

# “TOP TEN DEADLY MISTAKES MADE IN CONDOMINIUM RESERVES”

BY:

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1. **Failure to Include Reserve Schedule in Proposed Budget and/or Failure to Propose FULL Reserve Funding in the Proposed Budget**

Rule 61B-22.003(1), F.A.C.:

The budget for each association shall:

””

(d) Include all estimated common expenses or expenditures of the association including the categories set forth in [Section 718.504\(21\)\(c\), Florida Statutes](#). **Reserves for capital expenditures and deferred maintenance required by Section 718.112(2)(f), Florida Statutes, must be included in the proposed annual budget and shall not be waived or reduced prior to the mailing to unit owners of a proposed annual budget.** If the estimated common expense for any category set forth in the statute is not applicable, the category shall be listed followed by an indication that the expense is not applicable;

2. **Failure to Include Reserves Required by Statute – Single Item that Exceeds \$10,000**

Rule 61B-22.005(1), F.A.C.:

**Reserves Required by Statute.** Reserves required by [Section 718.112\(2\)\(f\), Florida Statutes](#), for capital expenditures and deferred maintenance including roofing, painting, paving, and any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000 shall be included in the budget. For the purpose of determining whether the deferred maintenance expense or replacement cost of an item exceeds \$10,000, the association may consider each asset of the association separately. Alternatively, the association may group similar or related assets together. For example, an association responsible for the maintenance of two swimming pools, each of which will separately require \$6,000 of total deferred maintenance, may establish a pool reserve, but is not required to do so.

3. **Using Statutory Reserve Funds to Fund an Operating Shortfall Without PRIOR Membership Approval**

718.112(2)(f)3. and 4., Florida Statutes:

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Before turnover of control of an association by a developer to unit owners other than the developer pursuant to s.

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BY: KEVIN T. WELLS, ESQ. of WELLS | OLAH, P.A.

Page 1 of 3

718.301, the developer-controlled association may not vote to use reserves for purposes other than those for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

4. The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

#### 4. **Using Statutory Reserve Funds for Frequent or Routine Maintenance**

718.112(2)(f)2.a., Florida Statutes:

2. a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection.

#### 5. **Failure to Clearly Identify Purposes of Each Reserve Items/Accounts in the Board Minutes; Reserve Account Titles Matter**

Roof Reserve vs. Roof Replacement vs. Flat Roof Replacement  
Tennis Courts vs. Tennis Court Resurfacing

#### 6. **Creating an Unrestricted "Contingency Reserve"**

By definition, reserves are monies set aside for specific expenditures that will be incurred in the future. If the purpose of the reserve account has not been established, then it is not a proper reserve account because there is no restriction on the use of the funds.

#### 7. **Failure of Limited Proxy to Include Required Reserve Ditty**

Section 718.112(2)(f), Florida Statutes:

Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: **WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.**

8. **Failure to Use a Limited Proxy that Substantially Conforms to the DBPR's Limited Proxy Form with the Proposed Reserve Question**

Reserve Funding Waiver :

**WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS:**

Do you want to provide for less than full funding of reserves than is required by §718.112(2)(f), Florida Statutes, for the next fiscal/calendar year?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, vote for one of the board proposed options below: (The option with the most votes will be the one implemented.)

**[LIST OPTIONS HERE]**

9. **Commingling Operating & Reserve Funds**

Rule 61B-22.005(2), F.A.C.:

**Commingling Operating and Reserve Funds.** Associations that collect operating and reserve assessments as a single payment shall not be considered to have commingled the funds provided the reserve portion of the payment is transferred to a separate reserve account, or accounts, within 30 calendar days from the date such funds were deposited.

10. **Failure to Fund Reserves at Sufficient Amounts and Adjust Reserve Estimates as Necessary**

718.112(2)(f)2.a., Florida Statutes:

2. a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection.

**BONUS: A Vote to Waive or Reduce the Funding of Reserves IS NOT REQUIRED Unless the Association intends to Waive or Reduce Reserve Funding**