

Can condo board send out tow truck?

Daniel Vasquez - On Condos

Can your board send a tow truck after you for expired license plates? And who should pay to sniff out a mysterious water leak from a hidden pipe, the unit owner or the association?

These are questions from Sun Sentinel readers. And we have answers with help from South Florida attorney Alessandra Stivelman, of Eisinger, Brown, Lewis, Frankel & Chaiet. If you have a question about Florida shared community law you would like answered in print, please send an email with your full name and city name to dvasquez@SunSentinel.com.

Mick Verrette of Sunrise bought a new car in July and expected the state to send a renewal notice for the license plate tag. The notice never arrived and the issue slipped his attention until he woke up recently to find that his condominium association had the car towed due to expired plates. Can community associations call in towing companies to enforce license plate laws or other infractions?

Not so fast, Stivelman says. Florida statutes, which regulate towing of vehicles, is applicable to community associations whether or not the roads located therein are private or public. But in order to enforce, appropriate warning signs must be posted throughout the community.

Many community associations use towing as an enforcement mechanism for unlawfully parked vehicles, Stivelman says. However, towing statutes are not to be used for unlawful vehicles themselves such as, for example, a vehicle with expired tags or a commercial vehicle prohibited by the association's governing documents. Worth noting, associations do not have the authority to tow vehicles for a violation of the constituent documents.

And if the association improperly causes a vehicle to be removed, it may be liable to the owner or lessee of the vehicle for the cost of removal, transportation and storage, including any damages resulting from the removal, transportation or storage of the vehicle, attorney's fees and court costs.

Allan Kleger, of Hollywood, lives on the second floor of his condo building and recently noticed water damage above two bathroom ceilings. He suspects a leak in water pipes belonging to an upstairs neighbor or those maintained by the association. Who should pay to determine the actual source?

Stivelman recommends immediately notifying your association, which should contact the insurance company, and place appropriate neighbors on notice. In the event the association and/or neighboring unit owners do not take immediate action to determine the cause of the damage, the owner has the option of filing a claim with the association's insurance company and going after neighboring unit owners.

Stivelman also suggests obtaining a written professional opinion as to cause of damage to determine the party responsible. Someone like Kleger may not ultimately be financially responsible for damages, but may end up having to pay for estimates or reports determine the source of damage and then recovering those costs later.

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