CHAPTER 1
The Contract

Any discussion about condominiums must, by necessity, begin with the determination of whether and when a property becomes a condominium. The answer, as with so many other points raised in Condo World, is found in the Condominium Act. "No condominium shall come into existence except by the recordation of condominium instruments pursuant to this chapter." RSA 356-B: 7.

In English, this means the Declarant must file the condominium instruments with the Registry of Deeds where the condominium association is situated. Once they are filed, the condominium association magically comes into existence.

But what are the "condominium instruments"? "'Condominium instruments' is a collective term referring to the Declaration, Bylaws, and Site Plans and Floor Plans, recorded pursuant to the provisions of this chapter." RSA 356-B: 3, VI.

We will, as we travel through this book, learn what each of these four documents are, and how they play a role in condominium associations, but for now the important point is to note that together these four documents create a contract between the owner and the association.

This is the Locke and Hobbes version of the Social Contract where people give up some of their individual rights to the governing authority (the association). And the contract is comprised of the four referenced documents – the Declaration, Bylaws, Site Plan and Floor Plan.

If there is language in one or more of these documents, such as a provision that allows voting by proxy at Board meetings, a unit owner is bound by it. If it is not in these documents, Boards can set policies and/or the Association can amend the documents to reflect the wishes of the community. If it is prohibited by the documents, then the unit owners face possible sanctions for choosing to put their interests above the interest of the association. This may seem harsh, but a contract is a contract, and no one forces someone to join a condominium association. If you do, you give up some of your individual rights, in exchange for whatever rights are granted you under the condominium instruments.

It is important to note that one is to read the four documents together when looking for guidance on any given issue. "The condominium instruments shall be construed together and shall be deemed to incorporate one another to the extent that any requirement of this chapter as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others." RSA 356-B: 13.

On those rare occasions when reading them as one still will not resolve the issue because of a direct conflict in two or more provisions of the Declaration, Bylaws, Site Plan and Floor Plan, there is a priority established among them to help guide a Board. "In the event of any conflict between the condominium instruments, the Declaration shall control; but particular provisions shall control more general provisions, except that a construction conformable with the statute shall in all cases control over any construction inconsistent therewith." RSA 356-B: 13.

Additionally, all of condominium law would be for naught if there were not something that required all unit owners to abide by the four instruments that make up the contract. The binding agent comes in the form of a warning in the Condominium Act itself. "The declarant,

every unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of this chapter and all provisions of the condominium instruments." RSA 356-B: 15, I.

Further, this provision is not without teeth, for anyone who chooses to violate the condominium instruments is subject to severe sanctions, many of which shall be explained in further detail throughout this book. Suffice it to say here that the statute lays out in detail all of the sanctions that can be levied against a unit owner who should more likely be living in a single-family neighborhood than a condominium association.

> Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the unit owners' association, or by its board of directors or any managing agent on behalf of such association, or, in any proper case, by one or more aggrieved unit owners on their own behalf or as a class action.

RSA 356-B: 15, II.

It is this provision that gives Boards the right to enforce the documents and Courts the authority to hold people accountable to them.

Of course, in order to understand what is to be enforced, it is necessary to understand what is in the instruments. As such a brief overview of the four condominium instruments follows.

The documents themselves are not that important, as such what follows are brief definitions of each of them. The importance comes with what is and is not contained within them and how associations use this knowledge to operate their associations.

That operation is the crux of this book and is detailed in the ensuing chapters.

A. <u>The Declaration</u>

The Declaration is the Zeus of Condo World. It is the document that sets up the condominium association, and all other documents flow from it and are subservient to it. The Declaration is required to detail many items, some of which are obvious, such as the name of the association, which must either contain the word "condominium" or words "a condominium"; the name of the municipality where the condominium is located; and the legal description of the land by metes and bounds. RSA 356-B: 16, I (a), (b) and (c).

It is safe to suggest that if you have purchased a condominium unit, at a minimum you know that in Condo World you own your Unit, for which you are responsible, and the Association manages and maintains the rest. But where does your Unit begin and the Association end? This may sound like a silly question. After all, most condominium unit owners know, for instance, that they own up to the walls of their Unit. But what if there is damage to a wall? Who pays for the sheetrock? Who pays for damage to the studs? Who pays for the paint and/or siding? The Declaration establishes these minute boundaries, horizontally and vertically. RSA 356-B: 16, (d).

