

LEGAL BEAT

a production of Glazer & Sachs, P.A. and CONDO CRAZE & HOAs.

THANKS TO YOU – WE WON SIX YEARS IN A ROW!



On behalf of everyone at our law firm, THANK YOU for voting for Glazer and Sachs, P.A. as best association law firm in the State of Florida. We are truly honored to say we've come out on top in 2022, being awarded the highest level by the voters, Diamond for the **SIXTH** year in a row!

Please know that whether it's representing you in court, at administrative proceedings, attending your meetings, talking to you on the radio or teaching you at our seminars, we appreciate getting to know you, and we are humbled by the opportunities given to us to help you. We will continue to do our best to earn and keep your confidence, and support.

Again, thank you.



WHAT THIS ISSUE IS ALL ABOUT DADE AND BROWARD PAY ATTENTION

As many of you know, this firm was relentless when it came to having new condo laws passed that would protect the lives and homes of Floridians throughout the state. In 2022, The Florid Legislature passed mandatory inspection requirements for buildings beginning on their 30th birthday and mandatory reserves. 2022 left a lot of questions unanswered however. In 2023 The Florida Legislatue attempted to fill the gaps and make the legislation easier to understand and more pragmatic. In this issue we will show you the new laws and let you be the judge as to whether or not it improved on the 2022 laws. Lets's begin..... Those of you from Miami-Dade and Broward Counties should read carefully. While the new inspection laws only kick in and require a Phase One and possibly a Phase Two "MILESTONE INSPECTION" when the property is thirty years old and at least 3 stories, that does not hold true for these two counties. On the contrary, in Miami-Dade and Broward counties height does not matter. These counties have stricter inspection laws than the rest of the state. In Miami-Dade the condo building goes through "building recertification" if it is 2,000 square feet or more. In Broward, the condo goes through "building recertification" if it is 3,500 square feet or more. In addition, unlike in the rest of the state, condominiums in these counties have to get recertified for electrical, in addition to structural safety.

Welcome Aboard!

As our readers know, our firm's practice is devoted to representing community associations and their owners, around the entire state.

OUR LAW FIRM INCLUDES ATTORNEYS WHO ARE EXPERTS AND SPECIALIZE IN ALL ASPECTS OF FLORIDA ASSOCIATION LAW.

We are proud to announce the addition of the following associations as our clients:

- 551/557 Michigan Condo –Miami
- 59 Sunset Place Condo – South Miami
- 61 Collins Association – Miami
- Aqualuna Las Olas Condo – Ft. Lauderdale
- Btt Condo – Tamarac
- Champlain Towers North – Surfside
- Commodore Estates – Hallandale
- Crystal Court Manor No. 5 Condo – Hollywood
- Cypress Bend Condo Vii – Coral Springs
- Cypress Chase Condo D – Lauderdale Lakes
- East Leisure Association – Coral Springs
- Fairbanks Terrace South – Pompano Beach
- Fairways At Par One Hoa – Naples
- Fairways At Par Two Condo – Naples
- The Forge Condo – Miami Beach
- Golden Dreams Condo – Miami Beach
- Lakeview Gardens At Miami Lakes Condo – Miami Lakes
- Meadowbrook Lakes Bldg 1 – Dania Beach
- Ocean Reserve Condo – Sunny Isles Beach
- Palm Beach White House Condo #3 – Lake Worth
- Plaza Towers South – Hallandale
- Provence Condo – Lighthouse Point
- Raintree Forest Condo – Plantation
- Racquet Club Of Deer Creek Condo – Boca Raton
- San Simeon At California Club Hoa – N. Miami Beach
- Sausalito Condo – Maitland
- Stirling Villas Townhouse – Davie
- Venetian Park Condo I, Iii And V - Hallandale
- Westbury G Condo – W. Palm Beach
- Woodstock Lodge Condo – Lauderdale

We certainly are honored by the trust and confidence these communities have placed in our firm.

Eric M. Glazer

CONDO CRAZE & HOAs



OUR BOARD CERTIFICATION COURSE IS BACK!!!

The law now provides that within 90 days of getting elected to a condominium or homeowner's association Board of Directors, you must get certified or you are removed from the Board. One way to get certified is by attending a state approved course. Attorney Eric Glazer has designed a course that was approved by The DBPR, which allows him to certify attendees as eligible to serve on a Florida condominium or HOA Board of Directors. See the list below of classes you may register for. Eric is proud to have certified over 20,000 directors throughout the state.

