



## **A GADDIS VATH LANIER, LLC CLIENT ALERT:**

### **“FLYING THE COLORS”**

Invoking the *Freedom to Display the American Flag Act of 2005*, a Cherokee County Superior Court Judge has just issued a ruling in favor of a property owner who erected a 14-foot flagpole outside his property in 2007. The community association first initiated daily fines and then, filed a lawsuit objecting to the erection of the flagpole because it was not approved by the community’s architectural controls committee. Gaddis Vath Lanier, LLC did not represent this association, but the ruling can affect all of our clients. A link to the article in Friday’s *Atlanta Journal Constitution* is here: <http://www.ajc.com/news/cherokee/flag-flies-after-fight-605640.html>

Language restricting or prohibiting flagpoles and other kinds of structures tends to show up in most restrictive covenants. Boards and community association managers should be aware of this recent ruling and should be familiar with the Freedom to Display the American Flag Act. The Act includes this paragraph:

*A condominium association, cooperative association, or residential real estate management association may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.*

If you have any questions or concerns as to how this ruling may or may not affect your association, please don’t hesitate to contact us.

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