If, then, there are questions about who pays for the rusted bulkhead or the rotted window frame, the Declaration, if properly drafted – which is another issue – should detail these matters.

This is where you will look to determine who is responsible for the maintenance of what and where the line between unit owner and association responsibilities is.

The Declaration is also the place where you will find the description of both the Common Area as well as the Limited Common Area. RSA 356-B: 16 (e).

Also, while the Bylaws will detail how budgets are to be created, the Declaration will detail what the percentage of interest in the entire association each Unit has, i.e. what the proportion is of your Unit to the entire association. RSA 356-B; 16, (g). This can become important for voting, and it definitely becomes important for assessing units the cost of operating and maintain the Association.

Essentially, the Declaration sets up the large picture issues of the Association, and the Bylaws show how to run the association.

B. <u>The Bylaws</u>

If drafted well, the difference between the Declaration and the Bylaws is that the Declaration sets up the association, naming it, defining the boundaries, telling what insurance must be acquired and maintained, and the Bylaws tell how the Association is to be run, such as whether there is a Board, how many are on it, what they can do, etc.

The Bylaws must be filed at the same time as the Declaration. RSA 356-B: 35. This may sound simple, but there are, especially with older associations, occasions where the Bylaws are filed years later. In reality it does not become much of a problem because after three years, any challenges to the documents are voided by the statute of limitations which requires all such challenges to be filed within three years of the filing of the Bylaws at the appropriate Registry of Deeds.

C. <u>The Site Plan</u>

The Site Plan is one of the four condominium instruments, along with the Declaration, Bylaws and Floor Plan. The importance of the Site Plan is because Declarations and Bylaws can be long. Very long. The difficulty of finding something in the Declaration or Bylaws is surpassed only by trying to prove something is not in the Declaration or Bylaws. Poring over these 60 or 70 pages of condominium minutiae in the language of legalese is enjoyable only to the chosen few among us, or the sadly strange.

But the Site Plan is different. It is usually but one or two pages. And labeled right there on the Site Plan can be the magic words “Limited Common Area” for all to see what is yours and not theirs. Contrarily, if there is no Limited Common Area labeled as such on the Site Plan, then there is no Limited Common Area. The whole purpose of putting things into the Site Plan (as well as the other condominium instruments) is simply to notify every one of the owners (potential and actual) of what they own and who owns what. If, for example, there is no Limited Common Area labeled as such on the Site Plan, and someone tries to claim that the area outside their Unit where they slow-smoke ribs is their private area, what they have actually done in Condo World is taken away from all other Unit Owners land that is common for all. And that’s subject to challenge.

Looking at this another way, if it is not labeled as Limited Common Area, but someone claims it is, and the Association, for example, allows the Unit Owner to have a private place to slow-smoke and barbecue his ribs, and there is a fire, the Association would likely have to pay for the costs of repair to anything on the Common Area that was damaged, versus likely being able to assign the cost to the Unit Owner whose ribs damaged that Unit Owner's Limited Common Area. In other words, allowing someone to "take" or "privatize" Common Area for his or her own use, does not free the Association from liability for what happens on that area because the condominium instruments have made clear that it is Common Area, not Limited Common Area.

Also, the Site Plan is required to show everyone the following:

- Location of the land
- Dimensions of the land
- Any convertible land (labeled as such)
- Any withdrawable land (labeled as such)
- Any contemplated improvements
- All easements

RSA 356-B: 20, I.

In English: These items *have* to be in the Site Plan. If they are not, then they do not exist in the condominium. This protects everyone – developers who are told they cannot withdraw land can point to the Site Plan and say not only can they, but they told everyone they could by putting it in the Site Plan; unit owners who face the conversion of land into more units can point to the absence of that reservation on the Site Plan and bar those changes; a unit owner can point to the Site Plan which has labeled a particular area as being limited common

D. <u>The Floor Plan</u>

The Floor Plan, as with the Site Plan, must be filed with the Declaration. "There shall also be recorded, simultaneously with the Declaration, Floor Plans of every structure …" RSA 356-B: 20, II.

