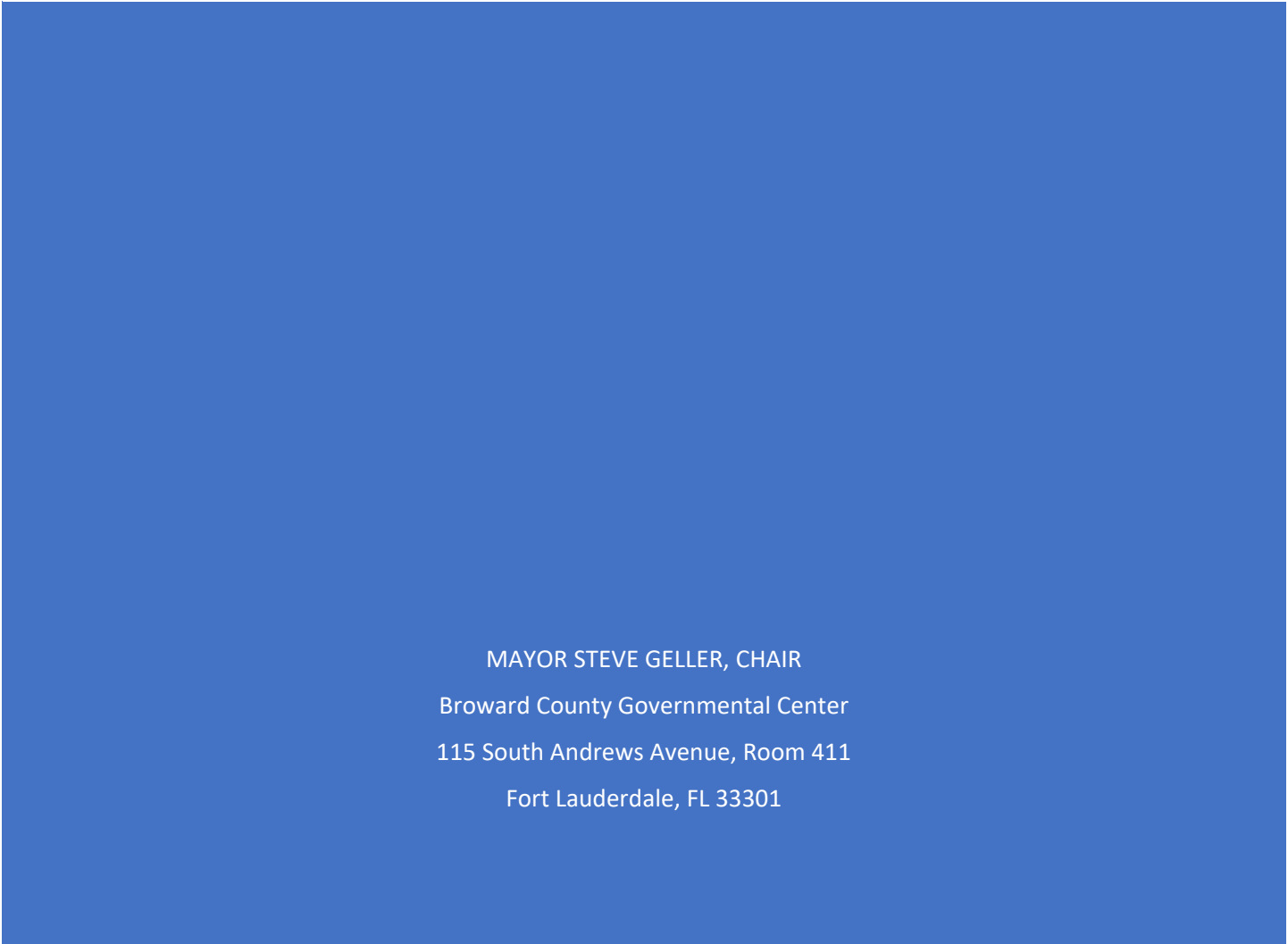




SUMMARY REPORT AND
RECOMMENDATIONS OF THE BROWARD
COUNTY CONDOMINIUM STRUCTURAL
ISSUES COMMITTEE



MAYOR STEVE GELLER, CHAIR
Broward County Governmental Center
115 South Andrews Avenue, Room 411
Fort Lauderdale, FL 33301

