

## **Florida's construction defect notice law and associations representing more than 20 parcels.**

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In previous blog posts we examined both the importance of condominium associations having an independent engineering report at turnover, and the construction defect claims process as outlined in Chapter 558 of the Florida Statutes. However, when making a claim for construction defects in Florida, a different set of time periods apply under Chapter 558 if the claimant is an association (as defined in Chapter 558) representing more than 20 parcels (each unit or home is considered a parcel).

### **A brief refresher on Florida's Chapter 558.**

Chapter 558 of the Florida Statutes was enacted in 2003 in order to provide the design and construction industry with pre-suit notice and opportunity to cure before a claimant can file a lawsuit for construction defects. Under the statute, before a claimant can file a lawsuit against a developer, contractor, subcontractor, material supplier, or design professional alleging a construction defect, the claimant must first provide notice of the alleged defect, along with an opportunity to cure. The statute is highly specific, outlining the periods of time in which the recipient of such a notice has to put others on notice, inspect the alleged construction defect, and provide a response to the claimant. The most recent set of amendments to Chapter 558 took effect on October 1, 2009.

### **A brief summary of the notice provisions under s. 558.004 that are specific to associations representing more than 20 parcels.**

- The written notice of claim under Ch. 558 must be served at least 120 days before filing a lawsuit pertaining to the claim (as opposed to 60 days for all others);
- The person served with the notice of claim is allowed 50 days after service in which to perform a reasonable inspection (as opposed to 30 days for all others);
- The person served with the notice of claim may serve a copy of the notice on each contractor, subcontractor, supplier, or design professional whom it reasonably believes is responsible for each defect specified in the notice (as opposed to 10 days for all others);
- The person who was served with a copy of the notice must furnish a written response to the person who served it within 30 days after such service (as opposed to 15 days for all others);

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- The person originally served with the notice by the claimant must furnish the claimant with a written response within 75 days after being served with the notice (as opposed to 45 days for all others).

While Chapter 558 can be a valuable resource for those with construction defect claims, and when used correctly can be an excellent tool in mitigating construction defect litigation, it can also be a minefield for those not familiar with its extensively detailed provisions.

This post is **not** meant to be a complete analysis of Chapter 558, or the way in which it applies to associations representing more than 20 parcels. For information pertaining to your specific situation, consult a Florida-licensed attorney experienced in handling construction defect matters.

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