The Floor Plan must contain the following:

a. A description of every structure on the condominium land
b. The location and dimensions of the vertical boundaries of each unit
c. Identifying numbers for each Unit
d. Identification of any convertible space.
e. Horizontal and vertical boundaries

Finally, the Floor Plans must be certified as accurate and in compliance with these requirements, "by a registered architect, registered engineer or licensed land surveyor …" RSA 356-B: 20, II. This seemingly silly requirement actually does much to protect the unit owners. It is not unheard of for an association to hire someone who is a friend of a unit owner, usually a

Board member and/or Officer, who can change things and do it cheaply for them as a favor. These kinds of favors are rarely anything more than money for the friend wrapped in the guise of help for the Association. Therefore, the first question when a meeting is called to discuss changes to the structure of the Association is to ask if the "friend" is a registered architect, registered engineer or licensed land surveyor. And let us not forget to inquire as to whether the registration of license is for New Hampshire.

If the answer is no, but the work moves forward anyway, the Association opens itself to suit by a unit owner who has been specially assessed to pay for the changes, or one who simply does not like the changes.

Condominiums may be a micro form of democracy, but the association cannot approve illegal activities.

Sadly, despite this requirement all too many of the Floor Plans do not label the boundaries of the unit. For sure, they have a wall which clearly separates the units, but for a determination of who owns the sheetrock the studs, the insulation and where exactly in the wall the line between unit and common area begins is left to the language of the Declaration, where it is defined with particularity.

Note: Limited Common Area can and should also appear on the Floor Plan. See the Site Plan section above for the analysis of why this is important.

E. The Rules

Rules are, simply put, the prerogative of the Board of Directors. They are passed by majority vote of the Board. They usually address all of the matters discussed later on in **The Issues** section.

What is important to note is that no rule can be enforced unless and until the unit owner against whom the Rule is being enforced has been notified of the Rule. As such, it is important for Associations to create some type of welcome package for new unit owners, a part of which should contain a copy of the Rules. Just as importantly, a record should be kept of when and how the Rules were delivered. After all, if you have no proof that you delivered them, you have no ability to successfully enforce the Rules.

Another important point to remember is that there is no grandfathering of Rules. Boards can change the rules as frequently as they would like, and they can even pass Rules that affect but one Unit or Unit Owner.

But perhaps the most important point about Rules is that Boards have been given great latitude by the New Hampshire Supreme Court to pass rules. So long as the Rules do not directly contradict the provisions of the Condominium Act, statutory laws, or clear provisions of the Declaration or Bylaws, the Court has shown great deference to the attempts of Boards to democratically govern their associations.

Remember, if you do not like a certain Rule, the remedy is to persuade the Board of its unfairness in the hope they will vote to change the Rule. Failing that the remedy is, in this microcosm of a democratic society, to vote the Board out of office.

F. The Amendments

Condominiums in New Hampshire have been around since the early 1970s. (The earliest I have seen is one from 1972.) People, the world, and even condominiums change. As such, what was a good law or a good policy in the 1970s, 1980s, 1990s, or even in the early 2000s may not be a good practice anymore. For instance, there were no cell phones, internet or even personal computers in the early 1970s. So how do condominium associations adapt to have their association reflect the changing times? They amend the documents.

A word of caution. Failing to amend the documents, usually the Declaration and/or the Bylaws can lead to more problems and can cost more money to defend poorly written or outdated sections of the Declaration and Bylaws than the money it takes to amend the documents. For instance, with the advent of laptops, tablets and cell phones, it became easy and routine for unit owners to quickly check their emails at home, contact a client and wrap up a deal or do some work at home from their home office. The problem is most early documents, and many current ones, state the condominium units can be used "for residential purposes only."

All it takes is one cranky unit owner or one cranky Board member to make life miserable for the person who stayed home one sick day and answered some emails in between trips to the Sudafed dispensary. There are simple ways to set guidelines for what can and cannot be done in condo world, but it cannot be done without amending the documents. This section shows how and why to do so.

i. Notification

One might think that if the Declaration or Bylaws were to be amended, the owners would have to be informed of the details of the proposed amendments. One would think incorrectly. There is no provision in the Condominium Act that requires the Association to detail the substance of the proposed Amendments. However, it is important to review the individual Amendment provisions of the Declaration and Bylaws for your association, for those provisions may provide detailed notice requirement provisions.

Regardless of the Notice requirements, or lack thereof, it is a good idea for the Board to provide Unit Owners with at least the substance of potential amendments, such as "Amendment to Change the Percentage of Owners Needed for Meeting Quorums."

