

CONDO HOA

MANAGEMENT MAGAZINE



Cover Story

Steel over Santa Barbara

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FLORIDA EDITION



FLORIDA CONDO & HOA INSIGHT:

BY DONNA D. BERGER, ESQ.

As I travel around Florida to speak to groups about community association law and living, providing updates on the latest changes to the legislative frameworks that govern community associations in the Sunshine State, people often ask me what is the difference between what I do as a community association attorney and what I do as the executive director of the Community Advocacy Network (CAN), the statewide organization that provides education, advocacy and outreach to community associations statewide.

THE COMMUNITY ADVOCACY NETWORK (CAN): PROTECTING AND IMPROVING COMMON-INTEREST OWNERSHIP IN FLORIDA

It's not always easy to grasp the difference between the daily legal work that one does on behalf of condominiums, cooperatives, homeowners' associations, timeshares and mobile home communities, and the work one does to foster improvements in the laws that govern those same communities. Nor is it easily understood why there needs to be an organization dedicated specifically to the latter and, more importantly, one that responds to the counsel and advice provided by community associations themselves in advocating on their behalf at the state capitol.

In Florida, perhaps as in no other state in the country, we have a very significant community association population, one that makes up approximately 20 percent of the total 18.8 million people who now call Florida home. One would think that this growing statewide juggernaut of community association residents and property owners would have particular clout with legislators in Tallahassee, given their sheer numbers and potential power at the ballot box.

Unfortunately, the reality is that many state legislators still do not appear to clearly understand that there is a difference between the needs of their constituents who live in common-interest ownership communities and other real property owners. Even worse, there are some legislators who, failing to understand the needs of this sizeable and growing segment of Florida's population, are easily influenced by special interests who lobby to pass legislation that is often detrimental to the interests of the millions of residents of condos, HOAs and other community associations in Florida.

Community association attorneys having a surfeit of daily legal work on behalf of their association clients often find themselves with little time for dedicated advocacy work. The Community Advocacy Network is a not-for-profit organization that is open to all Florida community associations, with the aim of representing the best interests of all common-interest ownerships across the state. CAN not only provides education, advocacy and outreach services to Florida community associations, but it also educates and advises our legislators about the need to pass positive community association legislation, while encouraging them to resist the ever-present urge to micromanage and over-regulate private residential communities in our state.

The legislature could not effectively pass positive community association legislation due to the lack of direct input and feedback from community associations themselves; therefore, CAN developed a volunteer Advisory Council, comprised of community association board members, residents, managers, activists and other community notables across the state. This ensured that the goals set out by CAN and the activities undertaken on their behalf truly reflect the needs and best interests of common-interest ownership communities in Florida.

CAN's 12-member Advisory Council, serving our more than 1,500-member associations statewide, meets regularly to set out an annual legislative agenda,



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define educational goals and plan outreach to community associations and to elected and appointed public officials at the state, county and municipal levels across Florida.

In 2010, the CAN Advisory Council was instrumental in driving a groundswell of public opinion in favor of progressive legislation that provides relief for Florida condominium and cooperative associations in several key areas, including legislation doubling the amount of past-due assessments that condo associations can collect from foreclosing lenders, and enabling condominium, cooperative and HOA boards to collect rent from tenants in delinquent units as well as to suspend the common-area use and voting rights of delinquent owners.

CAN's advocacy efforts also proved crucial to the passage of fire-sprinkler retrofit relief legislation in 2010, which will save Florida associations over a billion dollars in sprinkler, generator, elevator and fire alarm upgrades in coming years. CAN Advisory Council initiatives were key to securing local government resolutions of support from Collier County, Broward County and Miami-Dade County commissions, as well as the cities of Naples, Ft. Lauderdale, Miami Beach, Miramar and Lauderdale by the Sea, all instrumental in convincing Florida Gov. Charlie Crist's decision to sign the legislation into law.

