

The Common Interest Community Association Act

As amended through August 26, 2011

ARNSTEIN & LEHR LLP

Mid-market value. Large firm expertise.

120 South Riverside Drive
Suite 1200
Chicago, Illinois 60606
P 312.876.7100
F 312.876.0288

www.arnstein.com

COMMON INTEREST COMMUNITY ASSOCIATION ACT

As amended through August 26, 2011

Allan Goldberg

P 312.876.7133
F 312.876.6233
agoldberg@arnstein.com

David Sugar

P 312.876.6656
F 312.876.6230
dsugar@arnstein.com

120 South Riverside Plaza
Suite 1200
Chicago, Illinois 60606
P 312.876.7100
F 312.876.0288

WWW.ARNSTEIN.COM

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Common Interest Community Association Act
As amended through August 26, 2011
765 ILCS 160/1-5 et seq.

Sec. 1-5. Definitions. As used in this Act, unless the context otherwise requires:

“Association” or “common interest community association” means the association of all the unit owners of a common interest community, acting pursuant to bylaws through its duly elected board of managers or board of directors.

“Board” means a common interest community association’s board of managers or board of directors, whichever is applicable.

“Board member” or “member of the board” means a member of the board of managers or the board of directors, whichever is applicable.

“Board of directors” means, for a common interest community that has been incorporated as an Illinois not-for-profit corporation, the group of people elected by the unit owners of a common interest community as the governing body to exercise for the unit owners of the common interest community association all powers, duties, and authority vested in the board of directors under this Act and the common interest community association’s declaration and bylaws.

“Board of managers” means, for a common interest community that is an unincorporated association, the group of people elected by the unit owners of a common interest community as the governing body to exercise for the unit owners of the common interest community association all powers, duties, and authority vested in the board of managers under this Act and the common interest community association’s declaration and bylaws.

“Building” means all structures, attached or unattached, containing one or more units.

“Common areas” means the portion of the property other than a unit.

“Common expenses” means the proposed or actual expenses affecting the property, including reserves, if any, lawfully assessed by the common interest community association.

“Common interest community” means real estate other than a condominium or cooperative with respect to which any person by virtue of his or her ownership of a partial interest or a unit therein is obligated to pay for the maintenance, improvement,

insurance premiums or real estate taxes of common areas described in a declaration which is administered by an association. "Common interest community" may include, but not be limited to, an attached or detached townhome, villa, or single-family home. A "common interest community" does not include a master association.

"Community instruments" means all documents and authorized amendments thereto recorded by a developer or common interest community association, including, but not limited to, the declaration, bylaws, plat of survey, and rules and regulations.

"Declaration" means any duly recorded instruments, however designated, that have created a common interest community and any duly recorded amendments to those instruments.

"Developer" means any person who submits property legally or equitably owned in fee simple by the person to the provisions of this Act, or any person who offers units legally or equitably owned in fee simple by the person for sale in the ordinary course of such person's business, including any successor to such person's entire interest in the property other than the purchaser of an individual unit.

"Developer control" means such control at a time prior to the election of the board of the common interest community association by a majority of the unit owners other than the developer.

"Majority" or "majority of the unit owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common elements. Any specified percentage of the unit owners means such percentage in the aggregate in interest of such undivided ownership. "Majority" or "majority of the members of the board of the common interest community association" means more than 50% of the total number of persons constituting such board pursuant to the bylaws. Any specified percentage of the members of the common interest community association means that percentage of the total number of persons constituting such board pursuant to the bylaws.

"Management company" or "community association manager" means a person, partnership, corporation, or other legal entity entitled to transact business on behalf of others, acting on behalf of or as an agent for an association for the purpose of carrying out the duties, responsibilities, and other obligations necessary for the day to day operation and management of any property subject to this Act.

"Meeting of the board" or "board meeting" means any gathering of a quorum of the members of the board of the common interest community association held for the purpose of conducting board business.

“Member” means the person or entity designated as an owner and entitled to one vote as defined by the community instruments.

“Membership” means the collective group of members entitled to vote as defined by the community instruments.

“Parcel” means the lot or lots or tract or tracts of land described in the declaration as part of a common interest community.

