

Richard White: Seller and buyer must notify association of a sale

By Richard White

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Q. When a real estate agent handles the sale of a condominium, are they not required to contact the association? Are they not required to notify the buyer of the restrictions prior to sale? L.S. — Ft. Lauderdale

A. Usually a real estate agent is not required to notify the association; however, the seller and buyer have that responsibility. In addition, the seller has the duty to provide the buyer a copy of the documents and the rules and regulations at the time of contract. Prior to closing, a title company or closing attorney should contact the association and request a letter of approval with estoppel information. The real estate agent has no right to interpret the documents and the rules and regulations. If the agent makes statements that are incorrect or conflict with the rules, then the agent can be held accountable for the incorrect information. FS 689 requires a disclosure of any information that has a claim on the property title be disclosed. As such, association documents and the rules should be provided to the buyer as soon as the buyer has some interest in offering to purchase the property. What happens if the buyer is not provided with the information? Then someone can be found negligent and suffer the legal judgment. It can even result in the buyer canceling the sale.

Q. Can you give me some insight on an association's ability to collect a fine levied on a unit owner? The association's bylaws include the right to assess a fine. An owner has appealed the fine and the fining committee upheld the fine. The owner ignores the fine and refuses to pay. What is our next step to collect the fine? Can we fine a renter or guest? C.A. — Tampa

A. FS 718.303 and FS 720.305 define the statute requirements for a fining committee and the rights of owners and association. Because it is so difficult to collect fines if the owner refuses to pay, I never recommend imposing fines. Once you have properly imposed a fine in accordance with the document and the statutes and the owner refuses to pay, you must take the matter to court. There, the judge will issue a judgment which says you now have the rights to lien and foreclose. Say the owner pays the fine at this point but fails to correct the rule violation. You have accomplished nothing by imposing the fine. My recommendation is to skip the fine, turn the rule violation over to an attorney, and instruct the attorney to enforce the fine in court if necessary. You correct the rule violation by this direct approach and save time and effort. As to renters and guests, rarely can you impose violations against them. You must enforce the violation against the owner.

Q. Is an e-mail request sent to a management company, requesting a copy of a deed violation letter sent to a homeowner, an acceptable substitute for a written letter sent to a management company, or must I send it via U.S. postal mail? A.P. — New Port Richey

A. First, no letter or communication should be sent to management requesting documents. Such communications should be addressed to the board of directors; however, it can be sent in care of the manager. Management does not have the right to display or provide the association's records without the approval of the board of directors. As to letters sent to violators, these letters may not be considered official records and are not accessible by request, see FS 718.111(12) or FS 720.303(4). As to e-mails, recently the state has approved some electronic communications as official. E-mail can be considered a proper way to communicate to the board of directors. However, in some situations it is still necessary to send certified letters for specific requests.