OUR RADIO and YOUTUBE SHOW! It has been so much fun to broadcast the **Condo Craze and HOAs Radio Show** for the past fourteen years and now on **YOUTUBE**. We so enjoy discussing legal issues, speaking with our listeners live on the air and answering your questions each Sunday at 11:00 a.m. Condo Craze and HOAs is broadcast live on 850 WFTL in South Florida, and YOU CAN NOW WATCH every live and prior show on the Condo Craze and HOAs Channel on YouTube. You can also visit the show's website at www.condocrazeandhoas.com.

Other Board Certification Classes –for Condos and HOAs All times are 8:30 a.m. at the L&L Condo and HOA Expo

October 3rd, Orlando at The Orange County Convention Ctr.

October 10th – Broward at The Signature Grand

October 17th – Miami at The Hyatt Regency Hotel

October 19th –Palm Beach, at The Palm Beach Convention Center

October 20th – Naples at The New Hope Event Center

October 24th – Bradenton at the Bradenton Convention Center

October 25th – Tampa at the Tampa Bay Convention Center

TO REGISTER VISIT OUR WEBSITE AT : WWW.CONDOCRAZEANDHOAS.COM.



ABOUT OUR FIRM.....

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ON THE INTERNET

Our firm:

www.Condo-Laws.com

Radio Show:

www.CondoCrazeandHOAs.com

Blog:

www.HOA-CondoBlog.com

For the past 28 years, our firm has included attorneys who specialize and are experts in Florida association law and have counseled thousands of clients on all issues facing associations or their members.

Our practice is primarily devoted to community associations and owners. Additionally, our litigation, mediation, arbitration, construction and appellate practice has decades of experience before state and federal trial courts, all appellate levels and both state and municipal administrative forums.

Eric Glazer: Eric is a graduate of NYU and The University of Miami School of Law in 1992. Our firm is proud to announce that as of June 1st, 2018 Eric was part of the first ever group of attorneys in the state to become Board Certified in Condominium and Planned Development Law. Out of over 100,000 attorneys in the state, approximately 195 are Board Certified in this area. Eric was also certified by The Florida Supreme Court as a Circuit Court Mediator in 2007. He is also a member of the New York, Washington D.C. and Tennessee Bar. Eric is also a Florida Supreme Court Certified Arbitrator.

Richard Sachs has been practicing since 1994. He has been certified by the Florida Supreme Court as a Circuit Court mediator since 2002. He is also a Florida Supreme Court Qualified Arbitrator. Richard received the distinguished “AV” rating from Martindale-Hubbell in 2000 and has maintained that rating throughout his career. He is well respected by his peers as demonstrated by his being named to the list of *Florida Super Lawyers* and the list of the *South Florida Legal Guide’s* Top Lawyers, both since 2011.

Pennie Mays is Board Certified in Construction Law by The Florida Bar. Pennie was admitted to The Florida Bar in 2005. She has spent her 16 year career representing associations against developers and contractors and other commercial litigation.

Paul Kim is practicing since 2007. He devotes much of his time to litigation in state and federal court and arbitration including but not limited to service and emotional support animal issues, disability and discrimination law, rule compliance and complex bankruptcy issues.

Our firm prides itself on our ability to represent associations and their owners on all legal matters that come their way. Whether it’s representation in the courtroom, in administrative hearings, attending your meetings, answering your calls, speaking with you on the radio or teaching you at our seminars, it is always an honor and a pleasure to serve you.

Eric M. Glazer, Esquire

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Contact the professionals at Gerstle, Rosen and Goldenberg, P.A. by calling (305) 937-0116 and visit the firm's website www.grgcpa.com. Since 1985, Gerstle, Rosen & Goldenberg, P.A. has maintained its reputation for excellence and client satisfaction in the areas of accounting, auditing, taxes, business consulting, litigation support, other real estate and construction accounting. We offer this wide range of diversified services to corporate and individual clients, condominium and homeowners associations and non-profit organizations. The firm offices are in Aventura, Boca, Fort Myers and our new office in Orlando, with full time staff.

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Need your walkways or driveways repaired or resurfaced? Held with handicapped spaces and parking compliance? Call us at: 1-800-432-1191 and visit us on the web at: www.driveway.net.

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Give your residents more of what they want from their home network technology: seamless connectivity and fast operating speeds, HDTV with top channels and streaming, and futureproofed fiber delivery that's safe and reliable. To get the best performance, you need the best network architecture. That's QXC's Active Optical Network (AON) fiber-to-the-home (FTTH) infrastructure—a dedicated fiber to every home. No splitters, just pure, single-strand fiber so users get full signal strength and no security risks. For most installs, a full gig is brought into your community which means exceptional capacity and speed for everyday streaming, gaming, surfing, and more. And it's futureproofed to manage an ever-increasing digital load. <https://qxc.us/communities/> 561-708-1500



