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To: Florida CNU members  
From: Doris Goldstein  
RE: New Florida law Restricts Architectural Review by Community Associations  
Date: May 10, 2006

A new Florida law concerning community associations significantly limits the discretionary power of architectural review committees, necessitating the drafting of tighter design codes. House bill 0391, which has been passed by both houses and which the governor is expected to sign, has an effective date of July 1.

Under the new law, which is to be codified as §720.3035, Florida Statutes, a design code has to be specific to be enforceable:

“The authority of an association or any architectural, construction improvement, or other such similar committee of an association to review and approve plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel, or to enforce standards for the external appearance of any structure or improvement located on a parcel, shall only be permitted to the extent that the authority is specifically stated or reasonably inferred as to such location, size, type, or appearance in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants.”

If the owner has complied with the code, then the association cannot reject the application. If an owner's rights are "unreasonably infringed upon or impaired" by the architectural review process, then the owner can sue for damages and recover attorney's fees. Policies that vary from the published code are prohibited, even if uniformly applied. The law does not address how a code can be amended.

The law also provides that unless stated otherwise in the design guidelines, each parcel "shall be deemed to have only one front for purposes of determining the required front setback," even if the parcel is on a corner..

The statute does not apply to municipal codes. A literal reading would also appear to exempt architectural review rights that are reserved directly to the developer, rather than to a committee of the association. However, developers would probably be better advised to comply with the statute and then reserve that as a defense in the case of legal action. #