

How to Manage Your Managers

Interactive Webinar with Q&A



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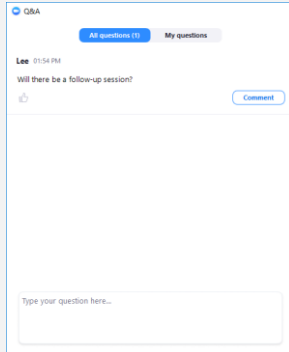
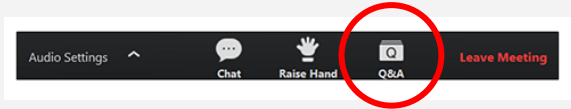
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For a copy of today's slides, please e-mail Jcole@eisingerlaw.com

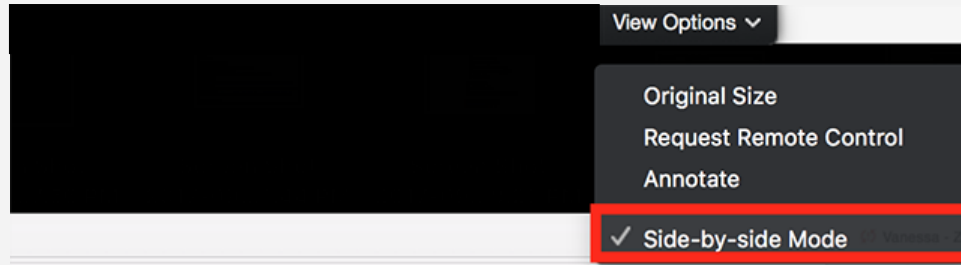
How to submit a question:

1. Navigate to the tool panel and click on “Q&A”
2. A dialog box will open allowing the participant to submit a question.



Adjusting view options:

1. Navigate to the tool panel and click on “View



2. Select “Side-by-side Mode”.



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WHAT IS COMMUNITY ASSOCIATION MANAGEMENT?



Florida Statutes, Section 468.431(2): “Community association management” means any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of \$100,000:

- controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association;
- assisting in the noticing or conduct of community association meetings;
- determining the number of days required for statutory notices;
- determining amounts due to the association;
- collecting amounts due to the association before the filing of a civil action;
- calculating the votes required for a quorum or to approve a proposition or amendment;
- completing forms related to the management of a community association that have been created by statute or by a state agency;
- drafting meeting notices and agendas;
- calculating and preparing certificates of assessment and estoppel certificates;
- responding to requests for certificates of assessment and estoppel certificates;
- negotiating monetary or performance terms of a contract subject to approval by an association;
- drafting prearbitration demands;
- coordinating or performing maintenance for real or personal property and other related routine services involved in the operation of a community association, and complying with the association’s governing documents and the requirements of law as necessary to perform such practices.

*****A person who performs clerical or ministerial functions under the direct supervision and control of a licensed manager or who is charged only with performing the maintenance of a community association and who does not assist in any of the management services described in this subsection is not required to be licensed under this part.*****

Basics of Association Management Applicable Statutes

Condominiums:

- **Statute 718.111: The Association**

- (1)(a) Managers may not solicit, offer to accept, or accept anything or service of value or kickback.

- **Statute 718.3025: Agreements for operation, maintenance, or management of condominiums; specific requirements**

- Management contracts must:

- Specify the services, obligations, and responsibilities of the management; how often each service, obligation, and responsibility will be performed; and costs incurred in the performance of such duties which will be reimbursed by the association.
- Specify a minimum number of personnel to be employed by management company.
- Disclose financial or ownership interest of developer or board members regarding the party contracting to provide management services.
- The association may request management services from another party should the party that is already contracted fail to provide the agreed upon services.
- Services not stated in the contract are unenforceable.
- Management services may be cancelled by vote (excluding that of the contracting party) if 50 percent or more of the units not owned by the contracting party.

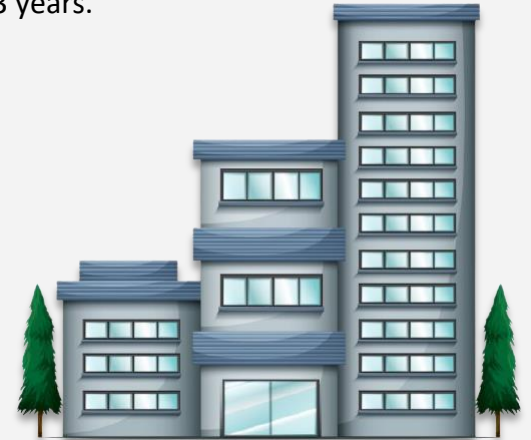
Basics of Association Management Applicable Statutes - Continued

Homeowners Associations:

Statute 720.3055: Contracts for products and services; in writing; bids; exceptions.

If a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the association that exceeds 10 percent of the total annual budget of the association, including reserves, the association must obtain competitive bids for the materials, equipment, or services. Nothing contained in this section shall be construed to require the association to accept the lowest bid.

- (2) "A contract with a manager, if made by a competitive bid, may be made for up to 3 years."



