod, now properly watered, the opportunity to see if it will come back. They also advised that we had just missed the window for suggested sodding and should wait until fall...or could have to replace it multiple times.

We have every intention to replace the sod during the recommended time frame suggested by the landscapers. should it not re-establish with the new watering system.

We hope that this is satisfactory to the HOA. We have also installed additional sprinkler heads and adjusted existing ones to improve the watering to all of the landscaping in our yard. We also replaced /planted several plants in the front landscaped area and mulched to improve the appearance.

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FL STATUE 7-1-2024 REGARDING WEBSITE DOCUMENT POSTING

- (b)1. By January 1, 2025, an association that has 100 or more parcels shall post the following documents on its website or make available such documents through an application that can be downloaded on a mobile device:**
- a. The articles of incorporation of the association and each amendment thereto.
 - b. The recorded bylaws of the association and each amendment thereto.
 - c. The declaration of covenants and a copy of each amendment thereto.
 - d. The current rules of the association.
 - e. A list of all current executory contracts or documents to which the association is a party or under which the association or the parcel owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year.
 - f. The annual budget required by subsection (6) and any proposed budget to be considered at the annual meeting.
 - g. The financial report required by subsection (7) and any monthly income or expense statement to be considered at a meeting.
 - h. The association's current insurance policies.
 - i. The certification of each director as required by s. [720.3033](#)(1)(a).
 - j. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated homeowners' association or any other entity in which a director of an association is also a director or an officer and has a financial interest.
 - k. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. [468.436](#)(2)(b)6. and [720.3033](#)(2).
 - l. Notice of any scheduled meeting of members and the agenda for the meeting, as required by s. [720.306](#), at least 14 days before such meeting. The notice must be posted in plain view on the homepage of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the homepage. The association shall also post on its website or application any document to be considered and voted on by the members during the meeting or any document listed on the meeting agenda at least 7 days before the meeting at which such document or information within the document will be considered.
 - m. Notice of any board meeting, the agenda, and any other document required for such meeting as required by subsection (3), which must be posted on the website or application no later than the date required for notice under subsection (3).
- 2. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to parcel owners and employees of the association.**
- 3. Upon written request by a parcel owner, the association must provide the parcel owner with a username and password and access to the protected sections of the association's website or application which contains the official documents of the association.**

BackerReport

June 2024

Community Association Law Newsletter

Publishing information of interest to Florida property managers, directors and property owners for more than 30 years

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Florida Governor Signs Bill Creating New Laws for Homeowners Associations - it's a lot!

On May 31, 2024, Governor DeSantis signed into law House Bill 1203 (effective July 1, 2024) which in this author's opinion imposes some of the most onerous new laws governing property managers and homeowners' associations in Florida history. There is another bill on the governor's desk concerning condominiums, but we will wait until the governor acts on it before providing a summary of that bill's provisions.

Historically, the Florida legislature has limited its regulation of HOA's and deferred to each community's governing documents to describe the effect of covenants, restrictions, elections and operational requirements of Florida's non-condominium homeowners' associations. Given the small government and personal freedom rhetoric of Governor DeSantis and many of his fellow Republican lawmakers, many are surprised that, with the stroke of a pen, he would be the governor to make this bill law. Despite Republican majorities in both houses of the legislature, this law was approved by all but two votes in the House and passed unanimously in the Senate!

This article will summarize the more significant changes in the law here with the caveat that one should not rely on this or any other summary, but one should read the text of the bill to read the language of the new and amended laws. Quite often, statutes are written poorly or intentionally ambiguously so that there is room for argument about their meaning and impact. A link to the bill is included at the end of this article.

Community Association Managers

Section 468.4334, Fla. Stat. relates to professional standards for community association managers and firms. The new law requires CAMs and CAM firms to:

- Annually attend at least one member meeting or board meeting of each of their managed associations;

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- Provide to community association members certain information, including the contact person, contact information, and the hours of availability;
- Provide owners with a summary of the manager's duties. The homeowners' association is required to post this information on the association's website or application required under section 720.303(4)(b).
- Provide the community's members upon request a copy of the contract between the association and the CAM or CAM firm;
- Annually complete at least 10 hours of continuing education; and
- Biennially complete at least five hours of continuing education that pertains to homeowners' associations, three hours of which must relate to recordkeeping.

