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ASSOCIATION AUTHORITY TO ENTER INTO BULK RATE CONTRACT FOR CABLE AND OTHER TELECOMMUNICATION SERVICES


Many community associations enter into bulk rate contracts for the provision of cable television for the residents of their communities. Due to technological advances, many of these companies now offer other telecommunication and information services, such as internet, satellite television and alarm monitoring. Such bulk rate agreements can be a very good way for an association to secure these types of communication services for its members at a substantially discounted rate compared to what an individual member of the association would be able to obtain on his or her own.

Condominium associations are empowered under Section 718.115(1)(d), Fla. Stat., to provide such communication services pursuant to a bulk contract as a common expense of the association. Even if the Declaration of Condominium does not provide for such authority, the statute provides an association with the authority to enter into such bulk rate contracts and to charge the costs of such services as a common expense. Further, the statute specifically provides the association with the authority to charge for such services either on a per-unit basis or a percentage basis. Therefore, although common expenses are normally shared based on percentages identified in the Declaration, the Condominium Act specifically allows an association to charge for bulk rate cable or other telecommunication services on a per-unit basis.

In past years, homeowners associations were also allowed to enter into similar bulk rate contracts for cable and other communication services, but only where the authority was provided in the governing documents of the association. Recently, however, the Homeowners Association Act was also amended to provide statutory authority similar to the Condominium Act. Now, at Section 720.309(2), Fla. Stat., a homeowners association has the statutory authority to enter into bulk rate contracts for cable and other telecommunication and information services. Similar to the Condominium Act, the cost shall be deemed an operating expense of the association. However, under the Homeowners Association Act, the cost must be allocated on a per parcel basis rather than a percentage basis, notwithstanding how common expenses are shared pursuant to the association's governing documents.

In this regard, it is very important to consult with association counsel in determining whether or not it is advantageous for an association to enter into a bulk rate contract for communication and information services. Further, we highly encourage all associations to have their proposed bulk rate contracts reviewed by association counsel in order to make sure the association is properly protected.

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