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Special v. Emergency Assessment: What's the Difference?

In this week's tip, we address a reader's sneaking suspicion that the HOA board pulled a fast one. It first tried to pass a special assessment, which failed. Then it imposed an "emergency" assessment on owners. Is that legit?

Though they're rare, states statutes permitting associations to pass "emergency" assessments do exist.

"We've had associations pass emergency assessments," says Alessandra Stivelman, an associate attorney who specializes in community association law at Eisinger Brown Lewis Frankel & Chalet in Hollywood, Fla. "Florida statute authorizes associations, if there's an emergency, to pass an assessment without notice if you're acting in the best interest of the association. But you need to justify the emergency. It can't be that you've been dealing with this issue for a year, and now you're claiming it's an emergency, and it's not. It's more along the lines of a water pipe has burst, causing harm to the whole building that requires \$30,000 to stop the damage from spreading, and the board needs to pass that right away."

That doesn't mean an [HOA special assessment](#) expense rejected by the owners couldn't turn into an emergency. "It depends on the facts, but maybe the association has dealt with this issue for year," says Stivelman. "But in the past week, things got really bad, or the city has provided notice it's going to take action within 10 days. The board could use this statutory provision to deal with the fact that its special didn't pass, and this is its next option. Again, however, the board would have to justify the emergency."

Florida has another statute that grants boards similar emergency powers, but its scope is even more limited. "The law specifically authorizes boards to pass assessments in response to damage caused by an event for which there's been declared a state of emergency, like a hurricane," explains Stivelman. "It allows boards to be flexible as far as board meetings, and the notice required is only as is practicable. The expense should be to protect residents, prevent further damage, or do emergency repairs."

Outside of Florida, our veteran experts haven't seen this animal our reader's board calls an emergency assessment, but they do see the need for emergency budget adjustments. Find out more in our new article, [Emergency Assessments: Are they for Real?](#)

Best regards,
Matt Humphrey
President