HOA Official Records

The law requires homeowners' associations to:

- **Effective January 1, 2025, associations with 100 or more parcels must maintain a digital copy of specified official records for download on the association's website or through an application on a mobile device.** The new law includes a requirement that member meeting notices and agendas must be posted on the homepage at least 14 days in advance or on a separate subpage labeled "Notices." Any document to be considered and voted on by the members during the meeting or any document listed on the meeting agenda at least 7 days before the meeting at which such document or information within the document will be considered must also be included on the website.
- Provide a copy of records or otherwise make the records available that are subpoenaed by a law enforcement agency within five days of receiving a subpoena.
- Maintain official records for at least seven years unless the governing documents of the association require a *longer* period of time. Election and owner voting materials are still only required to be kept for at least one year after the date of the election, vote or meeting. There is an apparent internal inconsistency between subsection (4) which provides records must be kept for seven years and subsection (5) which provides that the seven-year requirement applies only "unless otherwise provided by law or the governing documents of the association."
- **The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to parcel owners and employees of the association.**
- While previously permissible, the new law makes it mandatory for HOA's to adopt written rules governing the method or policy by which the official records of the association are to be retained and the time period such records must be retained. Such information must be made available to the parcel owners through the association's website or application.

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Directors' and Managers' Criminal Exposure

That's right, folks! Despite that some parcel owners have been known to weaponize official records requests to make busy work for property managers and volunteer directors, the legislature and governor just imposed criminal penalties against directors and managers who knowingly, willfully and repeatedly violate owners' records inspection requests. The bill provides the following criminal penalties related to homeowners' associations:

- Second degree misdemeanor for any manager, director or member of the board or association to knowingly, willfully, and repeatedly (two or more within twelve months) violate any specified requirements relating to inspection and copying of official records of an association with the intent of causing harm to the association or one or more of its members;
- First degree misdemeanor for knowingly and intentionally defacing or destroying required accounting records, or knowingly and intentionally failing to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members;
- Third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.

The law was also amended to provide that it is a third degree felony for an officer, director, or manager of a homeowner's association to knowingly solicit, offer to accept, or accept a kickback. A "kickback" means anything or service of value for which consideration has not been provided for an officer's, director's or manager's benefit or that of his immediate family from providing or proposing to provide goods or services to the association. If the board finds that an officer or director violated the anti-kickback law, the board is *required* to remove the officer or director for office.

Debit cards in the name of the association are prohibited. If a person uses a (prohibited) debit card issued in the name of the association for any expense which is not a lawful obligation of the association (an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget), it is construed as theft punishable under criminal statutes.

The law also expands the current criminal prohibitions against fraudulent voting activity to provide it is a first degree misdemeanor for:

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.
- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.
- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

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Any officer or director charged with a criminal violation under ch. 720, F.S., must be removed from office and a vacancy declared.

Financial Reporting

The law: Requires associations **with 1,000 or more parcels** to have audited financial statements irrespective of the association's annual revenue; and prohibits associations from reducing the required type of financial statement (compiled, reviewed, or audited financial statements) for consecutive years.

Requirement to Provide Accounting

The new law allows association parcel owners to make a written request for a detailed accounting of any amounts owed to the association. If the association fails to provide the accounting within 15 business days of a written request, any outstanding fines of the requester are waived if the fine is more than 30 days past due and the association did not give prior written notice of the fines. It also prohibits parcel owners from requesting another detailed accounting within 90 days of such a request. Nothing in the new law provides that a failure to timely respond to the request for accounting affects an owner's obligation to pay *assessments*.

