



Law Includes Changes Involving Fire Safety, Elevators

Fort Myers The News-Press, July 18, 2010

By Joe Adams

jadams@becker-poliakoff.com

TEL (239) 433-7707

FAX (239) 433-5933

Today's column continues our review of SB 1196, which became effective July 1, 2010. Today's article focuses on changes involving fire safety and elevators.

The issue of elevator retrofitting in condominium buildings has been a "hot button" issue for the past couple of years. Because of changes in the building codes, many condominium associations were being required to spend significant funds to upgrade their existing elevators. SB 1196 provides some relief by amending the law to state that building code changes which require the addition of "Phase II Firefighters' Service" on existing elevators may not be enforced on elevators in condominiums for five years, or until the elevator is replaced or requires major modification, whichever occurs first. This extension of time does not apply to a building for which a certificate of occupancy was issued after July 1, 2008.

Significantly, not all required elevator upgrades are addressed by this legislation. The five year extension of time is limited to the addition of a Phase II Firefighters' Service, which is a system that allows a firefighter to operate an elevator during a fire, using an emergency code while inside the elevator car.

Another change in the law involves generators for elevators. The law previously required that any

person, firm, or corporation that owns, manages, or operates a residential multifamily dwelling, including a condominium, that is at least 75 feet high and contains a public elevator, shall have at least one public elevator that is capable of operating on an alternate power source (i.e., a generator) for emergency purposes. SB 1196 permits condominium associations to opt-out of this requirement by a vote of a majority of the voting interests in the affected condominium. Further, the law altogether exempts buildings that were either under construction or under contract for construction as of October 1, 1997 from the requirements for an alternate power source (i.e., a generator).

Moving on to the subject of fire safety, SB 1196 provides that a condominium, cooperative, or multifamily residential building that is less than four stories in height and has a corridor providing an exterior means of egress is exempt from installing a manual fire alarm system as required in Section 9.6 of the most recent edition of the Life Safety Code adopted in the Florida Fire Prevention Code.

With regard to fire sprinklers, another "hot button" issue, SB 1196 extends the deadline for sprinkler retrofitting for high-rise condominium buildings from 2014 to 2019. By December 31, 2016, an association that is not in compliance with the

requirements for a fire sprinkler system and has not voted to forego retrofitting, must initiate an application for a building permit for the required installation demonstrating that the association will become compliant by December 31, 2019.

Prior law prohibited high rise buildings from opting out of fire sprinklers for common areas and required the opt-out vote for units/apartments to be approved by two-thirds of all voting interests. The new law provides that associations may opt out of retrofitting for the units and the common areas by the affirmative vote of majority of all voting interests. Also, if there has been a previous vote to forego retrofitting, a vote to require retrofitting may be called for by a petition signed by ten percent of the voting interests. Such a re-vote may take place once every three years.

The underlying requirements for existing high rise buildings to retrofit is found in the National Fire Protection Association code. Under this code, buildings must be equipped with either a fully automated sprinkler system, or an Engineered Life Safety System (“ELSS”). The new law removes the references to an ELSS opt out vote.

Mr. Adams concentrates his practice on the law of community association law, primarily representing condominium, co-operative, and homeowners’ associations and country clubs. Mr. Adams has represented more than 600 community associations and serves as managing shareholder of the Firm’s Naples and Ft. Myers offices.

Send questions to Joe Adams by e-mail to jadams@becker-poliakoff.com This column is not a substitute for consultation with legal counsel. Past editions of this column may be viewed at www.becker-poliakoff.com.

The Legislature also adopted HB 663 during the 2010 legislative session. HB 663 also has an effective date of July 1, 2010, and addresses a number of other fire safety and building issues impacting condominium associations. Significantly, HB 663 repeals the law that was adopted a couple of years ago which required condominium buildings 3 stories in height or higher to have a physical inspection report prepared every 5 years. HB 663 also permits building owners to install a uniform lockbox containing keys to all public elevators, in order to allow access to the lockbox by emergency responders. This provision will eliminate the need to re-key all of the elevators so as to allow access by a master key.

Next week, we will continue our review of SB 1196 with a brief overview of the “Distressed Condominium Relief Act”, which is a new law intended to stimulate the acquisition and sell-out of the many distressed condominium projects which exist because of the recent melt-down in Florida’s housing and real estate market.