“Person” means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

“Plat” means a plat or plats of survey of the parcel and of all units in the common interest community, which may consist of a three-dimensional horizontal and vertical delineation of all such units, structures, easements, and common areas on the property.

“Prescribed delivery method” means mailing, delivering, posting in an association publication that is routinely mailed to all unit owners, or any other delivery method that is approved in writing by the unit owner and authorized by the community instruments.

“Property” means all the land, property, and space comprising the parcel, all improvements and structures erected, constructed or contained therein or thereon, including any building and all easements, rights, and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit, or enjoyment of the unit owners, under the authority or control of a common interest community association.

“Purchaser” means any person or persons, other than the developer, who purchase a unit in a bona fide transaction for value.

“Record” means to record in the office of the recorder of the county wherein the property is located.

“Reserves” means those sums paid by unit owners which are separately maintained by the common interest community association for purposes specified by the declaration and bylaws of the common interest community association.

“Unit” means a part of the property designed and intended for any type of independent use.

“Unit owner” means the person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a unit.

Sec. 1-15. Construction, interpretation, and validity of community instruments.

- (a) Except to the extent otherwise provided by the declaration or other community instruments, the terms defined in Section 1-5 of this Act shall be deemed to have the meaning specified therein unless the context otherwise requires.
- (b) All provisions of the declaration, bylaws, and other community instruments are severable.
- (c) A provision in the declaration limiting ownership, rental, or occupancy of a unit to a person 55 years of age or older shall be valid and deemed not to be in violation of Article 3 of the Illinois Human Rights Act provided that the person or the immediate family of a person owning, renting, or lawfully occupying such unit prior to the recording of the initial declaration shall not be deemed to be in violation of such age restriction so long as they continue to own or reside in such unit.
- (d) Every common interest community association shall define a member and its relationship to the units or unit owners in its community instruments.

Sec. 1-20. Amendments to the declaration or bylaws.

- (a) The administration of every property shall be governed by the declaration and bylaws, which may either be embodied in the declaration or in a separate instrument, a true copy of which shall be appended to and recorded with the declaration. No modification or amendment of the declaration or bylaws shall be valid unless the same is set forth in an amendment thereof and such amendment is duly recorded. An amendment of the declaration or bylaws shall be deemed effective upon recordation, unless the amendment sets forth a different effective date.
- (b) Unless otherwise provided by this Act, amendments to community instruments authorized to be recorded shall be executed and recorded by the president of the board or such other officer authorized by the common interest community association or the community instruments.
- (c) If an association that currently permits leasing amends its declaration, bylaws, or rules and regulations to prohibit leasing, nothing in this Act or the declarations, bylaws, rules and regulations of an association shall prohibit a unit owner incorporated under 26 USC 501(c)(3) which is leasing a unit at the time of

the prohibition from continuing to do so until such time that the unit owner voluntarily sells the unit; and no special fine, fee, dues, or penalty shall be assessed against the unit owner for leasing its unit.

Sec. 1-25. Board of managers, board of directors, duties, elections, and voting.

(a) There shall be an annual election of the board of managers or board of directors from among the membership of a common interest community association.

(b) (Blank).

(c) The members of the board shall serve without compensation, unless the community instruments indicate otherwise.

(d) No member of the board or officer shall be elected for a term of more than 3 years, but officers and board members may succeed themselves.

(e) If there is a vacancy on the board, the remaining members of the board may fill the vacancy by a two-thirds vote of the remaining board members until the next annual meeting of the membership or until members holding 20% of the votes of the association request a meeting of the members to fill the vacancy for the balance of the term. A meeting of the members shall be called for purposes of filling a vacancy on the board no later than 30 days following the filing of a petition signed by membership holding 20% of the votes of the association requesting such a meeting.

(f) There shall be an election of a:

(1) president from among the members of the board, who shall preside over the meetings of the board and of the membership;

(2) secretary from among the members of the board, who shall keep the minutes of all meetings of the board and of the membership and who shall, in general, perform all the duties incident to the office of secretary; and

(3) treasurer from among the members of the board, who shall keep the financial records and books of account.

