



Division of Land Sales, Condominiums, and Mobile Homes Has Improved Some Business Processes

at a glance

Consistent with our recommendation, the Legislature has required the division to continue providing quarterly reports on its complaint- and education-related activities. As we recommended, the division has taken steps to improve its business processes, including complaint resolution and case management. However, additional steps could be taken to increase division educational services. We also determined that the Office of the Condominium Ombudsman and the Advisory Council on Condominiums are operating as directed by the 2004 Legislature.

Scope

In accordance with state law, this follow-up report informs the Legislature of actions taken by the Department of Business and Professional Regulation (DBPR) in response to a 2005 OPPAGA report.^{1,2} This report presents our assessment of the extent to which the department has addressed the findings and recommendations included in our report.

Background

DBPR's Division of Florida Land Sales, Condominiums, and Mobile Homes regulates a wide range of business activities, including the creation, sale, and operation of condominiums.³ The division's mission is to respond to problems within its regulatory responsibilities in a timely and appropriate manner, with the goal of enhancing consumer protection, providing quality service, and increasing condominium owner and association satisfaction with services. The division's mission also includes educating the public and condominium developers, associations, association boards, and unit owners about their statutory rights and responsibilities.

The division regulates approximately 1.3 million condominium units that are governed by about 20,000 ownership associations.⁴ Regulatory activities include reviewing and approving condominium documents to ensure these materials contain statutorily required disclosures, as well as accepting, investigating,

¹ Section [11.51\(6\)](#), *F.S.*

² *Condominium Program Should Process Complaints, Disputes Sooner and Enhance Program Services*, OPPAGA Report No. [05-24](#), April 2005.

³ Chapter [718](#), *F.S.* The division also regulates cooperatives and timeshares, the sale of subdivided land, yachts, and ships, and the lease of lots within mobile home parks.

⁴ This represents an 18% increase in units and 11% increase in associations since our previous report. Specifically, in April 2005, the division reported regulating approximately 1.1 million condominium units that were governed by about 18,000 associations.

and processing consumer complaints. The division also provides training programs for condominium association board members and unit owners and assists consumers to resolve disputes by offering arbitration and mediation services. Three units perform these activities—the Bureau of Standards and Registration, the Bureau of Compliance, and the Arbitration Section.

The division received 2,558 complaints in Fiscal Year 2005-06; this represents a 40% increase in complaints received compared to Fiscal Year 2003-04.⁵ However, the division has improved the timeliness of its complaint handling. Specifically, in Fiscal Year 2005-06, the median for closing complaint cases was 39 days; this represents an improvement over Fiscal Year 2003-04 timeliness, which was a median of 53 days. The division reports that requests for arbitration increased by only 6% and the median days to close a dispute has not changed since Fiscal Year 2003-04. See Exhibit 1.

**Exhibit 1
Complaints Received Have Increased, but Are Closed Sooner**

	Fiscal Year 2003-04	Fiscal Year 2005-06
Number of complaints received	1,822	2,558
Median days to close a complaint	53 days	39 days
Number of arbitrations requested	610	644
Median days to close an arbitration	65 days	65 days

Source: Department of Business and Professional Regulation.

In Fiscal Year 2005-06, the division’s condominium function generated revenues through fees and fines of \$11.8 million, with expenditures of \$6.8 million. The remaining expenditures in its \$9.2 million appropriation were used to support other division functions, such as land sales registration and mobile home regulation.

Prior Findings _____

Our 2005 review found that the Division of Land Sales, Condominiums, and Mobile Homes did not close a significant number of consumer complaint cases and dispute arbitrations within intended timeframes. Moreover, the division typically responded to violations by sending informational and warning letters rather than taking stronger enforcement action such as levying fines. We recommended that the division and the Legislature take steps to enhance the division’s services by

- **clarifying statutory timeliness standards** for resolving condominium complaints and disputes;
- **strengthening enforcement action** by eliminating the use of informational letters, requiring warning letters for all initial violations, and requiring imposition of fines for all similar repeat violations occurring within five years of an initial violation;
- **increasing the use of mediation** by attempting to mediate cases prior to referring them for arbitration;
- **continuing the requirement** that the division submit quarterly reports; and
- **improving business processes**, including automatically forwarding case information when the division does not have jurisdiction, ensuring that corrective actions have taken place prior to closing cases, evaluating the efficacy of educational efforts, and enhancing educational services by developing materials in both Spanish and English and recreating the condominium association manual.

Our 2005 report did not assess the Condominium Ombudsman or the Advisory Council on Condominiums, which were created by the 2004 Legislature, as these entities were just beginning their operations.

⁵ The increase in complaints is likely related to the significant increase in the number of units and associations.

