



# Condo Association Special Assessments for Condominium Alterations and Additions

## Florida condominium association special assessments and voting for alterations or additions to the condominium

We regularly receive questions from condo owners regarding their condo association's decision to fix up the condominium. The situation usually arises when a unit owner receives notice from his or her condo association advising that special assessments will be added to the regular maintenance assessments already being charged. These special assessments, it turns out, are required to cover recent modifications to the condominium. The building got a new paint job. The foyer was redecorated. The parking lot was repainted. When did these changes happen? Who approved them? How much did they cost? Why wasn't I told? Why do I have to pay for them? How can I afford it?

Rather than merely accepting the charges and struggling to get by while paying for these alterations, every condo owner should first analyze whether the condo association (namely, the condo board of directors) properly noticed, voted on, and passed approval for these alterations and special assessments.

Here is the Florida law on special assessments for material alterations and additions to a condominium:

Under Florida law, if an association contracts for or performs material alterations or additions to its condominium, then that association must first obtain a vote of the membership. *George v. Beach Club Villas Condominium Assoc.*, 833 So. 2d 816, 819 (Fla. 3d DCA 2002) (affirming trial court's denial of the association assessment to replace roof for failure to obtain approval vote of membership). The Third District has held that a "material alteration or addition" means alterations that "perceptively vary or change the form, shape, elements or specifications of a building from its original design or plan, or existing condition, in such a manner as to appreciably affect or influence its function, use, or appearance." *Id.* An association's claims that it performed these

alterations as maintenance to the common elements, or because it faced fines if the alterations were not performed, do not excuse an association's failure to first obtain a vote of the membership. *Id.* Florida appellate courts have held the following alterations were "material alterations," requiring a vote of the membership: (a) a change from wire screening to glass jalousie windows (see *Sterling Village Condominium, Inc. v. Breitenbach*, 251 So. 2d 685, 687 (Fla. 4th DCA 1971)); (b) changing the color scheme of the development from one of multi-color clusters to one uniform color (see *Islandia Condo. Ass'n, Inc. v. Vermut*, 501 So. 2d 741, 743 (Fla. 4th DCA 1987)); and (c) the change from cedar shingles to terra cotta barrel tiles on a condominium's roof mansard (see *George v. Beach Club*, 833 So. 2d at 819).

The following alterations are examples of condominium updates that fall under the purview of the above Florida law on special assessments:

- ▶ Lobby decorations;
- ▶ Landscaping;
- ▶ Gym and spa renovations;
- ▶ Elevator modernization;
- ▶ Door upgrades;
- ▶ Pool renovations;
- ▶ Lobby renovations;
- ▶ Hallway renovations;
- ▶ Porte cochere renovations;
- ▶ Carpet renovations;
- ▶ Balcony doors;
- ▶ Windows replacements;
- ▶ Hardening surface of beach entrance;
- ▶ Addition of railings in stairways;
- ▶ Repair to pool pavers;
- ▶ Replacement of unit doors;
- ▶ Painting; and
- ▶ Miscellaneous property renovations.



These association alterations, on their face, probably meet the Third District's test for material alterations or additions, requiring a prior vote of the membership. However, whether these alterations would or did, in fact, "perceptively vary or change the form, shape, elements or specifications of a building from its original design or plan, or existing condition, in such a manner as to appreciably affect or influence its function, use, or appearance," is an issue that requires attorney analysis from a Florida real estate attorney.



The first step to protect yourself from payment of unnecessary condominium assessments is to have a Miami real estate attorney or Florida real estate attorney look over your condominium documents and your special assessments. We can help. Should your condominium association charge you special assessments for renovations to your condominium, contact our firm to intervene on your behalf, minimize your risk, and maximize your property investment.

If you have questions on condo special assessments and condo renovations and alterations, you should contact our real estate attorneys. We can give you personal and immediate real estate help and legal aid from a consumer finance and real estate lawyer.

**If you have questions on condo special assessments and condo renovations and alterations, you should contact our real estate attorneys at 786-871-3349 or [abernhard@bernhardlawfirm.com](mailto:abernhard@bernhardlawfirm.com). We can give you personal and immediate real estate help and legal aid from a real estate lawyer.**