

“Budget Adoption Deadline?” Naples Daily News

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By: David G. Muller

Q: The manager of my condominium mentioned at a board meeting that there is a new deadline in Florida to adopt the budget. What is this new deadline and what happens if the board blows this deadline? C.S.

A: The Florida Condominium Act has been changed to require a board to adopt the annual budget at least 14 days prior to the start of the association’s fiscal year. In the event the board fails to timely adopt the annual budget by this deadline, the previous year’s budget will continue. Multiple violations of this requirement shall be deemed a minor violation of the Department of Business and Professional Regulation’s Administrative Code.

Q: Our documents are very old and there are several places where there are direct conflicts between what the declaration of condominium states and what the bylaws state. Which document are we supposed to follow when we find a conflict? A.E.

A: When there is a direct conflict between a provision in the declaration of condominium and a provision in the bylaws, the provision in the declaration will supersede the conflicting bylaws provision. There are appellate cases in Florida which confirm this conclusion. Under the “hierarchy of condominium documents,” the declaration of condominium is the condominium document of highest authority. Conflicts within older condominium documents are, unfortunately, very common. It is recommended that these conflicts be addressed and corrected via amendment.

Q: I’m a new member of my HOA board. Do I have to do anything or take any class to serve on the board? J.S.

A: Over the past several years, all of Florida’s community association statutes have been amended to require that board members be “certified.” Newly elected or appointed board members must sign a form, that provides that the board member has read the association’s governing documents, and that such board member will work to uphold such documents to the best of his or her ability. Further, the board member must agree that he or she will faithfully discharge his or her fiduciary duty to the association’s members. In lieu of signing this written certification, a newly elected or appointed director may instead provide a certificate demonstrating that they have satisfactorily completed an approved educational course. A prospective board member can attend and complete such an educational course up to one year in advance of taking a seat on the board.

In the event that a board member fails to either complete an educational course or sign the required form within ninety days of their election or appointment to the board, such board member is suspended from service on the board until they complete the requirement.

To read the original Naples Daily News article, please [click here](#).

David Muller is board-certified in Condominium and Planned Development Law and regularly provides practical advice that ensures the fiscal success and legal compliance of both commercial and residential community associations. He has significant experience in drafting governing documents and amendments, negotiating contracts, dispute resolution, and more. For David's complete bio, please [click here](#).