After the tragedy at the Champlain Towers South, I appointed a Committee to discuss the issues pertaining to condominium safety and governance. This Committee met for over 27 hours on 4 days. It consisted of a broad range of people, including 2 State Senators, 2 State Representatives, 2 Mayors, 2 City Commissioners, 2 representatives of condominium owners' groups, condominium lawyers, land use experts, representatives of Condominium Management Associations, a structural engineer, etc. The Committee heard testimony from invited guests, including engineers, condominium and insurance experts, and others. The Committee heard public testimony. The unanimous consensus of the Committee was to encourage better maintenance of condominiums, as being much cheaper in the long run than making expensive structural repairs caused by a lack of maintenance. The Committee understands the need to balance safety and affordability. The Committee represented various different interest groups, who sometimes had disparate views. For example, many of the Committee Members wanted to ban the waiving of statutory reserves, while others opposed this. The unanimous consensus was to permit waivers only after additional information was provided to the unit owners, and to increase the vote percentage required to waive the reserves. The Committee came up with 17 recommendations to improve governance and safety in condominiums, which are part of this report. It is important to note that despite the differing interests of the Committee Members, the final vote adopting the Report was unanimous.

We have attached hereto the backup materials distributed to the Committee and the links to all of the hearings. Considering the diverse makeup of this Committee, including 4 members of the Florida Legislature, when considering the testimony taken and the number of hours spent on hearings, and when considering the unanimous vote of the Committee, it is our fervent plea that the Florida Legislature give this report serious consideration, and adopt as many of the recommendations as the Legislature sees fit. Both I and our staff are available to assist the Legislature as requested.

Respectfully Submitted,

Steve Geller, Mayor, Broward County, Florida
Member Florida House and State Senator 1988-2008

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SUMMARY REPORT AND RECOMMENDATIONS OF THE BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE

In response to the Surfside Champlain Tower tragedy, the Broward County Condominium Structural Issues Committee (Committee) was created by Mayor Steve Geller to: (1) review Broward County's current rules and regulations for condominiums, (2) determine which bodies have jurisdiction over what areas, (3) receive input from the public, and (4) make recommendations to various bodies, including the Florida Legislature, state and local agencies and offices, and the Broward County Board of Rules and Appeals (BORA), related to laws, regulations, and policies for condominiums. The Committee's participating members were Mayor Steve Geller (Chair); Senator Lauren Book; Senator Perry E. Thurston, Chair of the Broward County Legislative Delegation (2020-2021); Representative Michael Gottlieb, Chair of the Broward County Legislative Delegation (2021-2022); Representative Chip LaMarca; Mayor Jane Bolin (Oakland Park), attorney and founder and managing partner of PeytonBolin, PL, a real estate and community association law firm; Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston), owner of building cleaning and maintenance services company, certified mediator specializing in associations, and licensed Community Association Manager; Commissioner Caryl Shuham (Hollywood), Bachelor of Science degree in Civil Engineering, attorney and partner of Shuham & Shuham, P.A., specializing in construction law; Michael Chapnick, Esq.; principal of Sachs Sax Caplan, P.L., and Board certified in Condominium and Planned Development Law; Toby Feuer, President of the Broward Coalition and the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals; Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado, Deputy Director of the Broward County Environmental Protection and Growth Management Department and Chief Resilience Officer.