First, it is simply fair to let owners, who individually may have 100s of thousands of dollars invested in their Unit, know what they are voting on before they appear. Otherwise it is akin to asking someone to vote for President or Senator without telling them until they get into the voting booth who the choices are. They should, simply put, have some idea of what they are voting on, and even whether it is important enough for them to attend, not attend, or give their proxy o someone else to represent their beliefs and interests.

Second, the Notice should not be too specific. If, for instance, your documents require Unit Owners to be notified of the substance of any potential Amendments, and you are less than artful in drafting the Notice, you may send out something like this. "Proposed Amendment to the Bylaws to change the term of Directors from one year to two years." On its face this would be fine.

Let's assume this Notice is properly sent to all Unit Owners, and at the meeting, 89 of the 100 owners appear. The quorum requirement under your documents is 50%, so it is a valid meeting. After discussion, the Unit Owners vote by final tally of 67 to 22 to pass the amended

Amendment. The Condominium Act requires a two-thirds vote of all Unit Owners (more on this in the next section), so the Amendment passes and all go home happy, except perhaps the three Directors who are now sentenced to three years on the Association's Board of Directors.

The problem in this hypothetical is with the Notice. If your documents require notice of the substance of the any Amendments, you are likely in trouble. On its face the Association would be protected. After all, 67% of all Unit Owners voted in favor of the new provision. The problem is with the Notice. All of the absent Unit Owners can make an argument they chose not to appear because they did not care about a two year term and were happy with either one or two years. As such, since they had better things to do, they chose not to attend.

However, from prior experience, they think three year terms are way too long to give such a small minority of people power over their lives at their half million dollar retirement condo. If they had known there was the possibility of raising the term up to three years, they would have gone and marshalled some of their friends who feel the same way to attend as well.

The fact that 67 unit owners voted in favor of the amendment carries no weight because the Notice was defective. CEOs, lawyers, politicians, mothers, fathers, older brothers and older sisters spend much of their life convincing other people to go along with their opinions. Some could argue our country was founded on the premise of open debate and the opportunity to persuade others of their opinion before voting. Who knows? The owners who chose to stay away based upon the errant belief that three-year terms were not a possibility, could have persuaded enough unit owners not to vote in favor of the Amendment if they had been properly noticed and chose to attend. Essentially, the poor notice took away their voting power. As such, improper notices make all decisions improper.

Such an improperly created Amendment opens the door for the Association to be sued and lose any case brought within the next three years for any actions (Assessments? Rules violations? Denials to alter a Unit?) taken by the improperly-termed Board of Directors. This especially holds true for anything that happens beyond the first year of their terms, i.e. the original time period of their service to the Association. And this also applies to any Amendment that has been improperly noticed and voted on.

As such, as with so many other aspects of Condo World, there is a bit of an art to drafting the correct language. But doing so, and doing so correctly, can solve a lot of problems down the road. Notice is important.

Another issue arises when deciding not just how to notify the unit owners - we have just dealt with that issue- but how to get them to agree to the proposed changes.

Most amendments are easy. In other words, you may be amending the Bylaws to increase the positions on the Board of Directors from three to five. Most people will not care. Additionally, it will not take much time or money to have a condominium lawyer draft the language the correct way. So if the vote fails, the Association is not out a lot of time or effort.

On the other hand, some documents are old, very old, dating back to the 70s or 80s. Times have changed, to include changes in the Condominium Act, changes in laws around the nation, case law around the nation that affects how condominium associations should operate in New Hampshire, use of the internet, working from home in a residential condominium, etc. There comes a time when the Association's Declaration and Bylaws have to be updated to come

into the 21st century. In that case, the Association will be contemplating either a re-write of many sections or a complete amendment and upgrade of the Declaration and Bylaws. That takes time and money.

No Association wants to pay anyone, be it a landscaper or an attorney or any other contractor, money without getting anything in return. If you approach a condominium lawyer in order to have the attorney review the documents, make draft amendments and explain why they need to be made, an Association will likely have to pay several thousand dollars for a job well done. And it is money well spent as it will save grief, agita and lawsuits. But what if, despite good intentions and proper notice to the members, either insufficient unit owners appear at a meeting to have the amendments pass by the required majority, or the Unit owners fail to understand the need for the changes and simply vote them down?

Not only do the documents stay stuck in the 20th century, opening the association up to problems in the 21st century, but you have just paid an attorney good money for nothing. It is akin to paying a landscaper not to cut your lawn.