Education - Officers and Directors

The law revises the education requirements for the directors of homeowners' associations to:

- Require a newly elected or appointed director to, within 90 days after being elected or appointment to complete an approved course and submit a certificate of having completed the educational course. The certificate is good for up to four years.
- The course curriculum must include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.
- The new law requires a director of an association that has:
 - Fewer than 2,500 parcels to complete at least (4) hours of continuing education annually.
 - Those with 2,500 or more parcels must complete at least (8) hours of continuing education annually

Enforcement of Covenants and Rules

The law adds new language to section 720.3035 and requires associations or an architectural, construction improvement, or other similar committee to:

- Reasonably and equitably apply and enforce on all parcel owners the architectural standards and construction improvement standards authorized by the declaration or other published guidelines and standards authorized by the declaration. For those communities without such standards and published guidelines, this language suggests you should consider adopting them.
- Provide written notice to the parcel owner of the rule or covenant relied upon when denying the request for the construction of a structure or other improvement;
- Not place limits on the interior of a structure or require review of HVAC, refrigeration,

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heating, or ventilating system not visible from a parcel's frontage, an adjacent parcel, common area, or community golf course, if a substantially similar system has been previously approved; and

- Not prevent a homeowner from installing or displaying vegetable gardens and clotheslines in areas not visible from the frontage or an adjacent parcel, an adjacent common area, or a community golf course.

The law also amends section 720.3045 by providing that associations may not restrict owners or their tenants from storing items on their parcel which are not visible from the parcel's frontage, an adjacent parcel, an adjacent common area or a community golf course, including without limitation, artificial turf, boats, flags, vegetable gardens, clotheslines and recreational vehicles.

Fines, Suspensions, and Liens

As if the fining procedures were not cumbersome and complicated enough, the new law provides that associations must have a hearing before a committee to review a fine or suspension issued by the board, and the law:

- Requires the 14-day notice of the parcel owner's right to a hearing to be in writing;
- Requires the hearing to be held within 90 days of the notice of hearing;
- Allows the committee to hold the hearing by telephone or other electronic means;
- Requires written findings related to the violation to be provided within seven days of the hearing, the date the fine must be paid or the suspension fulfilled;
- Requires the date by which the fine must be paid to be at least 30 days after delivery of the written notice of the committee's decision; or
- Prohibits attorney fees and costs based on actions taken by the board before the date set for the fine to be paid;
- Allows that, if a violation and the proposed fine or suspension is not cured or the fine is not paid, reasonable attorney fees and costs may be awarded to the association, but may not begin to accrue until after the payment date of the fine or the appeal time has expired.

The law prohibits homeowners' associations from issuing a fine or suspension for:

- Leaving garbage receptacles at the curb or end of the driveway less than 24 hours before or after the designated garbage collection day or time.
- Leaving holiday decorations or lights up longer than indicated in the governing documents, unless such decorations or lights are left up for longer than one week after the association provides written notice of the violation to the parcel owner.

The law also provides in section 720.3075 that homeowners' associations may not prohibit a homeowner or others from parking:

- A personal vehicle, including a pickup truck, in the property owner's driveway or in any other area where they have a right to park.
- A work vehicle, which is not a commercial motor vehicle (as defined by section 320.01(25), in the property owner's driveway.
- Their assigned first responder vehicle on public roads or rights-of-way within the

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homeowners' association.

In addition, the law provides that the association's governing documents may not prohibit a property owner from:

- Inviting, hiring, or allowing entry to a contractor or worker on the owner's parcel solely because the contractor or worker is not on a preferred vendor list of the homeowners' association or does not have a professional or occupational license.
- Operating a vehicle in conformance with state traffic laws, on public roads or rights-of-way or the property owner's parcel, unless the vehicle is a commercial motor vehicle (as defined by section 320.01(25)).

Electronic Voting

The law now allows members of a homeowners' association to consent to electronic voting by using an electronic means of consent. The current law states consent must be in "writing" so whether an email was a sufficient writing is no longer an issue.

There are sure to be questions about the impact (and even applicability) of the new laws and amendments. Readers should contact their association's attorney to discuss the impact and applicability of the laws to your community.

FLAGS

720.304(2) (a) **Any homeowner may display one portable, removable United States flag** or official flag of the State of Florida in a respectful manner, and one portable, removable official flag, in a respectful manner, not larger than 4 1/2 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association.