The Committee met on August 9, 2021; August 23, 2021; August 30, 2021; and September 17, 2021. The hearings exceeded a total of 27 hours (Links to the Committee meetings are set forth in Appendix A and copies of the distribution materials for the meeting of August 9, 2021, are contained in Appendix B). During these hearings, the Committee received presentations from the following:

- Deputy County Attorney Maite Azcoitia relating to existing laws and regulations for the termination of condominiums, land use and density affecting the redevelopment of condominiums; statutory reserves requirements for condominiums; and Florida Building Code

provisions affecting the demolition and redevelopment of condominiums (Copy of memorandum dated August 5, 2021, contained in Appendix B-3).

- Paul Handerhan, President of FAIR (Federal Association for Insurance Reform), relating to insurance for high-rises, including the types of companies providing insurance for condominiums and the types of liabilities generally covered by each type; the inspections and reports currently required for insurance coverage; the responsibilities of condominium boards and condominium association managers for insurance and inspections of condominiums; and predictions of increased insurance rates and additional inspection requirements likely to be implemented in the near future (Outline of Mr. Handerhan's presentation contained in Appendix B-4).
- Dr. Jennifer Jurado regarding "Sea Level Rise-Projections, Impacts, and Resilience Considerations for Condominiums," indicating that many existing structures are below the current minimum required elevation; information regarding recent County enactments requiring an increase in the height of seawalls; recommendations for condominiums to address sea level rise, including waterproofing; methods to provide for water retention onsite; and requirements for the inspection of seawalls (Copy of powerpoint presentation contained in Appendix B-5).
- Senior Assistant County Attorney Michael Owens regarding the legal basis for Broward County's ordinance requiring an that the height of seawalls be increased where water is trespassing onto neighboring properties or the public right-of-way.
- Julian Sanchez, P.E., Todd Wasserman, and Lance Kaplan of LTM Group, LLC, as to waterproofing of condominium structures; the benefits of having community association managers oversee the letting and financing of necessary repairs, including spot checks for purposes of obtaining bids for work on the condominiums; and experiences from having managed condominiums.
- Lisa A. Magill, Esq., Board certified specialist in Condominium and Planned Development Law and Co-Chair of the Reserve Study and Reserve Funding Plan Task Force, regarding reserve studies, including their purpose and applicable regulations; the status of the Task Force's recommendations; and suggestions for clarifying and establishing parameters for the development of reserve studies by a professional and the development of manuals for the upkeep of various building components (Outline of Ms. Magill's presentation contained in Appendix B-7).
- City of Hollywood Building Official Russell Long describing triage process implemented at the City of Hollywood for the inspection of existing condominiums, beginning with the inspection of oceanfront condominiums and then proceeding inland, prioritizing condominiums over 6 stories in height and over 40 years old.

- Leonard Vialpando, P.E., Director of the Broward County Environmental Protection and Growth Management Department, regarding licensing requirements for stormwater management systems and inspections required by BORA's Building Safety Inspection Program.
- William O'Donnell, P.E., Managing Principal of DeSimone Consulting Engineers' Miami office, describing the inspections and testing performed by his firm as part of BORA's Building Safety Inspection Program, including destructive and nondestructive material testing; the effect of salt and saltwater on building components; and the impact of threshold inspections on the soundness of buildings and building materials; indicating that the cost of his firm's Building Safety Program inspections, including material testing, sampling, and the engagement of a lab, is approximately \$10,000, and inspections that also include a walkthrough of the units and parking structures, sometimes with the use of a drone, cost approximately \$25,000; and recommending that the BORA's inspection requirements be reduced to 30 years.
- Matt Kuisle, Regional Executive Director of Reserve Advisors, LLC, regarding reserve studies, including their purpose, cost, items included, and the estimating of repair costs; indicating that the cost of a reserve study is normally \$5,000 or less, depending on the size of the building and including a site visit, and less than \$2,000 if a site visit is not performed; recommended that the requirements for waiving reserve studies be increased and the eventual elimination of waivability, with a commensurate phase-in of reserve requirements over a period of time; and recommended that reserve studies should be performed at least every thirty-six (36) months.

