



**June 21, 2016**



COMMUNITY ADVOCACY NETWORK

## *Community Advocacy Network Alert*



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If you live in a condominium, then December 31, 2016 is an important date. And no, we aren't talking about your New Years Eve plans. December 31, 2016 marks the hard deadline to address whether fire sprinklers in your condominium must be retrofitted.

By this coming December 31, 2016, a condo association that is not in compliance with fire sprinkler requirements and has not opted out of retrofitting, must initiate a building permit application for the required installation demonstrating the Association will be compliant by December 31, 2019.

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This CAN Alert contains specific information relevant to those owning, managing, living or representing residential condominium associations.

Residential condominiums must retrofit the common elements, association property, and units with a fire sprinkler system, unless a majority of the total voting interests in the association have voted to forego retrofitting. Whether or not to opt out of fire sprinkler retrofitting is a required decision. The requirements for opting out of fire sprinkler retrofitting are set forth in Florida Statute §718.112(2)(1)(I), and are not extremely difficult to meet if that's the path your membership chooses.

According to the law, a residential condominium association may opt out of fire sprinkler retrofitting by completing the following:



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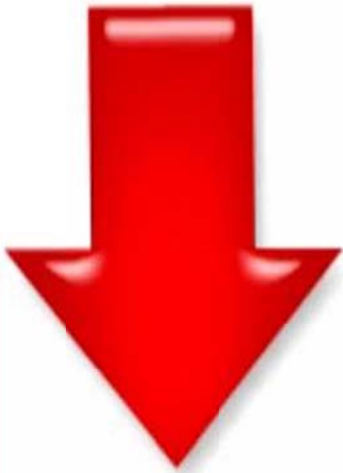
1. Voting: A vote to forego a retrofitting may be obtained by: (1) a limited proxy; (2) a ballot cast at a duly called membership meeting; or (3) execution of a written consent by the member. The most common procedure used is a vote by limited proxy or ballot at a duly noticed meeting of the membership. To successfully opt out, a majority (50% + 1) of all voting interests must vote in favor of the opt-out.

2. Notice of Membership Meeting: The notice of membership meeting at which a vote to opt out will be taken, must be mailed or hand delivered to each unit owner at least 14 days prior to the date of the meeting. An affidavit of mailing or hand delivery is recommended to confirm proper notice.

3. Notice of the Opt Out: Within 30 days after the opt-out vote, notice of the results must be mailed or hand delivered to all unit owners. The person providing the notice must sign an affidavit and file it with the official records of the association showing compliance with this requirement. The current owner is required to provide a copy of this notice to new owners before closing or to new renters before signing a lease.

4. Recording: The vote is effective upon recording a certificate attesting to the vote in the public records of the county where the condo is located.

5. Division Reporting: An Association that has successfully voted to opt out of fire sprinkler retrofitting must file a report with the Florida Division of Condominiums, Timeshares and Mobile Homes, indicating the membership vote and the recording of a certificate attesting to the vote in public records.



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Note that these requirements apply to all condominiums, not just "high-rise". So even if your building is less than 3 stories high, you must follow the above-mentioned requirements.

Also, please keep in mind that even if a residential condominium association successfully opts out of retrofitting, it is not stuck with that decision. It can be reversed by a vote taken at a properly noticed special meeting of the members called by a petition of at least 10% of the voting interests. This type of vote may only be called once every 3 years. Email notice is specifically prohibited for a meeting called for this purpose.

Retrofitting a fire sprinkler system may seem like money an Association just does not want to spend. There is no denying that it's expensive! But safety should be the determining factor regarding whether your Association should retrofit. It is crucial that board members conduct independent research to decide whether an opt-out is right for their community. This may include retaining a life-safety engineer to assess the fire safety of the buildings in your community. At the minimum, it is recommended that associations seek help from local fire departments to ensure there are adequate safety protections in place. If your association votes to opt out

without doing a life safety system review, your board and association could face liability exposure and higher insurance premiums - not to mention potentially exposing unit owners/residents to injuries and risks. But please don't wait until the last minute! These resources will become harder to secure, busier and more expensive as the December 2016 deadline approaches. More information may found at the Fire Safety Retrofitting page of the [Division of Florida Condominiums, Timeshares, and Mobile Homes, website.](#)

**\*\*Check for faulty fire sprinklers due to an improper design (also known in the legal world as a "design defect").**

If you have a hybrid system which includes CPVC and Allied ABF steel pipes, these materials have been found to be incompatible, resulting in cracks in the pipes and ultimately a system failure over time. It is strongly recommended that you determine whether your sprinkler system contains steel pipes manufactured by Allied (marked with "ABF") that were installed in conjunction with CPVC pipes, especially if your building was built between the years of 2004 and 2010. If so, your Condominium Association may have standing to bring a (class action) lawsuit against the manufacturer.

If you need any help or assistance with an opt-out or determining whether your system has an improper design, or may be eligible to recover \$\$ to help pay for your fire sprinkler retrofit, we are always here to help. Please call us at (800) 393-1529.

Yours in Community,

**Alan Garfinkel, Esq.**  
**Katzman Garfinkel, Founding Partner**  
**Community Advocacy Network (CAN), Chairman**

#### **About the Community Advocacy Network:**

The Community Advocacy Network (CAN) is Florida's leading voice for the interests of 60,000 community associations. CAN helps to lead the fight against over-regulation of private residential communities by state and

local governments. Each year since its inception in 2007, CAN spearheads important State legislative reforms designed to protect and enhance Florida Community association living. CAN continues to foster financial stability and operational integrity to all common-interest ownership communities statewide. CAN was established by the Community Association Law Firm Katzman Garfinkel. For additional information please contact [info@CANFL.COM](mailto:info@CANFL.COM).

#### **About Katzman Garfinkel:**

Katzman Garfinkel is a statewide Florida Law Firm devoted to all aspects of community association representation. Named "Top Choice" Community Association Law Firm by the readers of the Florida Community Association Journal, Katzman Garfinkel has offices strategically located throughout the State of Florida to serve your community's individual needs and goals. Our Firm offers residents living in every type of community association comprehensive services, including general corporate representation, litigation, covenant enforcement and delinquent account collection. In addition, we offer property insurance claim recovery and construction defect representation on a full contingency basis. Katzman Garfinkel is the 1st and only Law Firm in Florida to offer community associations the option to pursue their delinquent account collections without any costs or fees charged to the association. For more information, please visit: <http://www.LikeYourLawyer.com> or contact us today toll free @ 800-393-1529.

#### **Offices**

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\*By Appointment Only

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