



June 12, 2013

2013 JUL -8 AM 11:38
CLERK SUPREME COURT
BY _____

Standing Committee on the Unlicensed Practice of Law
651 East Jefferson Street
Tallahassee, Florida 32399-2300

Dear Members of the Standing Committee on the Unlicensed Practice of Law:

I am writing to you on behalf of a property management company's perspective that assists Board of Directors in the management of their community associations. We service all levels of clientele and work with many law firms throughout South Florida. We believe our relationships with other vendors help to make us successful as many Boards consider the management company the "gatekeepers" of their communities. Law firms are no exception to this and we strongly rely on their expertise when the waters become murky due to conflicting language, extenuating circumstances, or simply put, an area that is unfamiliar to us.

I believe the current opinion provides sufficient clarity and a good framework for determining what is and is not considered UPL. I will not regurgitate what has already been presented in support of this viewpoint as it has been covered thoroughly. In many cases, the matter doesn't involve legal interpretation- but rather reading comprehension. Florida statutes and the Associations governing documents usually spell out what is required. If they don't, you get a legal opinion. If it's unclear, get a legal opinion. If the language is conflicting, get a legal opinion. If the Board wants to do something they shouldn't, get a legal opinion. No manager or management firm wants to have their license revoked or tarnished.

I also believe requiring an Association to incur additional legal and administrative fees is counterproductive to our already struggling communities and will only make matters worse.

For example, take a 43 unit community that would be required to have an attorney spend hours upon hours annually to:

- Create/review estoppels and certificates of assessments- *5-10 hours*
- Determine notice and quorum requirements, proxy form preparation (annual membership meeting, budget meeting, special membership meetings for reserves funding or material alterations)- *5-10 hours*
- Reviewing A/C maintenance, landscaping, tree service, janitorial, pesticide service, pool maintenance, lake maintenance, backflow testing, painting, utilities, gate access maintenance and fertilization contracts- *10+ hours*
- Answer questions regarding the governing documents- *10+ hours*



EXCLUSIVE PROPERTY MANAGEMENT

This is a brief list but all of these items are routine in the management of any community and would amount to thousands of dollars added to their budgets. Simply put, most of us would be paying hundreds of dollars more a year for living in our "common interest communities".

Having said all this, any Board can act contrary to legal or management advice and pursue any course of action if they so desire. Of the 60,000 or so associations in Florida, a significant amount are self managed and rely solely on the Board of Directors to exercise sound judgment in the financial and legal administration of their community. No CAM or attorney to advise on whether they have properly noticed the special assessment meeting to replace the pool's heater or did they follow statute to paint the buildings mauve to keep up with the times. Forcing Boards to make the decision not to get responsible advice based only on financial ramifications due to higher costs is not the way to better serve Florida's communities.

As an industry, we are all better educated and informed from the growth of information available over the past several years. Whether through the internet, education and information available to Boards/Managers from various organizations such as CAN/CALL/CAMP/CAI, law firms who actively engage their clients/partners and keep them informed of changes, and other mediums- we're all able to keep abreast of the changing times and the demands of community living. This information is at our fingertips.

As the owner of a property management company, I can tell you first hand that most Boards out there don't just hire property management companies based on the bottom line number. While it is a part of the consideration, competing bids usually are not off by large percentages but rather a few points. Boards usually want to meet the manager which will be assigned to their community so they can get a feel for the management style. They want to understand how different situations are handled and who is responsible for doing what. They want to make sure they're following the law so they don't get involved in litigation somewhere down the road. While we have all seen exceptions to this, it is not the norm but rather the anomaly.

In closing, no one is better served by making community living a more costly or cumbersome process. If anything, maybe streamlining community living into one umbrella is a better solution to minimizing confusion or ambiguity. One set of complete standards that apply to all so that we can have more "bright-lines". Incorporating language in statutes which entails- "in the absence of language in governing documents, follow this process or do this."

Thank you for your time and consideration.

Sincerely,

Steve Caballero, LCAM

Exclusive Property Management



The Florida Bar

651 East Jefferson Street
Tallahassee, Florida 32399-2300

John F. Harkness, Jr.
Executive Director

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CLERK SUPREME COURT
(850) 561-5840
www.FLORIDABAR.org

July 3, 2013

Florida Supreme Court
Attn: Clerk's Office
500 South Duval Street
Tallahassee, Florida 32399-1927

Re: SC13-889

Dear Mr. Hall:

We received the enclosed signed original letter on June 17, 2013. The letter appears to be a response to the proposed advisory opinion. Pursuant to the Court's May 28, 2013 Amended Order, responses by nonlawyers must be filed in the form of a signed original letter that is mailed or hand-delivered to the Court. Consequently, I am forwarding this letter to the Court for docketing.

If you have any questions, please feel free to contact me.

Sincerely,

Jeffrey T. Picker
Bar Counsel
UPL Department, Headquarters

/jtp

Enclosure