



ROSS EARLE BONAN & ENSOR, P.A.

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# REB LAW REVIEW

## ROSS EARLE BONAN & ENSOR, P.A. NEWS

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Greetings to all of our clients, friends and colleagues. This year has certainly been eventful. The CoVid19 pandemic has presented many challenges to our Community Association clients as well as our society as a whole. We have tried to keep all of our clients informed and updated with our numerous CoVid19 updates and recommendations. We are still monitoring the situation and will continue to keep you informed.

Despite the pandemic, we have relocated our Vero Beach office to a larger suite in the same building, the Transocean Office Building at 1701 Highway A1A, Vero Beach. We are now in Suite 220 with two conference rooms and more space to serve our clients.

The Ross Earle Bonan & Ensor family is growing. We welcome new associate attorney, Jesse Hornberger. Jesse has been a member of the Florida Bar since April of 2017. He grew up in Stuart and thankfully decided to return to Florida after graduating from law school at Boston College. Before joining our firm, Jesse practiced construction litigation for two years. Additionally, associate attorney, Samantha Simpson married Andrew Steinbrecher in November of 2019 and associate attorney, Lauren Carroll married Phillip DiMenno in March 2020.

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**Senate Bill 476 – Law Enforcement Vehicles** – (effective as of February 21, 2020)

On February 21, 2020, a new law became effective which forbids community associations from prohibiting a law enforcement officer who is an owner, or who is a tenant, guest, or invitee of an owner within the community, from parking his or her assigned law enforcement vehicle in an area where the owner, or the tenant, guest, or invitee of the owner, otherwise has a right to park. The law is codified as §718.128, Florida Statutes (Condominiums), 719.131, Florida Statutes (Cooperatives) and 720.318, Florida Statutes (Homeowners Associations).

**Senate Bill 1084 – Emotional Support Animals** – (effective as of July 1, 2020)

In March, the Florida Legislature passed Senate Bill 1084 (SB 1084), which adds and modifies statutory language and requirements in connection with Emotional Support Animals (ESAs).

The major changes which affect our community association clients are the following:

1. Community associations **may** request information regarding the specific need for each animal if a person requests to keep more than one emotional support animal.
2. Community associations **may** require proof of compliance with state and local requirements for licensing and vaccinating each emotional support animal.
3. Community associations **may** develop and make available a routine method for receiving and processing reasonable accommodation requests for emotional support animals. However, community associations **may not** require the use of a specific form or notarized statement or deny a request solely because the person did not follow the housing provider’s routine method.
4. Community associations **may not** request information that discloses the diagnosis or severity of a person’s disability or any medical records relating to the disability. This does not preclude the person requesting the accommodation from disclosing such information or medical records at their discretion.
5. An emotional support animal registration, such as an identification card, patch, certificate or similar registration obtained from the Internet is not, by itself, sufficient information to reliably establish that a person has a disability or a disability-related need for an emotional support animal.
6. Persons with emotional support animals are liable for any damage done to the premises or to another person on the premises by their emotional support animal.
7. Providing information, including written documentation, indicating that a person has a disability or supporting a person’s need for an emotional support animal without personal knowledge of the person’s disability or disability related need for the specific emotional support animal constitutes grounds for which disciplinary action may be taken.
8. Falsifying information or knowingly providing fraudulent information for an emotional support animal or otherwise knowingly and willfully misrepresenting oneself as having a disability or disability related need for an emotional support animal is now a misdemeanor of the second degree.

### **Senate Bill 140 – Fireworks** – (effective as of April 8, 2020)

The Bill, which created §791.08, Florida Statutes, adds provisions related to fireworks.

- The Bill permits the use of fireworks solely and exclusively during a “designated holiday.” “Designated holidays” are New Years Day (January 1), Independence Day (July 4), and New Year’s Eve (December 31).
- The Bill is clear that the section is not intended to provide for comprehensive regulation of fireworks or to supersede any local governmental regulation relating to the use of fireworks.
- The Bill notes that “the Legislature does not intend for the application of this section to supersede any prohibition against the use of fireworks contained within a legally executed and properly recorded declaration of covenants or covenant running with the land of any homeowners’ association pursuant to chapter 720. However, a homeowners’ association, through a board of directors, may not promulgate rules that attempt to abrogate a homeowner’s right to use fireworks during a designated holiday or under general law.”

### **Election Procedures and Election Committees – Garcia v. Sorbet Community Association**

A recent Arbitration Decision, *Guillermo (Gil) Garcia v. Sorbet Community Association, Inc.*, 2019 WL 7501075, (Fla. DBPR Arb. October 15, 2019), involved a challenge by a lot owner within a homeowner’s association as to whether the required election procedures for the annual election of the Board of Directors were properly followed. Mr. Garcia contended that a new election was necessary because the Association had failed to appoint a nominating committee as required by its By-Laws.

The Association admitted that it did not have a nominating committee prior to the annual meeting and election of directors and maintained that since there were no volunteers to participate on the nominating committee in advance of the annual meeting, a nominating committee could not be appointed.

The Arbitrator ultimately found that the Association must use a nominating committee if required by its governing documents. As a result, the Association’s election was deemed void and it was ordered to conduct a new election in accordance with the election procedure requirements within the By-Laws.