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Question 4: What is the difference between a Condominium and a Condominium Association?

Answer:

A “CONDOMINIUM” is the actual land, as well as the bricks and mortar on it. A condominium is created by a ‘Declaration’ which subjects the real property (“the dirt”) to certain covenants. These covenants run with the land. They continue to apply, no matter who owns the land or how many times it is conveyed. Such covenants may for instance, control sale or leasing (renting) of your unit. Declarations are relatively difficult to amend.

A “CONDOMINIUM ASSOCIATION” is a Florida Not for Profit Corporation, created to administer the property, mow the lawn, pay the light bills, etc. This association is created by Articles of Incorporation and governed by By-Laws. By-laws are relatively easy to amend by a vote of members. The Board of Directors can, *on its own*, pass and modify Rules & Regulations governing day to day matters, such as: no loud noise after 10 p.m.; no glass by the pool, etc.

CONDOMINIUM DOCUMENTS & PRIORITY: The legal papers outlined above are often referred to collectively as “the condominium documents” or “condo docs”. There is definitely a hierarchy among these documents as follows:

- ✍ Condominium Declaration (most important)
- ✍ Articles of Incorporation
- ✍ By-laws
- ✍ Rules & Regulations (least important)

For instance, a Board of Directors cannot sidestep Declaration provisions by putting contrary leasing restrictions in the Rules.

It’s always important when construing any amended provisions of any of the referenced documents to examine whether those amendments *were properly and legally enacted*. If not, they might not be enforceable. **IN SUCH A CASE, THE ORIGINAL OR EARLIER VERSIONS WILL CONTROL.**

There is a wealth of information regarding condominium law and administration available at your local book store and on the web. The Division of Land Sales, Bureau of Condominiums of the State of Florida (part of the Department of Professional Regulation) provides many resources at no cost.

<http://www.myflorida.com/dbpr> is a useful site. The Division of Land Sales provides certain mediation and arbitration procedures you can pursue with or without an attorney.

[CLICK HERE](#) for more information on such Alternative Dispute Resolution processes.

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Ross Lanier & Deifik PA 239 262-2874 or 262-6161 serves Collier & Lee counties (Naples, Fort Myers, Bonita Springs, Marco Island, Cape Coral, Estero).

Deposit Recovery – Preconstruction Contracts—Two Year Construction Completion –Interstate Land Sales Full Disclosure Act – ILSA-- Cancel Condominium Purchase Contract—Rescind Real Estate Purchase And Sale Agreement –Condominium Preconstruction Required Disclosures--Revocation Of Real Estate Sales Contract – Deposit Recovery--Cancel Purchase Contract-- Recover deposit– HUD Property Report –Florida Condominium Mandatory Disclosures—Homeowner Association Disclosure Summary Required- Rescind Cancel Revoke --Mandatory HOA disclosure --Mandatory Florida condominium disclosures

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