Operating in Dade, Broward and Palm Beach, TPMG specializes in management of HOAs and condominiums. Troy Modlin is the CEO of TPMG and has a background in law, insurance and education. He has serviced communities for the past ten years in South Florida. "As the founder of TPMG, I provide every Board Member with my personal cell phone number so they can reach me at any time to discuss any situation. My goal as the owner is to make sure my company and its employees always over delivers. I will always deliver on my promises." To reach Troy, give him and his staff call at: (954) 640-0291

Do the pipes in your community need replacement or repair? Before spending all the money for a total pipe replacement, call PipeLining and find out about its Trenchless Pipe Repair. It's quick, less intrusive and certainly less expensive than a pipe replacement. Call PipeLining Technologies at: (561) 853-5463 www.PipeLT.com



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When your Association suffers damage related to water, wind, mold or fire, you need representation in the handling of your insurance claim. The Insurance Company hires adjusters and experts on their side - the Association needs professional representation on its side too! Not only do we advocate for you during the claims process, we also help the Management and Board of Directors during by answering questions and concerns from unit owners. We are able to re-open old claims and fight for payment on denied claims as well. Please call Stellar today to set up a free policy analysis and claim consultation. Should you be interested in a FREE Q & A Session for next Association board meeting, please call us at 305.396.9110 or e-mail rami@stellaradjusting.com



Rimkus provides engineering consultation on a wide range of issues for the condominium community. Serving clients from coast to coast, our deep bench of engineering experts will proactively identify issues before they occur to mitigate risk and help to maximize the lifecycle of your property. We provide a comprehensive range of services including milestone structural inspections, structural integrity reserve studies, performance audits, parking garage repair, pavement rehabilitation, roofing and waterproofing, leak investigations and remediation design. Call Rimkus at 1-800-580-3228 or e-mail AECAssignments@rimkus.com





IN THE NEWS

Eric Glazer has had the honor of being interviewed as an expert on the Champlain Towers collapse and has appeared in two major news presentations. CBS News interviewed Eric for a national segment that appeared on 60 Minutes. Millions of people watched the show across the country. To view the interview just google “Eric Glazer 60 Minutes.” In addition, Eric was interviewed by The Smithsonian Channel for their show entitled “Ten Steps to Disaster – The Surfside Collapse.” That show is Episode One of Season Two and is available from your Cable TV provider. Everyone serving on a Board of Directors or simply living in a condominium should watch both of these presentations that deal with major life safety issues.

WHO CAN PERFORM THE MANDATORY “MILESTONE” INSPECTIONS

The milestone inspection services may be provided by a team of professionals with an architect or engineer acting as a registered design professional in responsible charge with all work and reports signed and sealed by the appropriate qualified team member.



WHEN MUST THE MILESTONE INSPECTIONS OR “RECERTIFICATIONS” BE PERFORMED?

If a building reached 30 years of age before July 1, 2022, the building’s initial milestone inspection must be performed before December 31, 2024. If a building reaches 30 years of age on or after July 1, 2022, and before December 31, 2024, the building’s initial milestone inspection must be performed before December 31, 2025.

WHAT ABOUT BUILDINGS NEAR THE WATER?

The local enforcement agency may determine that local circumstances, including environmental conditions such as proximity to salt water require that a milestone inspection must be performed by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter.



SUPPOSE YOU NEED MORE TIME?

The local enforcement agency may extend the date by which a building’s initial milestone inspection must be completed upon a showing of good cause by the owner or owners of the building that the inspection cannot be timely completed if the owner or owners have entered into a contract with an architect or engineer to perform the milestone inspection and the inspection cannot reasonably be completed before the deadline or other circumstance to justify an extension.

SUPPOSE A PHASE TWO INSPECTION IS NEEDED? HOW MUCH TIME DO YOU HAVE?

If a phase two inspection is required, within 180 days after submitting a phase one inspection report the architect or engineer performing the phase two inspection must submit a phase two progress report to the local enforcement agency with a timeline for completion of the phase two inspection.



DOES MY CONDO HAVE TO PREPARE A STRUCTURAL INTEGRITY RESERVE STUDY?

Starting with your budget for 2026, each condominium association three stories or more in height, must perform a MANDATORY "Structural integrity reserve study" of the reserve funds required for future major repairs and replacement of the common areas.



WHO CAN PERFORM THE RESERVE STUDY?

As we know and must admit, Florida law always allowed for two ridiculous things. First, instead of requiring licensed architects or engineers, the law allowed for unqualified people on the Board to perform their own reserve study on the building and determine the life expectancy of all of the condominium's major components. Somehow, like fine wine many boards determined that the building was actually improving with age. That's what happens when you let the people who have a financial interest in the reserve study prepare it. **That is no longer going to happen.** The new law provides:

A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

WHAT ITEMS MUST BE CONTAINED IN THE STRUCTURAL INTEGRITY RESERVE STUDY?

