Real Estate Matters - Ask the real estate lawyer

by Ilyce_Glink

Q: My condominium association is often confused about voting rights. When does the board of directors vote on an issue? When do you need two-thirds or unanimous approval of the unit owners? I have a clear understanding of the bylaws, but is there an article on the subject so I don't have to play lawyer at every meeting?A: If you have a clear understanding of the bylaws you're far ahead of most people in condominium associations. But there is one other document you need to look at: your condominium declaration.While the bylaws will tell you the process of electing board members and the duties and responsibilities of officers of the association, the declaration will tell you what issues require a unanimous vote by unit owners and which require a lesser number to pass.In some states, the law that regulates condominium associations may have additional information that will be useful in determining voting requirements on a particular issue. In order to sell the condominium building as a whole, for example, your state's statute may require a unanimous vote or a supermajority to approve the sale.As far as the way the board of directors supervises and authorizes its voting, things vary from association to association. Some associations vote on just about every issue and then give the president of the association the charge to move forward on each issue.In other associations, generally the larger ones, the president of the association has, and takes, a larger role in managing the affairs of the association. With all of the issues facing a large association, the president uses the powers given him or her by the declaration and bylaws. That's in stark contrast to smaller associations, where there are fewer issues and the board of directors and the president work hand in hand to manage the association's affairs.Your could visit your local library to read up on the process of governing a condominium, but your declaration and bylaws should be enough.The documents may go as far as to say that a simple majority will be required on all votes by the unit owners unless a supermajority is required, and should also tell you the definition of "supermajority" for your association. Q: My father recently passed away. He owned a Florida timeshare. My siblings and I are not interested in owning this timeshare, but the resort is telling us a timeshare is considered real property and we're responsible for all annual maintenance fees and property taxes.They also say they need a copy of our father's death certificate and will, and that his estate will be probated because the timeshare was not listed in the will. Is this correct? How can we transfer ownership?A: Many timeshare interests are in fact an ownership interest in real property. Some are even called fractional ownerships. In any case, the timeshare is clearly part of your father's estate.While you and your siblings may not want the timeshare, your father's estate is responsible for it. If you or any of your siblings are named as executors of the will, you'll have to take action to either sell the timeshare or have title transferred to one of you.The timeshare resort may need the information requested to assist in the transfer of ownership. But, from a more important perspective, you need to know whether you even want the timeshare. If you and your siblings decide to sell, you'll probably need an attorney in Florida to assist you in the transaction.If you decide to keep the timeshare, you may still need to hire an attorney in Florida to help you resolve the estate issues to allow you to transfer title to all of you.Â© 2007 by Ilyce R. Glink and Samuel J. Tamkin. Distributed by Tribune Media Services