

Here are answers to the two most frequent questions received concerning the Written Consent recently mailed to all lot owners:

Why can't I vote "yes" or "no" on each initiative?

We didn't like doing this either, but we had absolutely no choice. As you recall, last year we used an absentee ballot with a "yes" or "no" option for each initiative. When we showed this to our attorney in preparation for this year's vote, he informed us that an absentee ballot is considered a "limited proxy" and therefore is not valid because of the "There will be no votes by proxy." statement in our Covenants. That left the only option being a "Written Consent", which was recommended by our attorney. Unfortunately, a "Written Consent" is an all-or-nothing instrument; you either agree or disagree in-total. If you agree, you fill-out the consent, sign it and return it. This would be counted as a "yes". If you disagree, simply do not return the consent. This would be counted as a "no". If we wanted to allow the members to vote each initiative separately, three separate written consents would be required. If we get this all passed, the "...no proxy..." issue is dead and we can return to the standard absentee ballots, with "yes" or "no" initiatives, next year. All this said; please remember that your Written Consent will only be counted if your dues/assessments are paid in-full.

Can the term "commercial truck" be applied too broadly and restrict pickup trucks with company logos?

The term "commercial" was used intentionally because in Florida it has very specific meaning as defined in the Florida state statutes:

According to Florida Statute 320.01(26), a 'COMMERCIAL MOTOR VEHICLE' is a vehicle not owned by the government, with a **Gross Vehicle Weight (GVW)** of 26,001 lbs. or more, or has three or more axles regardless of weight, or is used in combination (vehicle plus trailer) when the weight of such combination exceeds 26,001 pounds gross vehicle weight.

Note: If the empty weight is 5,000 lbs or less, the truck is not considered a commercial motor vehicle. The registration would be based on net (empty) weight, and the **GVW** would not be required.

It has never been our intention to apply this to pickup trucks that bear a company logo or to any vehicle as long as it does not meet the Florida Commercial Motor Vehicle criteria. There have been numerous cases where Florida homeowner associations have lost court challenges when trying to apply "commercial" status to vehicles such as pickups used for small business and automobiles with real estate logos on the doors. I can't speak for future boards, but it would be foolish and very reckless of them to try and enforce restrictions on non-commercial, small business vehicles in light of these court cases.