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Understanding Director Conflicts of Interest in Florida Condominium Associations

BY EDMY CORTIJO VILLOCK, ESQ.

In the realm of condominium associations in Florida, directors play a crucial role in decision-making processes. However, their actions must adhere to certain legal standards to ensure transparency and fairness. This article explores key legal cases and statutes that shape the landscape of director conflicts of interest in Florida condominium associations.

Section 718.3027, Florida Statutes, defines what is considered a conflict of interest among directors and officers (D&O) who are not part of a time-share condominium association. Keep in mind that this section also applies to the relatives of those directors and officers. For the purpose of this provision, a "relative" means anyone within the third degree of consanguinity by blood or marriage.

It is important for every D&O to disclose to the board any activity that may be construed to be a conflict of interest. Some common examples of a conflicts of interest include the following:

Entering a contract for goods or services with the association.

Holding an interest in a business entity that conducts business with the association, with the purpose of entering into a transaction with the association. It does not matter if the services to be rendered are for cleaning services or for underwriting the insurance policy for the association; these services should never be performed by a director or officer's company, irrespective of if the director or officer is the one performing the work or not.

Not disclosing business or personal relationships with contractors, developers, vendors, or any other service providers.

Holding the role of property manager while serving as a board member, as this role is one that requires compensation and sometimes even reimbursement for performing association activities.

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In the legal precedent of *Old Port Cove Property Owners' Association v. Ecclestone (500 So. 2d 331, 333, Fla. 4th DCA 1986)*, it is established that every board member has a duty to act in good faith, with the belief that their actions are in the best interest of the association. The expected standard of care is that of a reasonably prudent person in a similar position facing comparable circumstances.

If a director or an officer, or relative of a director or an officer, proposes to engage in an activity that is considered a conflict of interest, these requirements must be followed:

The proposed activity must be listed in the meeting agenda and any contract and transactional document must be attached as well.

The contract or transaction must receive approval from two-thirds (2/3) of the directors present at the meeting, provided they have no relationship or interest in the said contract or transaction. The director or officer with an interest in the contract or transaction is allowed to present information to the board about the activity but should not be present during the voting.

The existence of the contract or transaction must be disclosed to all members at the next meeting.

If any member proposes a motion, the contract or transaction will be