Current Status ---

Consistent with our recommendation, the Legislature has required the division to continue providing quarterly reports on its complaint- and education-related activities. The division has taken steps to improve its business processes, and has strengthened its complaint resolution and education activities. However, additional steps should be taken to enhance the division's educational efforts. The Office of the Condominium Ombudsman and the Advisory Council on Condominiums are now operating as directed by the 2004 Legislature.

The Legislature continues to monitor division performance through quarterly reports

In lieu of changing the statutory language governing the division, the Legislature has required the division to continue regularly reporting on its performance.⁶ As we recommended, the Legislature has continued General Appropriations Act proviso language requiring the division to provide quarterly reports. These reports provide performance information on the division's key activities, such as the number of complaints received and the percent of investigations acted upon within 90 days. The Legislature should continue to require the division to submit quarterly reports until it is satisfied with the division's progress toward achieving its regulatory and educational goals.

The division enhanced business processes, but educational efforts need further improvement

The division has implemented several of our recommendations to improve its business processes. However, the division should make additional improvements to its educational program.

The division has improved its business processes. As we recommended, the division has taken steps to better monitor case files to ensure that lengthy lapses in activity do not occur. The division now provides managers with access to automated reports that identify complaints that have not been attended to in a timely manner. The division also has revised its standard procedures to shorten the time between case management stages in an attempt to close more complaint cases within 90 days. During Fiscal Year 2005-06, the division closed 74% of complaint cases within 90-days, an improvement over the 65% of cases that were closed within this period during Fiscal Year 2003-04. The department's inspector general is currently examining the division's activities and whether these changes are achieving intended results; the division should use the results of this review to make additional improvements to its services.

As we recommended, the division has made additional improvements to its business processes. For example, the division has begun forwarding complaints that are outside of its jurisdiction to other local and state agencies for action. Moreover, the division reports efforts to keep complainants better informed of investigatory actions, including telephoning and/or writing consumers with status reports. In addition, to ensure that appropriate corrective action takes place, the division now uses codes and reports in its new electronic case management system to highlight needed actions, and supervisors are required to review case files for completeness prior to close-out.

Additional steps should be taken to improve division educational efforts. As we recommended, the division has taken steps to improve its educational materials for unit owners and board members. Specifically, the division has developed and made available on its website new educational materials, such as a brochure on disaster preparation and planning. The division also has created a more in-depth bookkeeping and budgeting guide for association board members.

⁶ Our prior report recommended that the Legislature consider clarifying statutory timeliness standards for resolving condominium complaints and disputes; strengthening enforcement action; and directing the division to use mediation prior to arbitration.

The division also has translated more of its web-based educational materials into Spanish. However, the division's training contractor has stopped providing courses in Spanish, citing low participation. We continue to recommend that, whenever practicable, the division provide education materials and programs in both English and Spanish, to ensure that all unit owners and board members have access to accurate and timely information about state condominium laws and rules

However, there are additional steps the division could take to strengthen educational programs. We noted that the division's educational programs are currently offered only on weekday mornings, which preclude attendance by unit owners and board members who are employed during normal working hours. The division should consider offering evening and Saturday classes, especially in areas with large condominium populations; this could be accomplished by amending the division's contract for educational services, which expires in 2007.

Condominium Ombudsman and Advisory Council on Condominiums are operating as directed by the Legislature

At the time of our 2005 report, only about six months had elapsed since the creation of the Office of the Condominium Ombudsman and the Advisory Council on Condominiums. As a result, we could not assess whether the two entities were operating as intended by the Legislature. Our current review determined that the ombudsman and council are now fully implemented and providing services consistent with state law.

The ombudsman responds to inquiries by unit owners, board members, and other affected parties. The Office of the Condominium Ombudsman has provided an additional source of information and assistance for both condominium unit owners and association boards. Specifically, the ombudsman and her staff advise, assist, and monitor association meetings; receive and validate petitions for

appointment of election monitors; appoint election monitors; and respond to inquiries from attorneys, public officials, unit owners, board members, community association managers, and other affected parties. The office also is directed to develop legislative recommendations relative to Ch. 718, *Florida Statutes*, and make recommendations or changes within the division. The office was appropriated \$559,423 in Fiscal Year 2006-07 and currently has eight full-time positions. Since its inception, two individuals have served as ombudsman; the current ombudsman was appointed in June 2006. Exhibit 2 provides more information on the office's status and activities.

The advisory council solicits public input and provides recommendations to the Legislature. The Advisory Council on Condominiums, also created by the 2004 Legislature, meets to discuss issues, receive public comment, and develop an annual report for the Legislature. Council meetings have been used primarily to receive public testimony and discuss proposed statutory changes. The council's first annual report, issued in December 2005, included general findings and six specific recommended changes to Ch. 718, *Florida Statutes*. These recommended statutory changes included establishing standards for association officers and establishing board emergency powers in case of a disaster. To date, none of these recommendations have been implemented. The second annual report is currently in draft form. See Exhibit 3 for an update on the status of the council and its activities.

