

# **Making Sense: Legal And Practical Considerations Of A Community Association Committee In Florida**

August 23, 2018 by [Hans C. Wahl, Esq.](#)

Most condominium and homeowners' associations have committees in place to assist the board of directors with association operation and business, but few utilize committees properly or effectively. The creation, purpose and authority of committees can be confusing, but it doesn't have to be. This blog post will provide an overview of the legal and practical considerations of community association committees.

## **How A Community Association Committee Is Defined By The Florida Condominium Act**

The [Florida Condominium Act](#) defines a committee as “a group of board members, unit owners, or board members and unit owners appointed by the board to make recommendations to the board regarding the proposed annual budget or to take action on behalf of the board.” [Fla. Stat. § 718.103\(7\)](#). Interestingly, the [Florida HOA Act](#) does not define committee. It is important to understand that committees do not have the power of the board of directors and, except for a couple of limited circumstances, committees do not take final action.

A committee's only role is to provide recommendations to the board of directors on whatever topic is assigned to that committee. Stated another way, committees exist to serve the board of directors and to assist it with its duties and responsibilities. Once a committee provides its report, comments or recommendations to the board on any given issue, it is the board who makes the ultimate decision on that issue. Official communications from the association to its members should always come from the board, not a committee, unless a specific committee has been expressly delegated limited authority from the board to send communications directly to the members on a certain issue (this should be a rare circumstance). Even if a committee is authorized to send official communications to the members, the board should review and approve each communication before it is sent by the committee.

## **The Role Of A Condominium Association Board And Homeowners Association Board In Establishing A Community Association Committee**

The board members establish the committees and appoint its members. This is done at a properly noticed board meeting. The board can also provide instructions, establish goals and set deadlines for its committees. In fact, to get the most out of its committees it is recommended that at each annual meeting, the board not only establish the various committees and appoint its

members but that the board also set goals and deadlines for each committee. If, during the course of the year, a certain committee fails to achieve its goals and/or meet its deadlines, the board can set a meeting to remove committee members and appoint new ones.

Board members must be mindful, however, that, similar to the board itself, committees are made up of volunteers. A board must find that delicate balance between ensuring its committees are productive and successful with their respective missions and being so overbearing and demanding that the association can no longer find volunteers to operate its committees. Some associations have a difficult enough time finding volunteers to fill board seats, much less its committees. Unfortunately, some associations must decide whether an inefficient or procrastinating committee is better than no committee at all.

## **Requirements For A Community Association Committee**

Each association has the ability to establish any committees that it sees fit for the operation of its community, as decided by the board. Regarding the size of each committee, at the very least, committees must have at least three members. For some associations, three members per committee is about the best that can be expected with the limited number of members willing to volunteer. For larger associations, some of the more popular committees, such as the social or event planning committees, may have five or seven members. The board should avoid having committees too large to function properly.

Board members can also be committee members (with the exception of the “rules enforcement committee” as further explained below). An association may find it ideal to have a board member on each committee along with two non-board-member volunteers. The board member on each respective committee can then report his/her committee’s progress to the rest of the board members.

## **What Community Association Committees Are Required For A COA or HOA?**

The Condominium Act and the HOA Act only require one type of committee. That is the committee necessary for the association to be able to levy fines and impose the suspension of use rights to the common areas for violation of the association’s covenants, bylaws, rules and regulations. [Fla. Stat. §718.303\(3\)\(b\)](#); [Fla. Stat. § 720.305\(2\)\(b\)](#). The statutes do not provide a formal name for this committee, but associations commonly label it as the “rules enforcement committee,” the “fining committee,” or the “grievance committee.”

Your association can call that committee whatever it wants, but the Condominium Act and HOA Act are clear—if you want your association to have the power to levy fines and impose the suspension of use rights for violations then you must have this committee in place. There are, unfortunately, many associations that cannot levy fines or impose suspensions because they do not have the volunteers necessary to establish this committee. This committee cannot be comprised of board members or relatives of board members. It must be solely independent from the board. The statute provides as follows:

A fine or suspension levied by the board may not be imposed unless the board first provides at least 14-days' written notice to the owner and, if applicable, any occupant, licensee, or invitee of the unit owner sought to be fined or suspended, and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director or employee. Fla. Stat. § 718.303(3)(b); Fla. Stat. § 720.305(2)(b).

The only role of this committee is preside over the "violation hearing" and determine whether to confirm or reject the fine or suspension suggested by the board. There is often much confusion about the process of levying fines and suspensions and each group's role in the process. Community associations are established by law to be self-governing quasi-governmental entities. So in the circumstance of levying fines and suspensions for rules violations, it helps to look at the board of directors as the executive branch and the "rules enforcement committee" as the judicial branch.

## **Where The Association Board Gets Involved**

The board is the enforcer. The board (or manager) identifies the violation, the alleged violator, and then sends out of the 14-day notice, informing the alleged violator of the potential fines and suspensions and the date/time of the "rules enforcement committee" hearing. The "rules enforcement committee" then presides over the violation hearing and hears the alleged violator's side of the story, weighs the equities of the situation, and then votes on whether to confirm or reject the fine or suspension suggested by the board. If the committee, by a majority vote, does not approve the proposed fine or suspension, then it cannot be imposed by the board.

## **What Other Committees Are Mentioned In Florida Law?**

While the "rules enforcement committee" is the only committee Florida law requires in order to conduct certain association business, there are two other types of committees mentioned in the community association statutes. One is the budget committee (*see* [Fla. Stat. § 718.112\(2\)\(c\)2.](#)), which is described as a committee that assists the board with the annual budget creation process. This committee is not required, and a board of directors can create and pass a budget without this committee being in place. The second is an architectural review committee (*see* [Fla. Stat. § 720.3035](#)) established to review any construction improvement or alteration on the association property. This committee is not required by law either; however, quite often this type of committee is required by an association's declaration and bylaws. You should review your association's governing documents to determine whether an architectural review committee (or similarly-named committee) is required for your community.

Associations must also ensure its committees are operating properly under the law. Meetings of a committee to take final action on behalf of the board of directors or to make recommendations to the board regarding the association budget must be open to all members. [Fla. Stat. § 718.112\(2\)\(c\)2.](#) This means these committee meetings must be properly noticed with an agenda, similar to board meetings. The Condominium Act does allow other types of committee meetings to be closed, with no notice and agenda requirements, so long as the association's bylaws

expressly state that these other committee meetings may be closed. *Id.* The “rules enforcement committee” hearing for alleged violators are closed to all members except for the alleged violator and the owner if the alleged violator is a tenant.

## **Conclusion**

The creation and operation of community association committees can be confusing. The confusion and uncertainty can sometimes lead to disagreements between board members, committee members and managers. If such issues exist within your association, you should consult with an experienced community association attorney.