

Advisory Council on Condominiums
September 27, 2007
Teleconference/Tallahassee, Florida

Members Present

Joe Adams
Michael Andrew, Chair
Michael Cochran
Peter Dunbar, Vice-Chair
Melissa Van Dine
George Geisler
Karen Tysenn
Paul Wean

Division Staff Present

Sharon Malloy, Jon Peet, Deborah Miller

Quorum Established

Verification of timely publication of meeting notice in Florida Administrative Weekly

MOTION: Paul Wean, to approve meeting minutes of August 31, 2007 with one change, spelling of the name Lou Biron

SECOND: Member Tysenn

VOTE: Motion carried unanimously

Discussion on council's insurance draft and status of the Bar draft. There was a general consensus to use council's draft and drop in Bar draft language where needed.

MOTION: Paul Wean - To adopt a conceptual policy for the council that associations be allowed to affirmatively elect to be treated in a different fashion, failing which the Plaza East rationale would apply by default.

SECOND:: Joe Adams

VOTE: Motion carried unanimously

MOTION: Joe Adams to delete "between the maintenance obligations and" in (11) page 1.

SECOND: Pete Dunbar

VOTE: Motion carried unanimously

MOTION: Pete Dunbar - Last sentence of (11) should read exactly as in current law.

SECOND: Joe Adams

VOTE: Motion carried unanimously

MOTION: Paul Wean to move Bar language in (e) to 11(a)

SECOND: Karen Tyssen

Pete Dunbar opposes.

Adams agrees – would like to see it in a separate section

Motion tabled

MOTION: Joe Adams - New language e-mailed to Carol replaces current 1. on page 1

Motion to adopt 2nd revision

1. A unit owner shall be responsible for the costs of repair or replacement of any portion of the condominium property not paid for by insurance proceeds, when such damage is caused by intentional conduct, negligence, or failure to comply with the terms of the declaration or the rules of the association, by a unit owner, the members of his or her family, unit occupants, tenants, guests or invitees, and without compromise of the subrogation rights of any insurer as set forth in subparagraph (g).

SECOND: Pete Dunbar

VOTE: Motion passes 4 to 3

Yeas: Adams, Andrew, Dunbar, Tysenn

Nays: Van Dine, Geisler, Wean

MOTION: Joe Adams for new 2. on page 1 (use draft 3)

2. The provisions of subparagraph 1. regarding the financial responsibility of a unit owner for the costs of repairing or replacing other portions of the condominium property also applies to the costs of repair or replacement of personal property of other unit owners or the association, as well as, other property, whether real or personal, that the unit owners are otherwise required to insure under subsection (g)

SECOND: Pete Dunbar

VOTE: Passed with one no vote by Wean

MOTION: Pete Dunbar to move 3. on page 1 to (f)4. and Jon Peet have discretion to draft appropriate language

SECOND: Joe Adams

VOTE: Motion carried unanimously

MOTION: Joe Adams to strike "due diligence" and add "best efforts" in (b) on page 2

SECOND: Pete Dunbar

VOTE: Motion carried unanimously

MOTION: Pete Dunbar to have Jon Peet determine regulatory authority for the appraisal standard in paragraph (c) on page 2

SECOND: George Geisler

VOTE: Motion carried unanimously

Chair Andrews: Get draft to all parties as soon as possible

Thanks Paul Wean and Joe Adams for their work.

MOTION: Joe Adams to thank Carol Windham for her work and send a resolution to the appropriate parties.

SECOND: Pete Dunbar

VOTE: Motion carried unanimously

Mike Andrew will draft something and get to Sharon Malloy for distribution.

Pete Dunbar chairing meeting

MOTION: Joe Adams to change 1. on page 3, as follows:

"located outside the units" stays in; underlined language is deleted; and add: as originally installed by the developer or replacements of like, kind and quality.

SECOND: Paul Wean

VOTE: Motion carried unanimously

MOTION: Joe Adams for new paragraph (f)2. on page 3. All alternations or additions made to the condominium property or association property pursuant to 718.113(2).

SECOND: George Geisler

VOTE: Motion carried unanimously

Change (f)1. on page 3, to make sure "located outside the unit" is deleted.

MOTION: Joe Adams to delete current (f)2. and amend (f)1. on page 3. Jon Peet will draft language.

SECOND: George Geisler

VOTE: Motion carried unanimously

MOTION: Joe Adams to delete current (f)3. on page 3.

SECOND: George Geisler

VOTE: Motion carried unanimously

MOTION: Joe Adams to add back air conditioners in new (f)4.

SECOND: Geisler second

VOTE: Motion withdrawn

MOTION: Joe Adams to reinsert "The foregoing is intended to establish the property or casualty insuring responsibilities of the association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner" on page 3.

SECOND: George Geisler

VOTE: Motion carried with one no vote by Pete Dunbar

MOTION: Joe Adams to create new subsection (i) using last sentence of (f)3. on page 3.

The association has the authority to amend the declaration of condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.

SECOND: Karen Tysenn

VOTE: Motion carried unanimously

MOTION: Joe Adams on (g)1. on page 4, to add a second sentence, as follows:

"All improvements or additions to the condominium property which benefit less than all unit owners shall be insured by the unit owner or owners having the use thereof, or may be insured by the association at the cost and expense of the unit owners having the use thereof. "

SECOND: Paul Wean

VOTE: Motion carried unanimously

MOTION: Joe Adams to start new subparagraph (g)2. on page 4, with underlined language and renumber all subsequent subparagraphs.

SECOND: Paul Wean

VOTE: Motion carried unanimously

MOTION: Joe Adams for new (j) (use Bar draft (e))

Add "the provisions of this subsection notwithstanding"

SECOND: Paul Wean

VOTE: Motion carried unanimously

MOTION: Joe Adams to delete the sentence beginning with "Notwithstanding the foregoing, in a multi-condominium association which has consolidated its financial operations....operated by the association. " (In Bar draft, page 2)

SECOND: Paul Wean

VOTE: Motion carried unanimously

MOTION: Joe Adams to start "In a multi-condominium association which has not.....total voting interests in the condominium." as new subsection (j)(2). (Bar draft)

SECOND: Paul Wean

VOTE: Motion carried unanimously

MOTION: Paul Wean that remaining language beginning with Any association or condominium voting to opt out....." be labeled as subsection (j)(3). (Bar draft)

SECOND: Adams second

VOTE: Motion carried unanimously

MOTION: Joe Adams to eliminate subparagraph 2 of bar draft except last sentence and move to (11)(a)3; and add at end "without the waiver of any rights of subrogation"

SECOND: George second

VOTE: Motion carried unanimously

MOTION: Joe Adams to move (3) of bar language on page 3 to new 11(a)4. of the council's draft

Two minor changes: "the" to "a" and "insurance claim of the association"

SECOND: Paul Wean

VOTE: Motion carried unanimously

MOTION: Joe Adams to keep (4) of bar language on page 3 as new subparagraph (4) in (j)

SECOND: Paul Wean

VOTE: Motion carried unanimously

Next meeting – work with Chair Andrews to set date for next meeting in late October or early November to get final report ready for delivery to appropriate parties.

Possible meeting sites in Tallahassee with teleconference available or

Friday Nov 2nd at close of Cluster Housing Institute in Miami.

Thanks to Paul Wean for his service

Jon Peet to prepare draft and circulate to everyone as soon as possible

MOTION: Paul Wean to adjourn

SECOND: Joe: Adams

Meeting adjourned. 11:35