

MONEY

Can your condo charge you for payment reminders?

Legal experts respond to reader questions

Daniel Vasquez

Can your HOA or property management company charge you a fee for sending a reminder letter to pay your maintenance fees? Does a condo board have to put up with an owner who makes too many records requests? What can you do if you get elected to your community board, but the other members don't invite you to meetings?

These are questions from Sun Sentinel readers, and we offer answers with the help of **Dennis J. Eisinger** of the South Florida law firm of **Eisinger, Brown, Lewis, Frankel & Chalet**. The responses are meant to provide guidance and not specific legal advice.

Louis DiBacco, of **Boca Raton**, said he recently forgot to pay his homeowners quarterly maintenance payment. Once he realized the mistake, he sent in the payment along with late fees. A few days later he received a "late fee reminder notice" from the association's management company, along with an additional fee related to the service of sending out the reminder. He asks:

Q: Is it legal for an association or management company to charge a fee for late fee reminders?

A: Both for condo and homeowners communities, the law is very clear regarding interest and late charges. If the association's documents authorize it, a board can assess a late fee of up to 18 percent per year on delinquent owners. It can also add on a late charge of \$25 or 5 percent of the assessment for each delinquent payment. So it appears, the additional late "reminder" charge being imposed in DiBacco's case by the association for the very same monthly installment is not valid.

Norman Klein, of **Hillsboro Beach**, became president of his condo board in February and since has dealt with an owner demanding to view official association records repeatedly. "I set up a desk and chair in our business office and bring in storage boxes of each year. She shows up when she feels like it, sometimes spends an hour or two, and then disappears for days or more," Klein said, adding the work has cost the association attorney fees and he has exchanged more than 80 emails with the owner related to records requests. He asks:

Q: Does a board have to put up with unreasonable records requests?

A: The Florida Condominium Act does permit an association to adopt reasonable rules and regulations regarding the frequency and manner of responding to owner inquiries, such as limiting an owner to one written inquiry per 30-day period. But no such limitation is provided in either the Condominium Act or the HOA Act with respect to the review and inspection of association records. When the records access demands of an owner become extremely unreasonable and

abusive, the association may seek an arbitration or judicial ruling preventing the owner from future abuse and harassment of the association.

To obtain this, however, Eisinger said "circumstances must be extreme."

Eileen Giliberti, of **Pompano Beach**, joined her condo board in February and says she has only attended one board meeting since taking office. She believes her board may be meeting without her and making financial decisions. She wonders whether any decision without her is valid? She asks:

Q: What can I do to make sure the board includes me in all official meetings?

A: As a board member, Giliberti must be notified as to the time and place of all board meetings whether or not she attended previous board meetings. The association's bylaws or articles of incorporation will specify the notification requirements. For condominiums, Florida statutes require that, at the very least, notice of all board meetings be posted in a conspicuous place on the condominium property at least 48 continuous hours before a meeting (except in the event of an emergency). State law provides the same for homeowners communities.

If a condo or HOA board takes action at a meeting that has not been publicized to owners properly, such actions could be invalid unless they were subsequently ratified at a future meeting for which all members were properly notified.

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