(g) If no election is held to elect board members within the time period specified in the bylaws, or within a reasonable amount of time thereafter not to exceed 90 days, then 20% of the members may bring an action to compel compliance with

the election requirements specified in the bylaws. If the court finds that an election was not held to elect members of the board within the required period due to the bad faith acts or omissions of the board of managers or the board of directors, the unit owners shall be entitled to recover their reasonable attorney's fees and costs from the association. If the relevant notice requirements have been met and an election is not held solely due to a lack of a quorum, then this subsection (g) does not apply.

(h) Where there is more than one owner of a unit and there is only one member vote associated with that unit, if only one of the multiple owners is present at a meeting of the membership, he or she is entitled to cast the member vote associated with that unit.

(h-5) A member may vote:

(1) by proxy executed in writing by the member or by his or her duly authorized attorney in fact, provided, however, that the proxy bears the date of execution. Unless the community instruments or the written proxy itself provide otherwise, proxies will not be valid for more than 11 months after the date of its execution; or

(2) by submitting an association-issued ballot in person at the election meeting; or

(3) by submitting an association-issued ballot to the association or its designated agent by mail or other means of delivery specified in the declaration or bylaws.

(i) The association may, upon adoption of the appropriate rules by the board, conduct elections by secret ballot, distributed by the association, whereby the voting ballot is marked only with the voting interest for the member and the vote itself, provided that the association shall further adopt rules to verify the status of the member issuing a proxy or casting a ballot. A candidate for election to the board or such candidate's representative shall have the right to be present at the counting of ballots at such election.

(j) Upon proof of purchase, the purchaser of a unit from a seller other than the developer pursuant to an installment contract for purchase shall, during such times as he or she resides in the unit, be counted toward a quorum for purposes of election of members of the board at any meeting of the membership called for purposes of electing members of the board, shall have the right to vote for the members of the board of the common interest community association and to be elected to and serve on the board unless the seller expressly retains in writing any or all of such rights.

Sec. 1-30. Board duties and obligations; records.

- (a) The board shall meet at least 4 times annually.
- (b) A member of the board of the common interest community association may not enter into a contract with a current board member, or with a corporation or partnership in which a board member or a member of his or her immediate family has 25% or more interest, unless notice of intent to enter into the contract is given to unit owners within 20 days after a decision is made to enter into the contract and the unit owners are afforded an opportunity by filing a petition, signed by 20% of the membership, for an election to approve or disapprove the contract; such petition shall be filed within 20 days after such notice and such election shall be held within 30 days after filing the petition. For purposes of this subsection, a board member's immediate family means the board member's spouse, parents, and children.
- (c) The bylaws shall provide for the maintenance, repair, and replacement of the common areas and payments therefore, including the method of approving payment vouchers.
- (d) (Blank).
- (e) The association may engage the services of a manager or management company.
- (f) The association shall have one class of membership unless the declaration or bylaws provide otherwise; however, this subsection (f) shall not be construed to limit the operation of subsection (c) of Section 1-20 of this Act.
- (g) The board shall have the power, after notice and an opportunity to be heard, to levy and collect reasonable fines from unit owners for violations of the declaration, bylaws, and rules and regulations of the common interest community association.
- (h) Other than attorney's fees and court costs, no fees pertaining to the collection of a unit owner's financial obligation to the association, including fees charged by a manager or managing agent, shall be added to and deemed a part of a unit owner's respective share of the common expenses unless: (i) the managing agent fees relate to the costs to collect common expenses for the association; (ii) the fees are set forth in a contract between the managing agent and the association; and (iii) the authority to add the management fees to a unit owner's respective share of the common expenses is specifically stated in the declaration or bylaws of the association.

(i) Board records.

(1) The board shall maintain the following records of the association and make them available for examination and copying at convenient hours of weekdays by any unit owner in a common interest community subject to the authority of the board, their mortgagees, and their duly authorized agents or attorneys:

(i) Copies of the recorded declaration, other community instruments, other duly recorded covenants and bylaws and any amendments, articles of incorporation, annual reports, and any rules and regulations adopted by the board shall be available. Prior to the organization of the board, the developer shall maintain and make available the records set forth in this paragraph (i) for examination and copying.

