

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. RECONSTRUCTION OR REPAIR AFTER CASUALTY (p. 15): Official records inspection timeframe (60 days) exceeds the statutory 10-working-day maximum.

Statutory / Legal Reference: Fla. Stat. § 718.111(12)(c)

Statutory Comparison: Florida Statutes (Fla. Stat. § 718.111(12)(c)) require associations to make official records available for inspection within 10 working days after receipt of a written request, and expressly grant owners the right to use a smartphone, tablet, or portable scanner to make electronic copies at no charge.

CURRENT WORDING IN DOCUMENT:

OFFICIAL RECORDS the damaged property shall be reconstructed or rect the condoeintup trati be coralneted. it is deterained 2. Apartmont building Id the ded fed pmproeetst apartments to the comton dlements arer appurtenant are found by the board of directors of the Association to bo tenantable, the damaged property shall be reconstructed or repaired uhles! Within 60 days after the casualty it is determined *greement ycreomennu shabe terminated.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 718.111(12)(c), official records shall be made available for inspection within 10 working days after receipt of a written request. Owners and their authorized representatives may use a portable device, including a smartphone or scanner, to take photographs or electronic copies of official records at no charge.

ISSUE #1

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OFFICIAL RECORDS

1. Common element: If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined that the condominium shall be terminated.
2. Apartment building
 - a. Lesser damage: If the damaged improvement is the apartment building, and if apartments to which 50% of the common elements are appurtenant are found by the board of directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within 60 days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.
 - b. Major damage: If the damaged improvement is the apartment building, and if apartments to which more than 50% of the common elements are appurtenant are found by the board of directors to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated without agreement as elsewhere provided, unless within 60 days after the casualty, the owners of 75% of the common elements agree in writing to such reconstruction or repair.
3. Certificate: The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.
- B. Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached as exhibits; or if not, then according to plans and specifications approved by the board of directors of the Association; and if the damaged property is the apartment building, by the owners of not less than 75% of the common elements, including the owners of all damaged apartments, which approval shall not be unreasonably withheld.
- C. Responsibility: If the damage is only to those parts of one apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association.
- D. Estimates of Costs: Immediately after a determination is made to rebuild or repair damage to property for which the association shall obtain reliable and detailed estimates of the cost to rebuild or repair.
- E. Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair are insufficient, assessments shall be made against the apartment owners who own the damaged apartments, and against all apartment owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against apartment owners for damage to apartments shall be in proportion to the cost of reconstruction and repair of their respective apartments. Such assessments on account of damage to common elements shall be in proportion to the owner's share in the common elements.