

ASSOCIATION TURNOVERS: PASS THE TORCH WITHOUT GETTING BURNED

Real Property Probate & Trust Law Section

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With the recent increase of residential real property development in Florida, many attorneys who do not typically encounter community association issues are being asked to venture into uncharted territory. Whether you are asked by a homeowner, a condominium unit owner, an association director, a developer, or anyone confronted with a community association issue, knowing if and when "turnover" has occurred is essential to providing legal advice of almost any kind.

Turnover refers to the process by which the developer of a residential condominium or a residential subdivision passes control of the

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corporate entity administering the affairs of the association from a developer controlled board of directors to a board of directors comprised, at least in part, of individual owners of units or homes in the community.

Chapter 718, Fla. Stat., requires the developer of a residential condominium to transfer control of a condominium association by certain deadlines which are based on several factors, including the number of units conveyed to purchasers, whether units are being offered for sale by the developer, and how long the declaration of condominium has been recorded.¹ Generally, condominium associa-



tions are turned over to the purchasers of units within three months of ninety percent of the units' being conveyed to purchasers of units from the developer;

however, a case by case analysis must be completed to determine if other statutory triggers set forth in Section 718.301, Fla. Stat., apply.

Section 720.307, Fla. Stat., governs the turnover process in a homeowners association. Section 720.307, Fla.

Stat., requires that turnover occur at the earlier of the following two events: (1) three months after ninety percent of the parcels in all phases of the community that will ultimately be operated by the

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homeowners' association have been conveyed to members; or (2) such other percentage of the parcels has been conveyed to members, or such other date or event has occurred, as set forth in the governing documents in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels.

Any practitioner unfamiliar with development work or community association law must be cognizant of the turnover process, as the date of turnover significantly impacts the rights and obligations of developers, community associations, and individual property owners. Specifically, turnover

starts the clock on statutory warranty claims and claims related to the developer's compliance with the transfer of association property, including the financial accounts of the community association and common real property in the development. Turnover also marks the date when control of community association business (and the obligations and legal exposure related to it) passes from representatives of the developer to individual property owners.² While there are many aspects of the turnover process that are beyond the scope of this article, the first step to successful representation of any homeowner, condominium unit owner, community association, or developer is knowing if and when turnover

has occurred and what is generally involved in the process.

¹ See Section 718.301, Fla. Stat.

² See Section 718.203, Fla. Stat., which governs statutory warranties in condominiums. See also Section 718.301, Fla. Stat., which governs the transfer of official records and property from the developer of a condominium to the member-controlled association, and Section 720.307, Fla. Stat., which governs the transfer of official records and property from the developer to

members of a homeowners' association.



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