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March 5, 2024

CLIENT STATUS UPDATE

This update for the Board of Directors and unit owners of the Daytona Beach Resort and Conference Center Condominium Association as to the status of various matters involving the Association, the Developer, and the condition of the property.

I. CODE ENFORCEMENT PROCEEDINGS

The City of Daytona Beach has cited the property for two violations. The first violation is for the condition of the parking garage and the balconies. The second violation is for the condition of the seawall and the pool deck.

On February 14th, we attended a code enforcement hearing before the City of Daytona Beach that was specifically scheduled to address both of these violations. At that hearing, the Developer disputed that it was responsible for the repairs and argued the Association was responsible to pay for them. The Developer argued to Special Magistrate David Vukelja that the Association should have some responsibility for this work because the Association levied a special assessment to pay for the cost of seawall repairs. We explained that while the Association had, in fact, collected funds to pay for seawall repairs, and had even offered to advance the costs of repair, the Developer was unwilling to agree to the Association reserving its right to seek reimbursement if the Developer was found to be responsible for payment of such repairs in the pending arbitration.

The Developer continues to be unwilling to agree to this proposition to the detriment of the owners. While the Association has been proactive in securing funds if the arbitrator determines the Association is responsible for paying the cost of those repairs, the Developer has stonewalled any efforts by the Board to reach an agreement to prevent further deterioration to the property.

Special Magistrate David Vukelja – relying on portions of the City Code, as well as the position of the City of Daytona Beach – determined that the Developer, as the owner of the property, is responsible for the remedial work. The Special Magistrate did not find the Developer's argument persuasive and also found that the pending arbitration between the parties is outside the scope of the code enforcement cases.

The Special Magistrate is expected to issue a written order containing his ruling, but in the meantime, his oral ruling was substantially as follows:

1. The Developer is required to apply to Volusia County for issuance of a permit to install trap bags and for the seawall work;
2. The Developer is required to apply for the Department of Environmental Protection for a permit (taking into account the sea turtles that nest on the beach immediately to the east of the building;
3. The Developer is required to engage the services of an engineer and/or contractor for the necessary work;
4. The Developer is required install mandatory safety perimeters, such as cyclone fencing; and
5. The Developer is required to install trapbags.

The Developer is required to accomplish all of these tasks by April 3, 2024, the next compliance cut-off date.

The Special Magistrate, in conjunction with City Code Enforcement, will meet in April 2024 to determine whether the Developer has achieved compliance.

The Special Magistrate also found that the Developer was not in compliance with the needed repairs to the parking garage. The Developer met with City officials onsite on Thursday, February 15, 2024 to review the conditions in the parking garage, and to discuss exactly what the City expected in the way of repairs. The proposed scope of repairs, and additional work that the Developer intends to perform to ensure "structural integrity," were presented to Special Magistrate Vukelja on March 1, 2024. After reviewing the City's expectations as to the scope of work and timing of repairs, as well as the Developer's position as to the amount of time believed to be necessary to complete the work, the Special Magistrate has required the respondents to obtain a permit by April 3, 2024 in order to begin the parking garage repairs. We expect that the Special Magistrate will enter an order accordingly, and future milestones (with corresponding dates of compliance) will be established at future Code Enforcement proceedings.

II. ARBITRATION & STATE COURT CASE WITH THE DEVELOPER

The Association filed a demand for arbitration with the American Arbitration Association on December 30, 2020, to prohibit the Developer from implementing unreasonable access restrictions that were set to go into effect January 2021. The Association quickly obtained, over the Developer's opposition, a preliminary injunction issued by Arbitrator Edward Jaffe. That injunction has prohibited the Developer from enforcing these restrictions since March 10, 2021.

During 2021 and 2022, our firm defended the Association against the Developer's various accusations that were filed in the Volusia County court. Although the Developer was successful in obtaining relief on its initial request, we successfully defended the Association against the Developer's second request. The Developer has not tried to seek further relief in the Volusia County courts after being denied its second request for relief.

On December 15, 2022, the Developer requested Arbitrator Jaffe rule that the Association was responsible for the cost of all parking garage repairs. The Association opposed this request. The Arbitrator denied the Developer's request on February 10, 2023. The Association then requested, on May 2, 2023, that the Arbitrator determine that the Developer was responsible for the repair expenses of structural components of the parking garage and the elevators. The Developer opposed

this request and claimed that a trial was needed to resolve factual issues related to this responsibility. Arbitrator Jaffe held on July 5, 2023, that the Easement Agreement, which governs the relationship between the Association and the Developer, was clear and unambiguous, and that the Developer was responsible to pay for expenses related to structural repairs for the parking garage. At the same time, the Arbitrator also determined that the Association was responsible for the cost of the elevator repairs. Thereafter, the Developer unsuccessfully attempted to have the Arbitrator vacate this award.

The Association then requested Arbitrator Jaffe to address the closure of the swimming pools and the repairs to the seawall on August 11, 2023. The Arbitrator deferred ruling on that request as the Association and the Developer agreed to address the issues related to the parking garage before other issues earlier on in the arbitration. The Association and the Developer agreed to allow all issues to be addressed, which prompted us to prepare and file a request to install the trapbags for the seawall on January 10, 2024. The Developer's lead counsel, however, left the firm, so the Developer has had new counsel appear in the case.

In early 2024, while the Arbitrator was out of the country and not available, we engaged in settlement discussions with the Developer's counsel. We are currently scheduling mediation and have reached an agreement with the Developer on the Association's request to install trapbags.

III. MISCELLANEOUS STATE COURT PROCEEDINGS

Lawsuit Filed by David Marquis

Mr. Marquis sued the Association on various claims. The Association moved to dismiss his claims because, among other reasons, Mr. Marquis lacks standing to pursue this action – specifically because he brought this action personally (in his own name), while the condominium unit is actually owned by a limited liability company in which Mr. Marquis is a member. The motion to dismiss is being set for hearing, and future updates – as well as the status of this case – will be dependent on the outcome of that hearing.

Lawsuit Against the 14th Floor

The Association sued the 14th Floor Condominium Association to collect monies believed to have been previously collected by the 14th Floor, which were supposed to be remitted to the Association. The 14th Floor Condominium Association unsuccessfully attempted to have the case dismissed. It has now filed its answer to the Association's claims, and has asserted 12 "affirmative defenses" to this action. Affirmative defenses admit the claim but provide a legal justification or excuse for why there should be a limitation of liability, or why there should be no liability whatsoever. We have prepared a motion to strike various of the affirmative defenses. The motion has been set for hearing on April 23, 2024, and future updates as to the current course of action will be provided.