



Stormy Weather Ahead

Section 719.128, F.S.

It's not completely unheard of that when an emergency exists, a stubborn unit owner gives a community association manager grief over the safety of persons over the protection of property. With that in mind, the Florida Legislature gave associations some powers designed to manage emergencies with the safety of people in mind. An amendment to Chapter 719, Florida Statutes was added in 2014 to include a new section that grants emergency powers to associations. Under section 719.128, F.S., associations are granted certain emergency powers that may be undertaken in response to a declaration of a state of emergency and due to damage caused by that emergency.

Section 719.128(i) requires the evacuation of the cooperative property in the event of a mandatory evacuation order in the area where the cooperative is located. Requiring an evacuation doesn't necessarily mean that a unit owner complies with the order. In the event a unit owner or other occupant of a cooperative fails to evacuate, the association is immune from liability for injury to persons or property arising from such failure.

Section 719.128(g) provides that the association may determine that any portion of the cooperative property is unavailable for entry or occupancy to protect the health, safety, or welfare or occupants. The association must rely upon the advice of emergency management officials or licensed professionals in order to make that decision.

Obviously the safety and welfare of unit owners or their family members or guests ranks pretty high and outweighs an owner's right to occupy his or her unit, which would generally be a huge property ownership rights violation. After the emergency is over, unit owners may more likely to say "thank you," than, "you violated my rights!" One can only hope.

[Click to read the statute.](#)