



Association Emergency Powers

Presented for discussion and/or approval at a duly called Board of Directors meeting held on April 20, 2023.

The Board of Directors of the Monterrey Association, a Condominium, is responsible for the protection, maintenance, repair and replacement of the condominium property, in addition to include, but not limited to, the management and operation of the condominium property.

By powers given to the Board of Directors as set forth below in the Condominium Act and the Condominium Documents the Board of Directors recognizes and approves these emergency powers.

“718.1265 Association emergency powers.—

(1) To the extent allowed by law, unless specifically prohibited by the declaration of condominium, the articles, or the bylaws of an association, and consistent with s. 617.0830, the board of administration, in response to damage or injury caused by or anticipated in connection with an emergency, as defined in s. 252.34(4), for which a state of emergency is declared pursuant to s. 252.36 in the locale in which the condominium is located, may exercise the following powers:

- (a) Conduct board meetings, committee meetings, elections, and membership meetings, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, the Internet, electronic transmission, public service announcements, and conspicuous posting on the condominium property or association property or any other means the board deems reasonable under the circumstances. Notice of decisions also may be communicated as provided in this paragraph.
- (b) Cancel and reschedule any association meeting.
- (c) Name as assistant officers persons who are not directors, which assistant officers shall have the same authority as the executive officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any officer of the association.
- (d) Relocate the association’s principal office or designate alternative principal offices.
- (e) Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.
- (f) Implement a disaster plan or an emergency plan before, during, or following the event for which a state of emergency is declared which may include, but is not limited to, shutting down or off elevators; electricity; water, sewer, or security systems; or air conditioners.
- (g) Based upon advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine any portion of the condominium property or association property unavailable for entry or

occupancy by unit owners, family members, tenants, guests, agents, or invitees to protect the health, safety, or welfare of such persons.

(h) Require the evacuation of the condominium property in the event of a mandatory evacuation order in the locale in which the condominium is located. Should any unit owner or other occupant of a condominium fail or refuse to evacuate the condominium property or association property where the board has required evacuation, the association shall be immune from liability or injury to persons or property arising from such failure or refusal.

(i) Based upon advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine whether the condominium property, association property, or any portion thereof can be safely inhabited, accessed, or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the declaration.

(j) Mitigate further damage, injury, or contagion, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus or contagion, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the condominium property, even if the unit owner is obligated by the declaration or law to insure or replace those fixtures and to remove personal property from a unit.

(k) Contract, on behalf of any unit owner or owners, for items or services for which the owners are otherwise individually responsible, but which are necessary to prevent further injury, contagion, or damage to the condominium property or association property. In such event, the unit owner or owners on whose behalf the board has contracted are responsible for reimbursing the association for the actual costs of the items or services, and the association may use its lien authority provided by s. 718.116 to enforce collection of the charges. Without limitation, such items or services may include the drying of units, the boarding of broken windows or doors, the replacement of damaged air conditioners or air handlers to provide climate control in the units or other portions of the property, and the sanitizing of the condominium property or association property, as applicable.

(l) Regardless of any provision to the contrary and even if such authority does not specifically appear in the declaration of condominium, articles, or bylaws of the association, levy special assessments without a vote of the owners.

(m) Without unit owners' approval, borrow money and pledge association assets as collateral to fund emergency repairs and carry out the duties of the association when operating funds are insufficient. This paragraph does not limit the general authority of the association to borrow money, subject to such restrictions as are contained in the declaration of condominium, articles, or bylaws of the association.

(2) The special powers authorized under subsection (1) shall be limited to that time reasonably necessary to protect the health, safety, and welfare of the association and the unit owners and the unit owners' family members, tenants, guests, agents, or invitees and shall be reasonably necessary to mitigate further damage, injury, or contagion and make emergency repairs.

(3) Notwithstanding paragraphs (1)(f)-(i), during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36, an association may not prohibit unit owners, tenants, guests, agents, or invitees of a unit owner from accessing the unit and the common elements and limited common elements appurtenant thereto for the purposes of ingress to and egress from the unit and when access is necessary in connection with:

(a) The sale, lease, or other transfer of title of a unit; or

(b) The habitability of the unit or for the health and safety of such person unless a governmental order or determination, or a public health directive from the Centers for Disease

Control and Prevention, has been issued prohibiting such access to the unit. Any such access is subject to reasonable restrictions adopted by the association.

History.—s. 15, ch. 2008-28; s. 9, ch. 2021-99.”

Section 252.24(4), Florida Statutes provides:

“(4) “Emergency” means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.”

Section 252.36(2), Florida Statutes provides:

“(2) A state of emergency must be declared by executive order or proclamation of the Governor if she or he finds an emergency has occurred or that the occurrence or the threat thereof is imminent. The state of emergency must continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor. All executive orders or proclamations issued under this section must indicate the nature of the emergency, the area or areas threatened, and the conditions which brought the emergency about or which make possible its termination. An executive order or proclamation must be promptly disseminated by means calculated to bring its contents to the attention of the general public; and, unless the circumstances attendant upon the emergency prevent or impede such filing, the order or proclamation must be filed promptly with the Department of State, the President of the Senate and the Speaker of the House of Representatives, and the offices of the county commissioners in the counties to which the order or proclamation applies.”