This year, CAN will be leading the charge once again in proposing positive changes to the common interest ownership statutes including creating more parity between Chapters 718 and 720 in terms of board member eligibility, quorum thresholds and election procedures. As every year since its founding in 2007, CAN will be working through its website, regular CAN alert e-mails and tools such as the "Capitol Connection" e-mail system, mobilizing association leaders and

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CAN Advisory Council meetings: work, laughter and legislators. Council members are: Broward County: Wendy Murray; Charlotte Greenburg; Pio Ieraci. Collier County: James F. Hoppensteadt; Ewing Sutherland; Edward K. Duch, Jr. Lee County: Bonita D. Vandall. Orange County: Cynthia (Cindy) Montsinger, CMCA®. Miami-Dade County: Jack Loeb. Palm Beach County: Barbara Zee. Pinellas County: Mr. Robert L. Tankel. St. Lucie County: Joel Jeffrey.

Do you have any experience that was outstanding, either good or bad, as a manager/board member? If something bad happened, what would you do different? If something good, how did that happen? Give something specific.

The good experience being newly assigned to a Naples office with 30 or more communities and upon investigation of utility bills for many clients successfully obtained years of back sales tax and deposits on accounts from local utility companies totaling over \$250,000 in refunds. It was gratifying to be able to show the board members that a little due diligence in reviewing the invoices and bills could recoup these types of refunds. We were not able to recoup any type of income for the management company, however, the good will and trust we generated with the board members was a tremendous plus for the management company and a reward in and of itself. The bad experience is the untimely deaths of many board member friends and co-workers over the years and the many memorial services and funerals that followed.

What is the most important part of your responsibility? Most difficult? Most overlooked? The most important part is to remain fiscally responsible to the community and continually advise the boards of issues that may affect the financial integrity of the community. The most difficult is the need to reinforce the documents or covenants of a community when a homeowner, their tenants or guests blatantly, unknowingly or even maliciously abuse the rules. The most overlooked is that many managers are under appreciated for the services they provide and are often criticized for being the “bad guy” when the need arises and often told they are not on property enough. Good, seasoned managers have left our industry due to “burn out” and have changed their careers. New managers with little or no experience are entering into a field of management that encompasses liens, foreclosures, disgruntled owners and tenants due to the downturn of the economy and little or no experience available to them in how to address and cope – therefore the board, the community and the manager suffers. Realizing a new manager has to start somewhere, the answer is obviously in education and continued and improved training in the management field.

What lessons have you learned that mirror your overall life experience? What lessons have you learned that have contradicted what you would normally expect, i.e. The Golden Rule does not always apply. A very important lesson I have learned is to know as much as possible about the people you work with, for and around. If their integrity, character and the way they treat you and others is not first class and top notch, then consider moving on. Unfortunately, there are people that do not treat others respectfully and the trust and confidence you place in them may not be reciprocated, as you would expect. *“The way to happiness is much, much easier to travel with people one can trust.”*

Do you have any advice for people just entering the industry for managers or someone new to the board? Education! Please continually and often apply for and obtain the education necessary to successfully manage the communities you are assigned and to serve as a dedicated and educated manager or board member. There are so many free seminars and educational venues available for managers and board members. Managers should not only work to obtain what is required by the state to renew a license, but also continually soak up the education as if it were a sponge. Community Association Institute (CAI) local chapters have been providing free education for managers for years. There is also Building Managers International (BMI) local chapters and United Community Association Networking (UCAN) in the Fort Myers area providing educational classes at a nominal fee for managers as well.

residents with the information and resources they need to contact their elected officials at every level of government with the click of a button and to take on a more meaningful role in the legislative process.

On the educational outreach side of the equation, CAN will be working directly with volunteer board members to help them comply with new statutory certification mandates. Beginning with a first seminar in early February, CAN provided at venues around the state its trademarked Board Member Boot Camp training program (www.BoardMemberBootCamp.com), approved by the State’s Division of Business and Professional Regulation (DBPR) for certification purposes for board members, helping to bring them up to speed on the latest changes in Florida legislation and best practices in operating their communities.

At the same time, CAN will also be providing a continuing education program for community association managers, including a 2011 Legal Update program, approved by the DBPR for two hours of continuing education credits for Florida-licensed community association managers (LCAMs).

The Community Advocacy Network will continue to pursue its goal of protecting and improving the quality of life enjoyed by millions of Floridians who live and work in Florida’s common interest ownership communities. Individuals or representatives of community associations interested in more information about the benefits of Community Advocacy Network membership, the organization’s activities around the state and the upcoming release of CAN’s 2011 Legislative Agenda for positive changes to Florida community association law, can contact: dberger@canfl.com or phone 954-315-0372.