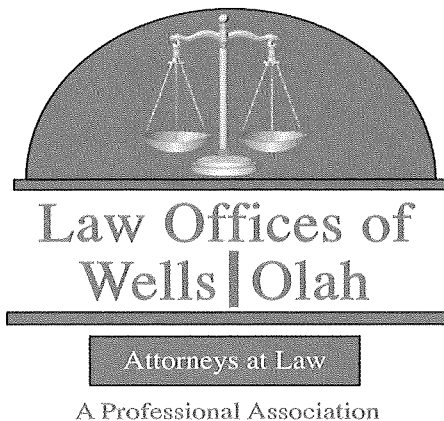


Condominium, Homeowner
and Cooperative Associations

Kevin T. Wells, Esq.
Paul E. Olah, Jr., Esq.



Civil Litigation
Construction Litigation

Michael W. Cochran, Esq.
Jackson C. Kracht, Esq.
Joseph A. Gugino, Esq.
Brett M. Sarason, Esq.

March 19, 2019

Glen Oaks Manor Home Owners Association, Inc.
c/o Ms. Bridget Spence, Manager
Casey Condominium Management, LLC
4370 S. Tamiami Trail, #102
Sarasota, FL 34231

Re: Recorded Certificate of Amendment to Governing Documents

Dear Bridget:

Enclosed is the original Certificate of Amendment and attached amendments to the Declaration of Covenants which were recorded at Official Records Instrument #2019027733 of the Public Records of Sarasota County, Florida, on March 7, 2019. Please maintain this original document as part of the official records of the Association.

Pursuant to Section 720.306(1)(b), Florida Statutes, **within 30 days** of recording (that is, on or before **April 6, 2019**) the Association must provide a copy of the amendments to its members. However, if a copy of the proposed amendments are provided to the members before they vote on the amendments and the proposed amendments are not changed before the vote, the Association, in lieu of providing a copy of the amendments, may provide notice to the members that the amendments were adopted, identifying the official book and page number or instrument number of the recorded amendments and that a copy of the amendments are available at no charge to the member upon written request to the Association. The copies and notice described in this paragraph may be provided electronically to those owners who previously consented to receive notice electronically.

Governor Rick Scott signed into law Chapter 2018-96, Laws of Florida (HB 841), which went into effect on **July 1, 2018**. This new law applies to all **homeowners associations** by amending Section 720.306(1) Florida Statutes.

Section 720.306(1)(e) and (g), Florida Statutes (emphasis added) now provide as follows:

(1) QUORUM; AMENDMENTS. —

(e) A proposal to amend the governing documents must contain the full text of the provision to be amended and may not be revised or amended by reference solely to the

title or number. Proposed new language must be underlined, and proposed deleted language must be stricken. If the proposed change is so extensive that underlining and striking through language would hinder, rather than assist, the understanding of the proposed amendment, a notation must be inserted immediately preceding the proposed amendment in substantially the following form: "Substantial rewording. See governing documents for current text." **An amendment to a governing document is effective when recorded in the Public Records of the county in which the community is located.**

...
(g) A notice required under this section must be mailed or delivered to the address identified as the parcel owner's mailing address on the property appraiser's website for the county in which the parcel is located, or electronically transmitted in a manner authorized by the association if the parcel owner has consented, in writing, to receive notice by electronic transmission.

Section 720.306(1)(g), Florida Statutes, now provides that any notice required under Section 720.306, Florida Statutes (including notice of a recorded amendment to the governing documents) must be mailed or delivered to the address identified as the parcel owner's mailing address **on the property appraiser's website** for the county in which the parcel is located, OR electronically transmitted in a manner authorized by the Association if the parcel owner has consented, in writing, to receive notice by electronic transmission.

In sum, if the Association mails or delivers notice of the recorded governing document amendment to its members it is now statutorily required to mail or deliver that notice to the address the property appraiser has on its website for the homeowner. **If that property appraiser's address is different than the address the Association has on file for the homeowner, the Association MUST mail the notice to the property appraiser's address!**

We recommend that the Association check the property appraiser's address for each of its owners **immediately prior** to mailing the notice required by Section 720.306, Florida Statutes, as owners may change their addresses on file with the property appraiser without prior notice to the Association. This is another good reason for the Association to aggressively seek owner written consent to receive official notices via electronic transmission in lieu of mailing or delivering the notice. **Please let me know** if you would like for me to draft and send the Association an owner written consent form for owners to consent to receiving notices via electronic transmission if we have not already done so.

As an additional caution, please note that Section 720.301(8), Florida Statutes, defines "**Governing Documents**" to mean the recorded declaration of covenants, and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto, the articles of incorporation and bylaws and any duly adopted amendments thereto, AND the rules and regulations adopted under the authority of the recorded declaration, articles of incorporation or bylaws and duly adopted amendments thereto. This statutory definition is unique to the Homeowners Association Act.

The new law provides that any **amendment** to the Association's Governing Documents (including an amendment to the Rules and Regulations) adopted after **July 1, 2018**, must contain the full text of the

Glen Oaks Manor Home Owners Association, Inc.
c/o Ms. Bridget Spence, Manager
March 13, 2019
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provision being amended and may not be revised by reference solely to the title or number. The proposed new language must be underlined and the proposed deleted language must be stricken. However, if the changes are so extensive that this would hinder, rather than assist, the understanding of the proposed amendment, a notation must be inserted immediately preceding the proposed amendment in substantially the following form: "*Substantial rewording. See governing documents for current text.*"

In addition to being placed in the required statutory format, Section 720.306(1)(e), Florida Statutes, now provides that an amendment to the Governing Documents is effective when recorded in the county's public records. **In sum, if an amendment to the Governing Documents is adopted on or after July 1, 2018, the amendment must be in statutory format and must be recorded in the county's public records to be legally effective.**

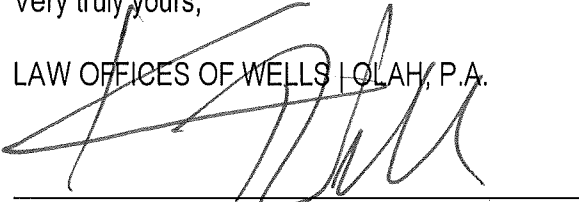
While it would comply with the new statutory requirements, it would likely create great confusion if the Association only records post July 1, 2018 amendments to its Rules and Regulations in the public records if the original Rules and Regulations are also not recorded in the public records. The Association should, therefore, consider recording all of its Rules and Regulations in the public records along with a Certificate of Amendment.

Even though the amendment to the statute states that these requirements apply to an amendment to the Governing Documents (which specifically includes the Rules and Regulations), it is also important to understand that the statutory definition of Governing Documents also includes the declaration and any supplements and recorded exhibits thereto. Therefore, the Association needs to review what documents, if any, were recorded as exhibits to the declaration. For example, if the architectural standards and guidelines were attached to the declaration as an exhibit, they are now part of the Governing Documents and fall within the purview of the new statutory requirements. Depending on how the Governing Documents or a court defines "Rules and Regulations", the Association's Governing Documents could also include the architectural standards and guidelines of the community.

If you or another Association representative has a question or comment concerning this or any other matter, please let me know.

Very truly yours,

LAW OFFICES OF WELLS | OLAH, P.A.



Kevin T. Wells, Esq.
kwells@kevinwells.com

KTW/elp
Enclosure