The Committee also conducted a public hearing where members of the public were able to provide information related to the issues before the Committee. In addition to the presenters and public testimony, the Committee Members, most of whom were chosen for their expertise, contributed substantially to the extensive hearings.

The Committee discussed issues related to condominium building construction and maintenance; funding and reserves for building maintenance, including waiver of reserves and reserve studies; condominium insurance; BORA's Building Safety Inspection Program, including the timing of required inspections and enforcement; condominium association management; and education for condominium association managers, board members, and condominium unit owners.

The Committee is cognizant that condominiums form a large portion of the affordable housing stock in Broward County. The Committee is also aware that maintenance is required to ensure the safety of condominium buildings, and heard repeated testimony that good maintenance will be less expensive in the long run than skimping on maintenance, which would result in costly replacement of parts of the building or premises. For this reason, the Committee gave careful consideration to the impact of its recommendations on the affordability of condominium units and the Committee's recommendations reflect an intent that unit owners be better informed of the costs of condominium ownership. As an example, while reserve accounts are often necessary in order to allow a condominium association to perform necessary repairs without the need to impose onerous special assessments, instead of recommending the prohibition of reserve account waivers, the Committee recommended that a reserve study be performed and distributed to all unit owners and that a larger majority of the unit owners be required to approve the waiving of reserve accounts. This would allow unit owners to provide a knowing waiver of reserve accounts.

Information presented to the Committee indicates that the cost of insurance for condominiums was increasing prior to the Surfside tragedy and the expectation is that the cost will continue to increase. The consensus of the presenters and the Committee members, all experts in issues related to condominiums, is that regular maintenance of condominium buildings is less expensive than having to perform major repairs after a number of years. The Committee's recommendations provide for increased disclosures to prospective purchasers of condominium units, including reserve accounts and waivers; increased obligations and education for community association managers; and increased education and information for condominium association board members and condominium unit owners.

COMMITTEE RECOMMENDATIONS

Based on the information presented, the Committee makes the following recommendations:

Inspections

- (1) That the Building Safety Inspection Program be made Statewide and require the inspection of buildings that are at least thirty (30) years old, with existing buildings that are between thirty (30) and thirty-seven (37) years old having thirty-six (36) months to come into compliance by having the appropriate inspection(s) performed. Subsequent reinspections shall occur every ten (10) years after the initial inspection.

(2) That the Building Safety Inspection Program require that, prior to each required inspection, including the ten (10) year reinspections (Required Inspection):

- Two (2) Years Before the Required Inspection: no later than March 31, condominiums will receive written notification from the applicable local government about the upcoming safety inspection, stating that the engineer's preliminary evaluation of the structure and electrical systems must be completed by March 31 of the following year and submitted to the local government. This notice shall be posted on the condominium's official bulletin board and website (if it has one).
- One (1) Year Before Required Inspection: The engineer's preliminary safety inspection listing any deficiencies must be filed with the applicable local government no later than March 31. At that time, the condominium would be required to submit its plan(s) to address the deficiencies, including a timetable, funding source, and condominium board-approved resolution binding the condominium to complete the repairs by the end of the next year. A copy of this report and the board's proposed actions will be posted on the condominium's official bulletin board and website (if it has one). If the engineer's report identifies no deficiencies, the engineer's report will serve as the official report for the Building Safety Inspection Program.
- Inspection Year: Unless the engineer's report identified no deficiencies, a final engineering report shall be submitted to the applicable local government no later than December 31, showing that the condominium is in full compliance with the safety inspection and that all deficiencies have been corrected. Failure to comply with this deadline will be addressed by the applicable local government.

