



February 20, 2025

Shay M. Beaudoin, Esq.

Email: [shay@willisoden.com](mailto:shay@willisoden.com)

**Via Certified Mail - Return Receipt Requested,  
First-Class Mail**

Evans Turkey Creek HOA  
Al Hockenbery  
14324 Evans Ranch Road  
Lakeland, FL 33809

**RE: Attorney Opinion Letter Concerning Bylaws vs. Florida State Law for  
Nominating Committee  
Our File No.: 113290-0014**

Dear Members of the Board:

You have asked for my legal opinion concerning whether the nominating committee makeup should follow the state law of Florida or the Bylaws of Turkey Creek Property Owners Association, Inc. Based on my research and analysis, the Board should continue to follow the Turkey Creek Property Owners Association, Inc. Bylaws. First, the Bylaws were recorded in March 1994 and do not appear to have been amended since. 617.0825, *Florida Statutes*, was enacted on July 1, 1997. The key language in this statute is “[u]nless the articles of incorporation or the bylaws provide otherwise ...”.

Upon my review of 617.0825, *Florida Statutes*, the Declaration of Covenants, Conditions, and Restrictions for Turkey Creek Subdivision, as well as the Bylaws, there is no language that would retroactively apply the statute prior to the recordation of the bylaws. Accordingly, without Kaufman language, i.e., language that makes the Declaration or Bylaws automatically subject to all future statutory changes and amendments, the Board should continue to follow the Bylaws as written. See Kaufman v. Shere, 347 So. 2d 627 (Fla. 3d DCA 1977). Regardless, 617.0825, *Florida Statutes*, defers to the Bylaws on this particular issue. There are also no constitutional protections or public policy considerations that otherwise would invalidate Article VIII of the Bylaws. See Pembroke Lakes Mall Ltd., v. McGruder, 137 So. 3d 418 (Fla. 4th DCA 2014).

For the reasons stated above, I would advise that the Board continue to follow Article VIII of the Bylaws which provides that the nominating committee consist between 3-5 members of the HOA, with no more than 1 of these members also being a director.

Very truly yours,

*/s/ Shay Beaudoin*

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