Florida Bar Advisory Opinion – Approved Activities of Community Association Managers (Clarified 1996 opinion)

Allowed Activities of Community Association Managers:

- Completion of Secretary of State forms (change registered agent and annual report)
- Draft certificates of assessments
- Draft first and second notice of elections
- Draft ballots
- Draft written notices of annual or board meetings
- Draft annual or board meeting agendas
- Draft affidavits of mailing
- Modify limited proxy forms promulgated by the state*
- Draft a limited proxy form*
- Draft documents for association's right of approval or right of first refusal on a sale or lease*



Florida Bar Advisory Opinion – Approved Activities of Community Association Managers - Continued



Prohibited Activities of Community Association Managers:

- **Complete DBPR Form 33-032 (Frequently Asked Q&A Sheet)**
- **Draft claim of lien, satisfaction of claim of lien, and notice of commencement form**
- **Determine timing, method, and form of giving notice of meetings**
- **Determine votes necessary for certain actions which would entail interpretation of statutes and rules**
- **Answer community association questions/advising association on the application of law**

Florida Bar Advisory Opinion – Approved Activities of Community Association Managers - Continued

Certain activities (i.e., drafting limited proxy forms) were found to be dependent on the specific circumstances. Generally, these type of modifications to a form are not prohibited:

- modifying the form to include the name of the association
- phrasing a yes or no voting question concerning either waiving reserves or waiving the compiled, reviewed, or audited financial statement requirement.
- phrasing a yes or no voting question concerning carryover of excess membership expenses
- phrasing a yes or no question concerning the adoption of amendments to the Articles of Incorporation, Bylaws, or condominium documents

**** FOR MORE COMPLICATED MODIFICATIONS – CONTACT ATTORNEY ****

Important provisions to consider in Management Agreements

- Indemnification/hold harmless from suits in connection to purchases or contracts by the Association.
- Sufficient and proper insurance coverages – both management and association
- Termination provisions – with or without cause.
- Ability to select/have a say re: on site manager/staff
- Notice provisions.
- Limitations on spending.
- Buyout provisions/non-compete
- Attendance at meeting/premeeting reports/minutes/site inspections
- Management Agent is responsible for workers compensation, claims of unemployment, and/or claims of disability made by its employees.

Board Member responsibility OR Manager responsibility ???

Varies depending on Association and contractual obligations of parties – but generally speaking:

- Bids for contracts - management
- Approval of contracts - board
- Signing contracts - board
- Approval of sale/lease/transfers/occupants – board
- Preparing notices – management and/or legal (depending on circumstances and type of notices)
- Responding to owner emails/calls – management and/or board
- Communicating with vendors – management / Board representative or committee chair
- Ensuring contract renewal dates and other related contract matters – management (calendaring)
- Preparing and mailing owner communications – management
- Communicate collection matters to legal – management

WHAT IF.....?

- Board members are giving management different instructions that contradict each other?
- Expectations are far from the reality and contractual agreement of the parties?
- Management making decisions unilaterally?
- What is management fails to provide records to owners/directors?
- Management is unable to complete tasks required for day-to-day operation?
- Management is threatened by owners? What is Association's responsibility?

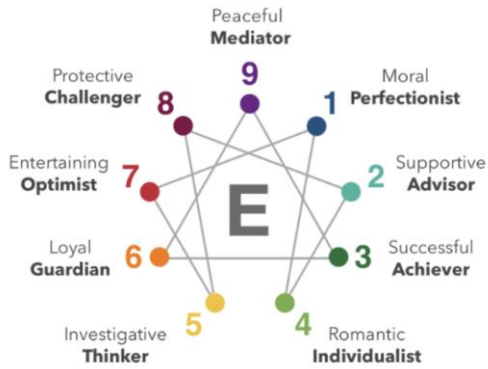
Conflict/Other Issues

- **Can a board member be a manager? Can a manager be on the board? Can an employee of the management company serve on the Board? Are there conflicts?**
- **What role does management play in dispute/conflict between owners and the board?**
- **Who is responsible for screening process and ultimate approval of tenant/occupant/transfer?**

Psychology of Working Relationships/Personality Types

- **Understanding personality type can help you to understand your preferences and the preferences of other people and how or why these might be different. Personality types are useful for recognizing how we lead, influence, communicate, collaborate, negotiate business and manage stress to work well (or possibly better) with others of the same personality type.**
- **No personality type is "better" than any other, just different. And each perspective brings something new and interesting attributes to the table.**
- **By learning more about where you lie on the extroversion/introversion and thinking/feeling continuums, you might be better able to understand why you prefer certain things and dislike others (and why some people get along better than others)**
- **Understanding personality provides understanding of all the different reactions and perceptions that other people might have to the same situations. We all have a different way of seeing and interacting with the world.**

Enneagram of Personality



The Enneagram of Personality, or simply the Enneagram, is a model of the human psyche which is principally understood and taught as a typology of nine interconnected personality types.

1. The Reformer - The Rational, Idealistic Type: Principled, Purposeful, Self-Controlled, and Perfectionistic
2. The Helper - The Caring, Interpersonal Type: Demonstrative, Generous, People-Pleasing, and Possessive
3. The Achiever - The Success-Oriented, Pragmatic Type: Adaptive, Excelling, Driven, and Image-Conscious
4. The Individualist - The Sensitive, Withdrawn Type: Expressive, Dramatic, Self-Absorbed, and Temperamental
5. The Investigator - The Intense, Cerebral Type: Perceptive, Innovative, Secretive, and Isolated
6. The Loyalist - The Committed, Security-Oriented Type: Engaging, Responsible, Anxious, and Suspicious
7. The Enthusiast - The Busy, Fun-Loving Type: Spontaneous, Versatile, Distractible, and Scattered
8. The Challenger - The Powerful, Dominating Type: Self-Confident, Decisive and Willful
9. The Peacemaker - The Easygoing, Self-Effacing Type: Receptive, Reassuring, Agreeable, and Complacent

[Assertive/compliant/withdraw & fear/anger/image based]





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