(3) That Building Safety Inspection Program requirements include:

- (i) (For waterfront condominiums only) Assessment of seawall(s) for:
 1. evidence for tidal overtopping and potential source contributing to site flooding or tidal water pooling likely to impact the building (with potential need to elevate); and
 2. potential weaknesses (e.g., seepage/failure) that could compromise the building foundation (with potential need to restore/replace);
- (ii) Material testing of concrete core samples for signs of material degradation that impact concrete strength, as reasonably recommended by the engineer of record; and

- (iii) Geotechnical analysis to assess potential for structural or foundation issues, as reasonably recommended by the engineer of record.
- (4) That the Florida Statutes be amended to require that no later than thirty (30) days after receipt of an inspection report issued pursuant to the Building Safety Inspection Program, condominium associations distribute copies of the inspection report, or the Executive Summary of said report, if provided, to all unit owners. Additionally, the condominium board shall call a special meeting to discuss the report, with notice having been provided consistent with Section 718.112(2)(c), Florida Statutes. This requirement is applicable even if no deficiencies were noted in the inspection report.
- (5) That the Florida Statutes be amended to require engineers performing work for condominium associations to file a copy of their report(s) with the applicable local government and provide written notification to the condominium association and the applicable local government of any life safety issues observed. This requirement applies and includes all inspections and is not limited to inspections required by the Building Safety Inspection Program and requires engineers to report all life safety issues that are discovered by the engineer while performing work for a condominium association.

Condominium Reserves

- (6) That the Florida Statutes be amended to require that the list of required reserves in condominium association budgets also include reserve accounts for concrete restoration and other structural issues, and additional items with deferred maintenance or replacement costs exceeding the lower of \$100,000 or ten percent (10%) of the association's annual budget.
- (7) That the Florida Statutes be amended to require that a reserve study be performed at least every thirty-six (36) months and that, in order to waive or reduce required statutory reserves, a condominium association must: (i) have conducted a reserve study within the previous thirty-six (36) months; (ii) prior to the vote related to waiving or reducing the reserves, provide a copy of the reserve study to all unit owners by physical or electronic means, if the condominium bylaws authorize electronic notice; and (iii) approve the waiver or reduction by at least a seventy-five percent (75%) majority vote of the voting interests present at a duly called meeting of the association.
- (8) That the Florida Statutes be amended to require condominium associations to provide prospective purchasers of units within the condominium with the most recent reserve study, if one was prepared within the previous thirty-six (36) months. If a reserve study current to within

the previous thirty-six (36) months does not exist, the condominium association shall provide information related to existing reserves or waivers, as applicable.

- (9) That the Florida Realtors' form contract for the purchase and sale of real property be amended to incorporate the language of Section 718.112(2)(f)4., Florida Statutes, including font size requirements, requiring that disclosure be provided for condominium sales where the funding of reserves has been previously waived or reduced by the condominium association.

Insurance

- (10) That the Florida Statutes be amended to: (i) remove best efforts language of Section 718.111(11)(d), Florida Statutes, thereby requiring associations to obtain and maintain adequate property insurance; (ii) require that condominium association insurance documents be filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation (Division); and (iii) require that a copy of notices of cancellation issued by insurers or their agents to condominium associations be filed with the Division.

Condominium Association Management

- (11) That the Florida Statutes be amended to require that condominium associations, including master associations, with greater than fifty (50) units and/or a budget of \$100,000 or more be required to obtain the services of a community association manager, licensed pursuant to Part VIII of Chapter 468, Florida Statutes, to manage the condominium property, unless a majority of the members of the board of the condominium association have obtained the minimum continuing education requirements of Rule 61E14-4.001, F.A.C., for community association managers.
- (12) That the Florida Statutes and/or the Florida Administrative Code be amended to increase the number of continuing education hours needed biennially to renew community association management licenses from fifteen (15) hours to twenty (20) hours, including one (1) hour in each of the following areas: building maintenance, building inspections, and reserves.
- (13) That the Florida Statutes be amended to include an obligation for community association managers as part of their management functions to identify issues related to the structural maintenance and integrity of the buildings, and other life safety issues, and report these findings in writing to all condominium association board members.