(ii) Detailed and accurate records in chronological order of the receipts and expenditures affecting the common areas, specifying and itemizing the maintenance and repair expenses of the common areas and any other expenses incurred, and copies of all contracts, leases, or other agreements entered into by the board shall be maintained.

(iii) The minutes of all meetings of the board which shall be maintained for not less than 7 years.

(iv) With a written statement of a proper purpose, ballots and proxies related thereto, if any, for any election held for the board and for any other matters voted on by the unit owners, which shall be maintained for not less than one year.

(v) With a written statement of a proper purpose, such other records of the board as are available for inspection by members of a not-for-profit corporation pursuant to Section 107.75 of the General Not For Profit Corporation Act of 1986 shall be maintained.

(vi) With respect to units owned by a land trust, a living trust, or other legal entity, the trustee, officer, or manager of the entity may designate, in writing, a person to cast votes on behalf of the unit owner and a designation shall remain in effect until a subsequent document is filed with the association.

(2) Where a request for records under this subsection is made in writing to the board or its agent, failure to provide the requested record or to respond within 30 days shall be deemed a denial by the board.

(3) A reasonable fee may be charged by the board for the cost of retrieving and copying records properly requested.

(4) If the board fails to provide records properly requested under paragraph (1) of this subsection (i) within the time period provided in that paragraph (1), the unit owner may seek appropriate relief and shall be entitled to an award of reasonable attorney's fees and costs if the unit owner prevails and the court finds that such failure is due to the acts or omissions of the board of managers or the board of directors.

(j) The board shall have standing and capacity to act in a representative capacity in relation to matters involving the common areas or more than one unit, on behalf of the unit owners as their interests may appear.

Sec. 1-35. Unit owner powers, duties, and obligations.

(a) The provisions of this Act, the declaration, bylaws, other community instruments, and rules and regulations that relate to the use of an individual unit or the common areas shall be applicable to any person leasing a unit and shall be deemed to be incorporated in any lease executed or renewed on or after the effective date of this Act. With regard to any lease entered into subsequent to the effective date of this Act, the unit owner leasing the unit shall deliver a copy of the signed lease to the association or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or 10 days after the lease is signed, whichever occurs first.

(b) If there are multiple owners of a single unit, only one of the multiple owners shall be eligible to serve as a member of the board at any one time.

(c) Two-thirds of the membership may remove a board member as a director at a duly called special meeting.

(d) In the event of any resale of a unit in a common interest community association by a unit owner other than the developer, the board shall make available for inspection to the prospective purchaser, upon demand, the following:

(1) A copy of the declaration, other instruments, and any rules and regulations.

(2) A statement of any liens, including a statement of the account of the unit setting forth the amounts of unpaid assessments and other charges due and owing.

- (3) A statement of any capital expenditures anticipated by the association within the current or succeeding 2 fiscal years.
- (4) A statement of the status and amount of any reserve or replacement fund and any other fund specifically designated for association projects.
- (5) A copy of the statement of financial condition of the association for the last fiscal year for which such a statement is available.
- (6) A statement of the status of any pending suits or judgments in which the association is a party.
- (7) A statement setting forth what insurance coverage is provided for all unit owners by the association.

The principal officer of the board or such other officer as is specifically designated shall furnish the above information within 30 days after receiving a written request for such information.

A reasonable fee covering the direct out-of-pocket cost of copying and providing such information may be charged by the association or the board to the unit seller for providing the information.

Sec. 1-40. Meetings.

- (a) Notice of any membership meeting shall be given detailing the time, place, and purpose of such meeting no less than 10 and no more than 30 days prior to the meeting through a prescribed delivery method.
- (b) Meetings.
 - (1) Twenty percent of the membership shall constitute a quorum, unless the community instruments indicate a lesser amount.
 - (2) The membership shall hold an annual meeting. The board of directors may be elected at the annual meeting.
 - (3) Special meetings of the board may be called by the president, by or 25% of the members of the board, or by any other method that is prescribed in the community instruments. Special meetings of the membership may be called by the president, the board, 20% of the membership, or any other method that is prescribed in the community instruments.
 - (4) Except to the extent otherwise provided by this Act, the board shall give the unit owners notice of all board meetings at least 48 hours prior to the