The solution is to have the Board consider having two meetings with the Association. Most people do not like to show up at a meeting with little idea of the depth or complexity of proposed amendments and be told to vote and simply trust the Board. The proposed amendments may pass, but the chances are slim.

Additionally, by definition, living in a community association implies that all are part of a community. Everyone should be included in the momentous decisions of the Association, including what needs to be amended and why.

As such, the better way to ensure amendments the Board has decided need to be enacted are actually passed would be to have the attorney craft a rough draft of the proposed amendments and then have an informational meeting with the Association. The Attorney can, and should, explain from his/her experience why the amendments need to be made; the Board can explain its position as to why the amendments would make operating the Association easier; and then the Attorney can take the draft, finalize it, give it to the Board and then have a properly noticed association meeting, at which the owners are assured of passing the amendments as their input as to what should be done and why has been heard and incorporated into the proposals.

In this way, the community is included in the decision-making process; the Board gets most, if not all, of what it wants and needs to better run the Association; and the attorney is paid for work that actually accomplishes things.

ii.<u>Percentage Needed</u>

There remains the question of what percentage of people is needed to amend the documents. The answer is simple, with a couple of points worth noting.

> If there is any unit owner other than the declarant, then the condominium instruments shall be amended only by agreement of unit owners of units to which 2/3 of the votes in the unit owners' association appertain, or such larger majority as the condominium instruments may specify, except in cases for which this chapter provides different methods of amendment.

RSA 356-B: 34, II.

In English this means two-thirds of the units must vote in favor of any Amendment.

There are two issues of which Boards must be aware with regard to the 2/3rds requirement.

First, this means two-thirds of *all* Units.[1] In other words, if you have an association where there are thirty (30) Units, you need twenty (20) Units to vote in favor of any amendments. This does not mean 2/3rds of those who appear, in person or by proxy, at a meeting. You need twenty (20) votes.

The job of the Board is to ensure either sufficient turnout, or sufficient proxies to leave a bit of room. If you have, for instance, twenty (20) people appear at the meeting, in person or by proxy, you need to have unanimity for the amendment(s) to pass. That's tough to do, so the goal is to advertise the proposed changes well; explain what they are and why they are necessary; and communicate with Unit Owners to ensure their appearance in person or by proxy. Otherwise, you have not only wasted a lot of time and energy better spent on projects that will actually work, but you also likely wasted Association funds by paying a lawyer to draft the amendments properly and appear at the meeting(s) to explain them.

The second, and clearly much more unlikely to occur scenario, is if someone were to challenge the actual wording of the statute.

Neither courts, nor lawyers are supposed to read statutes in a vacuum. In other words, much like one reads the United States Constitution, not as a collection of unrelated Articles, Sections and Clauses, but as an intertwined document, where one section flows to another and all are intrinsically bound, so, too, are lawyers and judges to read statutes.

In this case, an argument can be made that the 2/3rds majority rule is that of those who appear at a properly called Association meeting, and not 2/3rds of all owners.

While on its plain language, the statute says 2/3rds of Units, reading other sections of the Condominium Act calls this interpretation into questions, perhaps not enough to seriously challenge it, but certainly enough to give one pause.

For instance, the quorum requirement, as suggested by the Condominium Act, suggests that 33% is a fair number and it can go as low as 25%. In our hypothetical, that means that with a condominium association of thirty (30) Units, they can have a meeting with as few as eight (8) members, i.e., 26.67%, and pass such things as a budget that could include special assessments totaling hundreds of thousands of dollars, forcing some to sell their Units, yet they could not pass an Amendment to their documents where they want to, for instance, move the Annual Meeting date from June 30th to July 1st?

Seemingly, this would be a bit absurd, and it is likely this type of absurdity is not what the Legislature intended, nor what the Unit Owners would want, either.

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[1] The use of the word "Unit" is an important one. If the words "Unit Owners" had been used instead, the morass would have opened of having to contact all Unit Owners of record to tally votes. This may sound simple until one realizes there are many, many condominium units that are owned by a Trust, with multiple Trustees; other Units, not in Trusts, are owned jointly with wives and husbands, siblings, friends, investors, etc. There could easily be three or more people on each Unit Deed. To have to get two-thirds of all of these votes properly accounted for certainly was not the intent of the Legislators, and one can only be thankful for that. Occasionally, someone will claim you have to get 2/3rds of the votes of all owners. In those cases, it might be worthwhile to point out what the language says, and what it does not.

