

DECEMBER 2011 MONTHLY COLUMN

**REMINDER FOR HOMEOWNERS ASSOCIATIONS THAT COVENANTS AND
RESTRICTIONS MUST BE RENEWED EVERY THIRTY YEARS**

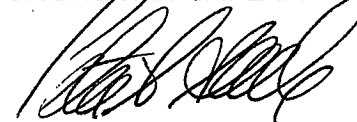
Many communities in Florida are facing the prospect that their covenants and restrictions may soon expire due to the Marketable Record Title Act ("MRTA"). The Marketable Record Title Act, Chapter 712, Fla. Stat., was passed by the legislature many years ago for the purpose of simplifying title searches so that property owners would not have to worry about deed restrictions that were more than thirty (30) years old. However, one of the consequences of this legislation is that homeowners association covenants may expire if they are not renewed before the thirty (30) years have lapsed. **It is important to note that condominiums and cooperatives are not affected by MRTA and only homeowners associations are required to renew their covenants every thirty (30) years.**

Thankfully, the legislature did provide a simple procedure for renewing an association's restrictions every thirty (30) years. Homeowners association covenants may be extended for an additional thirty (30) years by holding a special meeting of the Board of Directors upon at least seven (7) days' written notice to all members of the community, if a two thirds (2/3) vote of the entire Board of Directors is secured at such a meeting. Upon securing this vote, a statement of marketable title along with an affidavit of mailing and a copy of the meeting notice must be recorded in the public records of the county in which the community is located. This procedure is only good for communities where the thirty (30) year time frame has not lapsed.

If your community declaration has already expired, the legislature has also provided a mechanism for revitalizing an association's covenants after expiration. Section 720.403, Fla. Stat., allows for a homeowners association's covenants to be revived after expiration, upon the written approval of a majority of the owners who will be affected by the revived covenants and the approval of the Department of Economic Opportunity for the State of Florida.

It is very important for a homeowners association to avoid the possibility of your community's documents expiring. Reviving such documents after they have expired is a much more burdensome process than dealing with the problem before the thirty (30) years have lapsed. Therefore, it is imperative if the thirty (30) year time frame is approaching soon, or if your covenants have already expired, that you consult with association counsel to determine the best course of action for preserving your documents.

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