meeting by sending notice by using a prescribed delivery method or by posting copies of notices of meetings in entranceways, elevators, or other conspicuous places in the common areas of the common interest community at least 48 hours prior to the meeting except where there is no common entranceway for 7 or more units, the board may designate one or more locations in the proximity of these units where the notices of meetings shall be posted. The board shall give unit owners notice of any board meeting, through a prescribed delivery method, concerning the adoption of (i) the proposed annual budget, (ii) regular assessments, or (iii) a separate or special assessment within 10 to 60 days prior to the meeting, unless otherwise provided in Section 1-45 (a) or any other provision of this Act.

(5) Meetings of the board shall be open to any unit owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the particular association has been filed and is pending in a court or administrative tribunal, or when the common interest community association finds that such an action is probable or imminent, (ii) to consider third party contracts or information regarding appointment, employment, or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the association or a unit owner's unpaid share of common expenses. Any vote on these matters shall be taken at a meeting or portion thereof open to any unit owner.

(6) The board must reserve a portion of the meeting of the board for comments by unit owners; provided, however, the duration and meeting order for the unit owner comment period is within the sole discretion of the board.

Sec. 1-45. Finances.

(a) Each unit owner shall receive through a prescribed delivery method, at least 30 days but not more than 60 days prior to the adoption thereof by the board, a copy of the proposed annual budget together with an indication of which portions are intended for reserves, capital expenditures or repairs or payment of real estate taxes.

(b) The board shall provide all unit owners with a reasonably detailed summary of the receipts, common expenses, and reserves for the preceding budget year. The board shall (i) make available for review to all unit owners an itemized accounting of the common expenses for the preceding year actually incurred or paid, together with an indication of which portions were for reserves, capital expenditures or repairs or payment of real estate taxes and with a tabulation of

the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves or (ii) provide a consolidated annual independent audit report of the financial status of all fund accounts within the association.

(c) If an adopted budget or any separate assessment adopted by the board would result in the sum of all regular and separate assessments payable in the current fiscal year exceeding 115% of the sum of all regular and separate assessments payable during the preceding fiscal year, the common interest community association, upon written petition by unit owners with 20% of the votes of the association delivered to the board within 14 days of the board action, shall call a meeting of the unit owners within 30 days of the date of delivery of the petition to consider the budget or separate assessment; unless a majority of the total votes of the unit owners are cast at the meeting to reject the budget or separate assessment, it shall be deemed ratified.

(d) Any common expense not set forth in the budget or any increase in assessments over the amount adopted in the budget shall be separately assessed against all unit owners.

(e) Separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the board without being subject to unit owner approval or the provisions of subsection (c) or (f) of this Section. As used herein, "emergency" means an immediate danger to the structural integrity of the common areas or to the life, health, safety, or property of the unit owners.

(f) Assessments for additions and alterations to the common areas or to association-owned property not included in the adopted annual budget shall be separately assessed and are subject to approval of two-thirds of the total members at a meeting called for that purpose.

(g) The board may adopt separate assessments payable over more than one fiscal year. With respect to multi-year assessments not governed by subsections (e) and (f) of this Section, the entire amount of the multi-year assessment shall be deemed considered and authorized in the first fiscal year in which the assessment is approved.

(h) The board of a common interest community association shall have the authority to establish and maintain a system of master metering of public utility services to collect payments in conjunction therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act.

Sec. 1-55. Fidelity insurance. An association with 30 or more units shall obtain and maintain fidelity insurance covering persons who control or disburse funds of the association for the maximum amount of coverage that is commercially available or reasonably required to protect funds in the custody or control of the association. All management companies which are responsible for the funds held or administered by the association shall maintain and furnish to the association a fidelity bond for the maximum amount of coverage that is commercially available or reasonably required to protect funds in the custody of the management company at any time. The association shall bear the cost of the fidelity insurance and fidelity bond, unless otherwise provided by contract between the association and a management company.

Sec. 1-60. Errors and omissions.