Roof, Structure, including load-bearing walls and or other primary structural members and primary structural systems, Fireproofing and fire protection systems, Plumbing, Electrical systems, Waterproofing and exterior painting, Windows and exterior doors, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the the foregoing items.



CAN RESERVES FOR ITEMS CONTAINED IN THE STRUCTURAL INTEGRITY RESERVE STUDY BE WAIVED?

For a budget adopted on or after December 31, 2024, the members of a unit-owner controlled association that must obtain a structural integrity reserve study may not determine to provide no reserves or less reserves than required. However, you can waive all reserves, including Structural Integrity Reserves, in 2024 and 2025, but you cannot waive Structural Integrity Reserves starting in 2026. Whereas it used to require a majority of a quorum to waive reserves, now it requires a majority of all unit owners.



THE ASSOCIATION HAS NO CHOICE – REPAIRS MUST BE MADE

Florida Statute 718.113 now states that the association **shall provide** for the maintenance, repair, and replacement of the condominium property for which it bears responsibility pursuant to the declaration of condominium. This means that regardless of whether or not the association has the money on hand, repairs must be made. The association always has the power to special assess regardless of any restrictions in the governing documents. If the association chooses to borrow the funds instead, the association may do so as long as there is no prohibition against borrowing in the governing documents or requirement that the owners vote to approve borrowing.





Join us on Mondays, Wednesdays and Fridays by participating in our community association law blog. We choose a new topic each week. You get the attorney's point of view on Monday, the manager's point of view on Wednesday and the unit owner's point of view on Friday. Of course, you get everyone's point of view by reading the comments and questions. Go to: www.hoa-condoloawblog.com. To research the hundreds of topics that we previously blogged about, visit: www.condocrazeandhoas.com.

Download our App!

The Condo Craze and HOAs App for your iPhone or mobile device is here. Now, at the touch of a button, you have instant access to all laws governing condos, HOAs and Co-Ops. Also, you can: listen to every Condo Craze show; go directly to our websites; send us your questions and comments; read all of our newsletters and blogs; and register for our seminars. Search for it at the App Store.



ACCESS TO OFFICIAL RECORDS

Suppose you want to send your attorney or neighbor to view and/or obtain copies of the association's records on your behalf? Can you? Now you can. Florida Statute 718.111 (12) now states:

OFFICIAL RECORDS.— (c)1. The official records of the association are open to inspection by any association member and any person authorized by an association member.....

NOT EVERY MATERIAL ALTERATION REQUIRES A VOTE OF THE COMMUNITY



The law sometimes allows Board members to make material alterations to the common property even without a vote of the members. For example: Certain actions, including repairs could be undertaken without a unit owner vote where it was demonstrated that such action was required to protect the common elements from further damage. **Cottrell v. Thornton 449 So.2d 1291 (2nd DCA, 1984)** See also: **Ralph v. Envoy Point Condominium Association, Inc. 455 So.2d 454 (2nd DCA, 1984)** board's decision to extend a seawall without a vote of the owners is upheld where it was determined the work was necessary to preserve the common elements.

Where the board is acting pursuant to its duty to repair and preserve the common elements, it is entitled to use and rely on its business judgment. See: **Brickell Townhouse Association v. Bagdan Case No. 00-1683, Scheurman, Arbitrator.** This is especially true where the Board is following the advice of its architect or engineer.

An association should not be frozen in time, but should be able to take advantage of changes in technology and improved designs. Board's decision to replace non-compliant hurricane shutters with impact glass upheld due to the proximity of the condominium to salt-water and it was sound reasoning that impact glass might provide less maintenance costs in the future than hurricane shutters that may be harmed by air with high salt content. **Ortega v. Mirador 1200 Condominium Association, Case No. 12-02-5636, Jones, Arbitrator.**

ERIC M. GLAZER: NYU B.A. 1989 Miami J.D. 1992 Bar Licenses: Florida; New York; and District of Columbia Admissions: U.S. Supreme Court; 11th Cir. Court of App.; S.D. Fla.; M.D. Fla.; N.D. Fla.; E.D.N.Y.; and S.D.N.Y. ADR: Certified Cir. Court Mediator; Board Certified in Condominium and Planned Development Law, 2018. FL. Sup. Ct. Qualified Arbitrator.

RICHARD SACHS: Univ of Florida, BA 1990, Nova Univ. J.D. 1994 Licensed in U.S. Supreme Court; 11th Cir. Court of App.; S.D. Fla.; M.D. Fla.; N.D. Fla Certified Cir. and County Court Mediator. FL Sup. Ct. Qualified Arbitrator.

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