

## Hidden Agendas ...why some people run for the condo board!

(Names of Directors and Associations have been changed to protect the guilty.)

Florida Statute 718.111 (1) (a) states “the members of the board of administration, each officer of the association, and any licensed manager employed by the association have a fiduciary relationship with the unit owners in the condominium”. This relationship imposes trust and confidence with the unit owners and requires board members to act in good faith and in the best interest of the unit owners when making decisions as board members.

The following are actual cases provided by several sources including attorneys, bankers, owners, and managers. It may well be that in some these cases due care and diligence was not taken in the decision making process.

### Case #1

Jeanne bought a unit in Boca Vista Condo. As an owner she was entitled to one reserved parking space near her unit. Jeanne was a successful businesswoman and volunteered to run for the Board of Directors offering to help the association improve maintenance collections and to review all of the contracts.

It soon became apparent that Jeanne’s main motivation for serving on the Board was to reconfigure the parking spaces which at Boca Vista were a common element so that she and her significant other could get two reserved spaces, closer to their unit. The rest of the Board went along with this arrangement because they were able to get better spaces too! This problem was resolved by electing a new Board at the next annual meeting.

### Case #2

Robert was the owner of a unit at Gulf Front Condominium. Economic times were getting hard and he was having a hard time landing a job. He decided to use his position on the Board to contact all of the companies who had contracts with the association and some potential vendors to say that he could get them work at the association or make sure their contract was renewed if he were given a position with the firm.

This is a case of breach of the fiduciary duty by using one’s position as a Director for personal gain. The perpetrator as yet has not been successful in getting the vendors to go along with the scheme.

### Case #3

Amos is president of Hidden Bay Shore Condominium and has asked several banks to submit proposals for banking services for the association including deposit accounts and a line of credit. After Amos received the proposals he contacted all the banks involved and asked for quotes on a loan to purchase commercial property, stating that whichever bank gave the best rates on his commercial loan would become the banker for the Association. Another hidden agenda!

#### Case #4

The membership of a Siesta Key Condominium each year voted to waive the Statutory requirement and place all the reserve monies in a general Reserve allowing the association to accumulate a large sum of money over the years.

A new Board Member decided a new Spa would enhance the property values of the Condominium. The older Board Members were against spending reserve money for a "new project". The new member took his campaign to the membership and almost had enough votes to get a "material alteration" passed. Then it was discovered the wife of the New Board Member had a medical condition and had been advised by her doctor to spend time every day in a warm Jacuzzi. The association does not have a new Spa/Jacuzzi.

#### Case #5

An owner of a condominium who owns a small dog, and two of her friends got elected to a five-member board. Although the condominium documents have a no pet policy, the dog owner convinced her two friends to vote to bypass the rules and "grandfather in her dog".

This condominium also had an interview process for prospective purchasers. The dog owner also the President would conduct these interviews holding her dog while informing the potential new owners that animals were not allowed at this Siesta Key condominium.

At the next election the owners of this condominium made sure that the dog owner and her two friends were not reelected. There was also a suit filed against this owner and the case was settled out of court. The new board made sure the grandfather clause mentioned above was revoked.

#### Case #6

Another Siesta Key condominium also has a five-member board. Three of the five board members possess a real estate and it appears that some recent board decisions favor the personal agendas of those licensed board members. The office staff at this condominium, although employed by the condominium, having their salaries paid by all owners, at times performs as though it was an extension of the board acting as real estate agents.

The condo staff takes phone calls, makes phone calls, sets appointments and passes out business cards, and make copies on the association owned copy machine for these board members. Potential buyers who are walk-ins are redirected to these board members. When an owner recently listed their \$700,000 condominium with a real estate company not represented by these board members, things got quite ugly. A cameraman and his assistant, while taking promotional pictures for the listing, were told by the association staff to leave the property and not take pictures of the condominium.

The staff, however, also benefits by receiving a free lunch periodically when a real estate deal is consummated by members of this board. Is this not a restraint of trade???

The vast majority of board members are respectable, well meaning and serve their associations without personal or hidden agendas by fulfilling their fiduciary responsibility to the membership in a reputable and dedicated manner. It is therefore unfortunate that a few self-serving board members can tarnish the status and reputation of a community.

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