

## Condo law change gives emergency power to directors

By I.M. STACKEL

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Some lobbyists and organizations are publicly touting their efforts to improve condominium law in the past legislative session, placing more power in the hands of condo leaders.

As they do, other activists are seeking out condo owners to tell them what the new rules mean.

New rules kick in Oct. 1 that confer emergency powers on condo officials, but not to the point that some are claiming, said Jan Bergemann, who heads up Cyber Citizens for Justice, a consumer group.

For more than two years, state Rep. Julio Robaina, R-Miami, sought amendments to limit the powers of condominium directors. Robaina's last bill passed, but it was altered during the legislative process.

The changes were fought by some condominium associations that used major law firms specializing in condo law.

While condominium directors will get more power, it's limited, Bergemann said of the new law.

"This bill is the result of legislators listening to the people, their constituents. It was a great effort from all parties involved. It sure is the best condo reform bill since 1991," Robaina said, referring to when the law was approved.

There are certain provisions in the new law that individual owners need to know about, Bergemann said.

For one, the law now grants directors the ability to implement a disaster plan before or immediately after a state disaster declaration. This includes, but isn't limited to, shutting down or turning off elevators, electricity, air conditioners, water, sewer or security systems.

This provision comes into play when "an emergency (is) declared by the governor," said Bergemann, who lives in DeLand, north of Orlando.

A state of emergency only lasts a few days after a storm, he said.

Bergemann said that he's already seen memos from law firms to their condo director clients, telling them they can do "whatever they want."

In truth, condo directors now only have the power to implement "immediate damage control," he said.

"These emergency powers are very limited," Bergemann stressed.

If condo directors go overboard, the amended law says individual condo owners can hold the directors financially liable, said Bergemann, whose grassroots organization has nearly 600 members and thousands more who receive alerts via e-mail.

Donna Berger, a partner in the Florida law firm Katzman Garfinkel, and head of the organization Community Advocacy Network, was partially responsible for the watering down of Robaina's original bill, which would have taken away more powers from directors.

But "as for the emergency powers, I have been seeking to pass that for several years now so, no, I had no opposition to that at all," Berger said.

Existing laws already gave directors and condo management certain authority, which, depending on the personality of the board, can be either positive or negative, Bergemann said.

For instance, some condo directors who have a copy of your key may enter your place without your permission, Bergemann said.

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"You don't have to give them one (a key)," he said.

However, directors and managers can find ways around that, he said, and in some cases it may be a good thing. If you leave an emergency key with a neighbor, and he or she hands it over to the condo directors or management hired by directors, there's really nothing you can do, he said.

He tells of a 2007 case in which "a single old lady, alone in her own private condo unit, awakened to find two guys in her place," he said.

They were contractors checking the drywall.

"They didn't even ring the doorbell," Bergemann said.

Access may be a necessity, such as if there is a hurricane and the owner lives in Canada. Contractors may have to get into one unit to keep the entire building from being further damaged.

"Many snowbirds are not here all summer. Say a water pipe bursts. If the association really needs access, this is nothing new," he said.

But some law firms are telling directors that they have more power now than they do, and this could lead to trouble, he said.

"The system you have here is taking away private property rights. In Europe, this is illegal," said Bergemann, who is originally from Hamburg.

Bergemann tells of a conference in Europe a few years back when some high-profile American attorneys presented condo law. In Europe, condo associations aren't incorporated and have no rules, he said.

In Germany, all the owners have a chance to vote on hiring a management company, but each unit has to have a separate water and electric meter.

After the presentation by the American attorneys, a German legislator stood up and thanked them for their presentations, but said it didn't much appeal to him.

"We already had Adolf, so we don't need any more dictators running our communities," Bergemann said, quoting the German legislator.

If condo law operated in Florida the same way as it does in Germany, high-profile law firms that specialize in condo law would lose profitable clients, Bergemann asserted.

He urges condo owners to learn about the changes.

"This bill is undoubtedly the most owner-friendly condo bill in more than a decade," Bergemann said.

To read the bill and its changes, go to <http://www.ccfj.net/PB08H995ER.html>.

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