(a) If there is an omission or error in the declaration or other instrument of the association, the association may correct the error or omission by an amendment to the declaration or other instrument, as may be required to conform it to this Act, to any other applicable statute, or to the declaration. The amendment shall be adopted by vote of two-thirds of the members of the board of directors or by a majority vote of the members at a meeting called for that purpose, unless the Act or the declaration of the association specifically provides for greater percentages or different procedures.

(b) If, through a scrivener's error, a unit has not been designated as owning an appropriate undivided share of the common areas or does not bear an appropriate share of the common expenses, or if all of the common expenses or all of the common elements have not been distributed in the declaration, so that the sum total of the shares of common areas which have been distributed or the sum total of the shares of the common expenses fail to equal 100%, or if it appears that more than 100% of the common elements or common expenses have been distributed, the error may be corrected by operation of law by filing an amendment to the declaration, approved by vote of two-thirds of the members of the board or a majority vote of the members at a meeting called for that purpose, which proportionately adjusts all percentage interests so that the total is equal to 100%, unless the declaration specifically provides for a different procedure or different percentage vote by the owners of the units and the owners of mortgages thereon affected by modification being made in the undivided interest in the common areas, the number of votes in the association or the liability for common expenses appertaining to the unit.

(c) If a scrivener's error in the declaration or other instrument is corrected by vote of two-thirds of the members of the board pursuant to the authority

established in subsection (a) or subsection (b), the board, upon written petition by members with 20% of the votes of the association received within 30 days of the board action, shall call a meeting of the members within 30 days of the filing of the petition to consider the board action. Unless a majority of the votes of the members of the association are cast at the meeting to reject the action, it is ratified whether or not a quorum is present.

(d) Nothing contained in this Section shall be construed to invalidate any provision of a declaration authorizing the developer to amend an instrument prior to the latest date on which the initial membership meeting of the unit owners must be held, whether or not it has actually been held, to bring the instrument into compliance with the legal requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the United States Department of Veterans Affairs, or their respective successors and assigns.

Sec. 1-75. Exemptions for small community interest communities.

(a) A common interest community association organized under the General Not for Profit Corporation Act of 1986 and having either (i) 10 units or less or (ii) annual budgeted assessments of \$100,000 or less shall be exempt from this Act unless the association affirmatively elects to be covered by this Act by a majority of its directors or members.

(b) Common interest community associations which in their declaration, bylaws, or other governing documents provide that the association may not use the courts or an arbitration process to collect or enforce assessments, fines, or similar levies and common interest community associations (i) of 10 units or less or (ii) having annual budgeted assessments of \$50,000 or less shall be exempt from subsection (a) of Section 1-30, subsections (a) and (b) of Section 1-40, and Section 1-55 but shall be required to provide notice of meetings to unit owners in a manner and at a time that will allow unit owners to participate in those meetings.

Sec. 1-80. Compliance. A common interest community association shall be in full compliance with the provisions of this Act no later than January 1, 2012.

ARNSTEIN & LEHR LLP

Mid-market value. Large firm expertise.

120 South Riverside Plaza
Suite 1200
Chicago, Illinois 60606
P 312.876.7100 F 312.876.0288

2800 West Higgins Road
Suite 425
Hoffman Estates, Illinois 60169
P 847.843.2900 F 847.843.3355

808 South Second Street
Springfield, Illinois 62704
P 217.789.7959 F 312.876.6215

5555 North Port Washington Road
Milwaukee, Wisconsin 53217
P 414.351.2440 F 414.352.6901

433 Plaza Real
Suite 275
Boca Raton, Florida 33431
P 561.962.4145 F 954.713.7700

Suntrust Plaza
201 Alhambra Circle
Suite 601
Coral Gables, Florida 33134
P 305.357.1001 F 305.357.1002

200 East Las Olas Boulevard
Suite 1700
Fort Lauderdale, Florida 33301
P 954.713.7600 F 954.713.7700

200 South Biscayne Boulevard
Suite 3600
Miami, Florida 33131
P 305.428.4500 F 305.374.4744

Two Harbour Place
302 Knights Run Avenue
Suite 1100
Tampa, Florida 33602
P 813.574.5000 F 813.254.5324

515 North Flagler Drive
Suite 600
West Palm Beach, Florida 33401
P 561.833.9800 F 561.655.5551

www.arnstein.com