

WHAT FLORIDA COMMUNITY ASSOCIATIONS MUST KNOW ABOUT DISABILITY-COMPLIANT WEBSITES

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Florida condominium associations are now digital. As of January 1, 2019, Florida condominium associations with 150 or more units are required to maintain a website pursuant to Fla. Stat. §718.111(12)(g). Recently proposed legislation seeks to lower the threshold, requiring associations with 25 or more units to maintain a website and increase the required information that must be made available digitally. While homeowner associations are not currently obligated to maintain a website, one can only assume that similar amendments to Chapter 720, Florida Statutes, which governs homeowners' associations, will soon follow.

[Association websites must comply with certain statutory mandates](#), including the requirement that the website be an independent website or web portal wholly owned and operated by the association; or be a website operated by a third party, provided the association has the right to operate a web page dedicated to the association's activities. An association's website must be accessible through the internet and have a subpage that is protected and inaccessible to the general public, accessible only to unit owners and employees of the association via username and password.

There are specific documents that are required to be posted on an association's website, including, but not limited to:

- The recorded declaration of condominium, bylaws, articles of incorporation, and all amendments thereto
- The rules of the association
- Contracts to which the association is a party
- Bid materials for the past year, or summaries
- Annual budget and any proposed budget
- Financial report and monthly income or expense statements
- Director certifications
- Conflict of interest documents

Additionally, the statute requires that the notice of any board meeting or unit owner meeting and agenda for the meeting be posted on the website in plain view on the front page or on a separate subpage labeled "Notices" as well as conspicuously visible and linked from the front page. All documents to be considered and voted upon by the owners, or any item listed on an agenda, must also be listed on the website. Associations are required to provide safeguards to protect certain confidential information and records, including the obligation to redact them before posting documents online.

Certainly, the requirement that associations maintain a website and digitalize critical documents advances the goals and purpose of maintaining transparency and make it easier for unit owners to obtain information about the operations of the association. Moreover, maintaining a repository of documents online helps prevent loss of documentation that is all too common in an association setting, whether it be caused by a transition of board members and management, or simply the result of the passage of time and/or outdated or inefficient document storage protocols.

One unintended consequence of the recent statutorily imposed website requirements has been a sharp increase in federal Americans with Disabilities Act (ADA), Fair Housing Act (FHA) and/or Communications Decency Act (CDA)-related litigation, however. In addition to the requirements imposed by Fla. Stat. 718.111(12)(g), associations must be cognizant of compliance with requirements pursuant to the FHA, CDA and/or the ADA as may be applicable. Associations should be mindful of creating a digital community accessible to the visually and hearing impaired. Given that 30.3 percent of Americans identify as "disabled" in some form and further, 58.5 percent of Americans over the age of 65 identify as disabled, it is imperative that community associations respond to their constituents' needs. No doubt, associations should be concerned about potential liability related to website accessibility issues. There is ongoing concern about the risk that an association may be liable for damages and attorney fees, in addition to the costs related to remediation of its website. These costs can easily be avoided, and legal compliance issues resolved if associations focus on serving the real accessibility needs of their residents by designing their websites for inclusion from the outset.

As associations continue to evolve in this digital age, particular attention should be given to ensure that all members are given the opportunity to access and utilize the amenities and services offered. It is important to consult with legal counsel and experienced website development companies to ensure that your association's website is compliant with both the requirements of the Condominium Act, as well as other statutes and regulations, including ADA and FHA.

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