

A publication of:

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WELCOME ABOARD



While our firm practices in several areas of the law, such as commercial litigation, real estate, personal injury and construction, the majority of the practice is devoted to the representation of condominium and homeowner associations. Our firm is proud to announce the addition of the following associations to our list of clientele: The Joint Council of Aventura, Bay Place Condominium in Hallandale Beach, Ro-Mont South J Condominium in Miami, Apple Creek 4 Condominium in Plantation and Ocean 36 North Condominium in Miami Beach. If we don't say it enough, we can assure you that we appreciate the business and confidence placed in our firm.

TIME FOR ELECTIONS

(By Meredith Spira)



It's that time of year once again! The election for the Board of Directors requires careful and detailed planning. After deciding on a date for the annual meeting, condominium associations must send the Notice of Meeting along with a Candidate Information Sheet to all unit owners at least 60 days prior to the meeting. Any unit owner wishing to run must give written notice at least 40 days prior to the election. A candidate information sheet may be submitted at least 35 days prior to the election. A second notice must be sent out between 34 and 14 days before the meeting along with a ballot, instructions for the ballot, an agenda, completed Candidate Information Sheets, a small envelope (labeled ballot only) for the ballot, and a large envelope (which must contain a place for the unit owner's signature and unit number) to enclose the small envelope. Homeowners' associations are only required to follow the procedures contained in their governing documents.

FULL COURT PRESS



The firm has recently been interviewed by various news stations and newspapers regarding association and real estate law topics. In June and July, Andrew Demos appeared on WPBF/ABC News Channel 25 in Palm Beach County and on WSVN/FOX Channel 7 in Miami as a legal correspondent on condominium hurricane shutter issues. In August, Eric Glazer twice appeared as a legal consultant for CBS News "Shame on You" segments on condominium conversion issues and landlord/tenant issues. Also, in July and August, Andrew and Eric were twice interviewed by the Daily Business Review regarding the boom in conversion of rental properties to condominiums. Check out our website where you will soon be able to view these news videos, news articles and all prior media participation by the firm.

LOSING YOUR LAND

(By Eric Glazer)



In June, the Supreme Court of the United States declared that a city may use its powers of eminent domain to take private property away from one person and give it to a private developer, if the city can allege that the land is being taken to "promote economic development." Obviously, the nation's poorest property owners are now at risk and most likely to lose their properties to developers as a result of the decision, as the city can always argue that a forced sale and destruction of these lesser value properties will promote the local economy. Interestingly enough, the court's more liberal justices voted in favor of the decision, while the court's conservative judges dissented.

MANDATORY HOA MEDIATION

(By Eric Glazer)



Unlike in a condominium association, where a dispute can proceed directly to arbitration, disputes between a homeowner's association and an owner regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes, disputes regarding amendments to the association documents, disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association must be filed with the Department of Business and Professional Regulation for mandatory **mediation** before the dispute is filed in court. If mediation is not successful in resolving all issues between the parties, the parties may file the unresolved dispute in a court of competent jurisdiction or elect to enter into binding or nonbinding arbitration.

CONVERSION TO CONDO

(By Andrew Demos)



The hottest trend in South Florida's real estate market is conversions of rental properties to condominiums. However, buyers often forget that within the walls and beneath the finished concrete and stucco, are old plumbing, mechanical, electrical and structural components that ultimately will need repair or replacement. Florida condominium law requires the developer to disclose the condition of the property through an engineer or architect of his choice, who may not have extensive experience with each of these various components, to opine as to the estimated useful life and current replacement costs of the roof, plumbing and common area HVAC system. Therefore, following turnover of control of the association to the unit owners, the Board should retain an independent engineer to provide an Inspection Report of the common elements, limited common elements and other construction matters of common interest. The report will enable the Board to evaluate legal options against the developer and establish proper funding of reserve accounts. Disputes with developers should be addressed as promptly as possible to increase the likelihood of obtaining a successful response and/or recovery.

ASSOCIATION FORECLOSURES

(By Ralph Ruocco)



As to condominiums, Florida law protects first mortgagees by only making them responsible to the association for the lesser of six months maintenance or 1% of the original mortgage debt, no matter how much is owed to the association, when the first mortgagee forecloses on a unit. Any maintenance sums owed to the association in excess of this amount are wiped out. In an HOA, the documents normally don't require lenders to pay any maintenance arrears whatsoever. However, it is important for any association to monitor the progress of all foreclosure actions because the purchaser at the foreclosure sale is responsible for all maintenance payments owed to the association from the date of the sale forward. The association should immediately demand such payments from the new owner.

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The primary practice of our firm is representation of condominium and homeowner associations in the South Florida area. The firm has represented hundreds of associations since its inception in 1994, regarding all facets of association law. In addition, the firm has litigated and/or arbitrated hundreds of association cases in the state courts as well as before the Division of Florida Land Sales, Condominiums and Mobile Homes, Arbitration Section.

The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.