**Exhibit 2
Office of the Condominium Ombudsman Provides Services to Unit Owners, Boards, and Other Affected Parties**

Duties	Statutory Responsibility	Activities
Resolve Disputes	<ul style="list-style-type: none"> ▪ Monitor/review procedures and disputes concerning condominium elections and meetings with recommendations for enforcement action if there is reasonable cause. ▪ Encourage and facilitate voluntary meetings to resolve condominium-related disputes prior to filing for a formal or administrative remedy. 	<ul style="list-style-type: none"> ▪ The office has monitored association meetings in person and by telephone and has appointed election monitors when appropriate. In its first year, the office validated 52 petitions and oversaw 43 elections. ▪ The existence of the office has likely had some effect on resolving disputes prior to filling of a complaint. However, no performance measures have been developed.
Rules/Regulations	<ul style="list-style-type: none"> ▪ Make recommendations to the division for changes in rules and procedures for handling of complaints. 	<ul style="list-style-type: none"> ▪ The first ombudsman reported difficulty with coordination with the division. The current ombudsman reports a cooperative relationship with the division and is in the process of finalizing recommendations for changes within the division.
Training	<ul style="list-style-type: none"> ▪ Coordinate/assist in the preparation/adoption of educational and reference materials. ▪ Provide assistance to board members and officers of associations to properly carry out their duties. ▪ Be a neutral resource to assist unit owners and others in understanding their rights and responsibilities. 	<ul style="list-style-type: none"> ▪ The first ombudsman worked in conjunction with Broward Community College to provide unit owners and association members access to non-credit courses. The current ombudsman continues that effort by providing educational courses at Broward Community College and Miami-Dade Community College. Education is also provided to affected parties on a daily basis by office staff responding to telephone calls, email messages, regular mail, and fax transmissions. The ombudsman is working with division staff to create a state-of-the-art website that will serve as an additional resource for Florida’s condominium communities and other affected parties. ▪ The office provides significant assistance with elections and meetings, one of the most common topics of complaints and inquires. The office reported overseeing 43 elections in calendar year 2005. ▪ The first ombudsman disagreed with the department over his authority to resolve issues and complaints and wanted authority to sanction boards and condominium owners based on his findings. The Attorney General issued an opinion that clarified this issue. The ombudsman’s office is operating in accordance with the Attorney General’s opinion.
Other	<ul style="list-style-type: none"> ▪ Issue reports including recommendations for legislation relative to division operations. 	<ul style="list-style-type: none"> ▪ The office issues quarterly reports on its operations. The former ombudsman included recommendations in his quarterly reports; the current ombudsman (appointed in June 2006) is in the process of finalizing legislative recommendations for 2007.

Source: Sections 6 and 7, Ch. [2004-345](#), *Laws of Florida*, OPPAGA, and the Office of the Condominium Ombudsman.

**Exhibit 3
Condominium Advisory Council Is Fulfilling its Statutory Directive**

Duties	Statutory Responsibilities	Activities
Rules/ Regulations	<ul style="list-style-type: none"> ▪ Review, evaluate, and advise the division on condominium rules. 	<ul style="list-style-type: none"> ▪ Since its inception, the council has worked with the department to develop rules. However, the department has final rule-making authority.
Training	<ul style="list-style-type: none"> ▪ Recommend improvements, if needed, to the educational programs offered by the division. 	<ul style="list-style-type: none"> ▪ The council’s 2005 annual report included a recommendation for improving the department’s educational program materials, including materials to advise associations on how to deal with catastrophic events. The department now provides unit owners and boards a document entitled Preparing for a Disaster.
Other	<ul style="list-style-type: none"> ▪ Receive from the public input on condominium-related issues and make recommendations for changes. 	<ul style="list-style-type: none"> ▪ The council has conducted a series of meetings around the state, especially in areas of with large condominium communities and has issued minutes of these meetings on its website. The council has openly debated issues brought to meetings by interested parties. The council reported that during 2005, it conducted eight public hearings throughout the state, with 186 individuals attending. ▪ The council issued its first annual report in December 2005. The report included recommendations to the Legislature and the department, as well as comments on the Office of the Ombudsman. The second annual report is pending. ▪ The council also reports that it has been provided input from unit owners and association board members through its website and has exchanged information with legislators, department management, and the Office of the Ombudsman. The council’s first annual report contained several legislative proposals, including proposed standards for association officers and emergency authority for boards and officers before, during, and after disasters.

Sources: Section 5, Ch. [2004-345](#), *Laws of Florida*, OPPAGA, and the Condominium Advisory Council.

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