

“THE A B C ‘s OF HOA’s (AND COA’s, etc.)”

by

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WEAN & MALCHOW, P.A.

About the Presenter

Paul L. Wean, Managing Shareholder

Paul is a graduate of Boston University and a Law Review Alumni of Western New England College School of Law. Prior to becoming a member of the Florida Bar (1987) and moving to Florida (1988) he was a partner in a Boston-area law firm and thereafter he became a partner in a major Florida law firm, but left in 1995 to start **Wean & Malchow, P.A.** with the goal of keeping it a small and personal operation. Despite its size, Wean & Malchow, P. A. stays in the forefront of developments in the law affecting Florida communities by actively participating in CAI-FLA's legislative initiatives and lobbying, and by monitoring new case law developments. Paul is a Florida Supreme Court Certified Circuit Court Mediator and he also serves on both Orange County's Planning & Zoning Commission and its Animal Services Advisory Board. More recently, Paul and his wife Joan co-founded "**Pawsitive Shelter Photography, Inc.**," an effort to save good pets through better photography, presenting the homeless companion animals in Central Florida public shelters as desirable pets, thereby reducing euthanasia rates. It now has 50+ volunteers.

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Finding Applicable Laws

- ❖ Both current and historical Florida Statutes are found at this website:

<http://www.leg.state.fl.us/Statutes/index.cfm?Tab=statutes&submenu=1>

(Chapter 718 for Condos, Chapter 719 for Co-ops, Chapter 720 for HOAs, Chapter 723 for mobile home parks)

- ❖ Most (but not all) applicable administrative regulations governing operational issues are found in Chapter 61B, Florida Administrative Code, located here:

<https://www.flrules.org/gateway/Division.asp?DivID=248>

Updating Bills & Laws

- ❖ Governor's website: www.flgov.com
 - ❖ Click on "Media Center" located in the menu bar across the top, then select "Bill Actions" from the drop-down list.
- ❖ Legislature: www.leg.state.fl.us
 - ❖ Click on "Senate" or "House" and search by Bill number, or text
- ❖ Wean & Malchow, P.A.: www.wmlo.com
 - ❖ the monthly ***Community Counsel*** newsletter – we call them as we see them.

WARNING ***
LAWYERS TEND TO BE
LITERAL – MINDED

Orange County gave me the title of this presentation and left the rest to my imagination. They also implied a central theme by referring to the alphabet.

This gave me a rather handy vehicle to use in summarizing most common concerns and burning issues that arise in communities and neighborhoods of all sorts, using some simple key words. I encourage you to take some notes and hopefully you will see how these ideas fit together to explain the workings of these small community corporations.

Community Associations – Origins and Functions

First, some basics – **what is a community association and why do we have them?**

- ❖ Florida corporations not for profit (Chapter 617) (versus IRS non-profit corps – different and difference)
- ❖ Necessary functions not performed by state or county government. Why not? Can you say t-a-x-e-s? Which would you rather have?
- ❖ Basic functions are to operate, maintain and insure infrastructure (thru quasi taxes) and enforce quasi-zoning restrictions (thru covenants and rules)
- ❖ And now

“**A**” IS FOR

❖ architectural review

❖ assessments

❖ attitude

“**B**” IS FOR

- ❖ business judgment
- ❖ budget preparation

“C” IS FOR

- ❖ complaints
- ❖ certification
- ❖ common areas and elements
- ❖ committees
- ❖ consumer protection

“D” IS FOR

- ❖ documents
- ❖ delinquency
- ❖ due process
- ❖ delegation of authority

“**E**” IS FOR

- ❖ experts
- ❖ e-mail and electronic notice
- ❖ elections
- ❖ enforcement
- ❖ errors & omissions policy

“F” IS FOR

- ❖ **fiduciary duty**
- ❖ **foreclosure**
- ❖ **financial statement**
- ❖ **Fair Housing Act**
- ❖ **fining**

“G” IS FOR

❖ the grey areas

“**H**” IS FOR

- ❖ homes
- ❖ “health, safety and welfare”
- ❖ humor, sense of

“I” IS FOR

- ❖ insurance
- ❖ inspection
- ❖ indemnification
- ❖ improvements
- ❖ inquiries

“**J**” IS FOR

❖ jurisdiction

“**K**” IS FOR

- ❖ knowledge – there is no substitute, but it often does have enemies.

“**L**” IS FOR

- ❖ liens
- ❖ limited common elements
- ❖ liability
- ❖ laches

“**M**” IS FOR

- ❖ managers
- ❖ maintenance

“N” IS FOR

❖ notice

“O” IS FOR

❖ open meetings

❖ officers

❖ opinions

❖ older persons

“P” IS FOR

- ❖ proxies
- ❖ participation
- ❖ planning
- ❖ procedure
- ❖ patience and poise
- ❖ plumbing leaks
- ❖ pets

“Q” IS FOR

❖ quorum

“**R**” IS FOR

- ❖ reserves and reserve studies
- ❖ rules
- ❖ records inspections
- ❖ restraint
- ❖ reasonable accommodations

“S” IS FOR

- ❖ screening
- ❖ satellite dishes
- ❖ selective enforcement
- ❖ safe harbor

“**T**” IS FOR

❖ tolerance

“**U**” IS FOR

- ❖ use rights and restrictions
- ❖ unit boundaries

“**V**” IS FOR

❖ voting rights and voting members

“**W**” IS FOR

- ❖ warranties
- ❖ workers' compensation
- ❖ waiver

“**X**” IS FOR

- ❖ xeriscaping
- ❖ Xmas decorations

“**Y**” IS FOR

❖ youths

“Z” IS FOR

❖ zoning

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Questions??