Looking at it another way, if only 1/3rd is required to have a meeting, then in theory, nothing would ever be amended, since there would never be 2/3rds of the people there, so you would reach an impossibility.

This is not to suggest an Association should forge ahead and file amendments with less than the 2/3rds majority of Unit in favor. Rather, if by some rare circumstance, an amendment has been passed and filed with the Registry of Deeds and it is later discovered it was done with 2/3rds of those present, but not 2/3rds of all Units present, then the Association might want to challenge the clear language of the section by comparing it to other sections of the Condominium Act, such as the quorum requirement, that would lead to absurd results if the sections are read in isolation, rather than as one document.

But that is for another day.

iii. **Filing**

One would think that once the amendment(s) are passed, they become effective. One would think wrong. There are two important parts to amendments. The first, and perhaps obvious one, is to change the condominium instruments for the better. That's the amendment process. But how would anyone know that amendment has passed and become effective? The Condominium Act, of course, answers the question.

> Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of this chapter.

RSA 356-B: 3, VI.

In English, this means no amendment is valid until it is filed with the Registry of Deeds; it also means that once filed, it is effective, even if it is never read. All the notice you are required to give fellow nit owners is filing any amendments with the appropriate Registry of Deeds.

The reasoning behind this requirement is that when Units are sold, title searches are done. Any proper title search will discover any and all amendments and then the purchaser goes into a purchase with his or her eyes wide open as to what the rules of the Association are into which they are purchasing a share.

Of course, fairness (and maturity) would suggest that once an Amendment is filed, notice of it be given to all Unit Owners. Not only will this let those who were in attendance and who voted on the Amendment(s) know what has occurred, it will also inform those who chose not to attend know what is happening in their Association.

iv. **Certification**

One would think that once the Amendments are filed, all is well and done. One would, again, think wrong.

People are funny things. There are many condominium unit owners who, for any of a variety of reasons, seek to challenge how things are done in condominiums. One way is to look for flaws. One such flaw is a little known, and likely lesser used, provision of the Condominium Act.

When an Amendment is filed with the Registry of Deeds, thus making it effective, it must contain either the signature of every Unit Owner or a certification that all was done properly. More specifically, the Condominium Act states as follows:

> Agreement of the required majority of unit owners to termination of the condominium or to any amendment of the condominium instruments shall be evidenced by their execution of the termination agreement or amendment, or by execution of the president and treasurer of the association accompanied by certification of vote of the clerk or secretary, and the same shall become effective only when such agreement is so evidenced of record.

RSA 356-B: 34, IV.

In other words, after the Amendment has been voted on and passed, it has to be put in final form for filing. The final form requires one of two methods.

Either every Unit has to sign off on the Amendment, which can take a very long time to circulate, or the Amendment has to be signed by the President and Treasurer and accompanied by a signed certification by the Clerk or Secretary that says the vote was taken and accurate.

If one of these two options are not followed, it opens an Association up to challenges for three years from the date of the filing. Best to do it right.

A few other points are worth noting.

First, a brief but important point.

> All amendments and certifications of condominium instruments shall set forth the name of the condominium, the name of the town or city and county in which the condominium is located, and the deed book and page number where the first page of the Declaration is recorded.

RSA 356-B: 11.

Doing so allows anyone of interest to actually find the amendments and the provisions that guide the association and bind the unit owners. Imagine the chaos that could ensue if there were not such a requirement to properly identify the documents.

Additionally, an association must look at its documents before amending them. If there are certain provisions that the documents say cannot be amended without notifying and acquiring the approval of the mortgagees, such as, perhaps, re-assigning parking spaces, then any amendment that is passed without doing so is invalid. RSA 356-B: 34, VIII.

Finally, it is important when creating an amendment to re-read the entire Declaration and Bylaws. It is easy to overlook the likely fact that changing one section via amendment, will necessarily impact other sections which must then be amended or lead to confusion and problems further down the road.

For example, if an Association increases the size of its Board from three to five members, but neglects to change the quorum requirement of Board meetings, then what used to be a plurality of two Board members to establish a quorum, would now be a minority of two, unless the quorum requirement is also changed, perhaps from two to three.

As with many things in life, changing one thing affects others. That can, of course, lead to problems down the road.