Education

- (14) That the Florida Statutes be amended to (i) remove the certification option for newly elected or appointed condominium association board members, thereby requiring that new board members

must satisfactorily complete an educational curriculum administered by a Division-approved condominium education provider; (ii) require that condominium association board members complete the educational curriculum every two (2) years; and (iii) increase the current two (2) hour educational curriculum to three (3) hours, to include an additional one (1) hour related to maintenance of condominium buildings.

- (15) That the \$4 per unit collected for the Condominium Trust Fund pursuant to Rule 61B-23.002, F.A.C., should remain in the Condominium Trust Fund and be used for its intended purpose; i.e., education and enforcement, rather than being reallocated to the General Fund.
- (16) With the assistance of the Florida Condominium Ombudsman Office, that there be increased education for residential condominium board members and unit owners related to the duties and responsibilities of condominium board members and unit owners, the cost of condominium ownership, maintenance, reserve funding, etc.
- (17) That educational materials be developed by the Division, the Florida Building Commission and local or regional governments regarding the maintenance of condominium property, including the benefits of regular maintenance, for distribution by the Property Appraiser's Offices with the TRIM Notices.

A copy of this Summary Report and Recommendations shall be forwarded to the Florida Condominium Ombudsman, Department of Business and Professional Regulation; Florida Senate President Wilton Simpson; Florida Speaker of the House of Representatives Chris Sprowls; the Members of the Florida Legislature; the Florida Association of Counties; the Florida League of Cities; the Broward League of Cities; the Broward County Board of Rules and Appeals; the Mayor and City Manager of all municipalities within Broward County; and other interested parties.

APPENDIX A

Links to Video of Committee Meetings

August 9, 2021: https://www.youtube.com/watch?v=0ZaGz1F_jsY

August 23, 2021: https://www.youtube.com/watch?v=v_PfN_AOhn4

August 30, 2021: https://www.youtube.com/watch?v=sUjHUTG_yUw

September 17, 2021: <https://www.youtube.com/watch?v=1j4JjHY47Us>

APPENDIX B

DISTRIBUTION MATERIALS

- B-1 Articles distributed at the meeting of August 9, 2021, entitled "How Condo Buildings End, Aggressive developers looking for a way in-or desperate homeowners looking for a way out," "Forced out of their unsafe condo building, families set off into an uncertain future," and "The Surfside condo that collapsed was vulnerable to sinking earth, engineers say. Your house might be too."
- B-2 Email from Commissioner Caryl Shuham dated August 8, 2021
- B-3 Memorandum from Deputy County Attorney Maite Azcoitia dated August 5, 2021
- B-4 Outline of presentation by Paul Handerhan
- B-5 Powerpoint presentation of Dr. Jennifer Jurado
- B-6 Article distributed at the meeting of August 23, 2021, entitled "incentives to encourage structural and electrical repairs to multi-family residential buildings endorsed by Miami beach planning board"
- B-7 Outline of presentation by Lisa A. Magill, Esquire
- B-8 Articles distributed at the meeting of August 30, 2021, entitled "57-year old condo could be demolished, rebuilt taller than in Miami Beach" and "Related Group, Two Roads near deal to buy out Bal Harbour condo"

How Condo Buildings End

Aggressive developers looking for a way in—or desperate homeowners looking for a way out.

BY [HENRY GRABAR](#)

AUG 04, 2021 5:45 AM



River City in Chicago. Getty Images Plus

Bertrand Goldberg’s famous River City complex in Chicago looks like nothing so much as an old bus operator’s coin dispenser, glass windows stacked inside its joined concrete cylinders. The South Loop megaproject was the architect’s [try at a utopian urban neighborhood](#), complete with offices, shopping, restaurants, a park, and the “River Road,” a winding inner atrium lit from skylights. It’s a landmark of Brutalist design, a monument to ’80s thinking about cities, and a fixture of the Chicago Architecture Boat Tour.

The building also tells a story Goldberg could not have anticipated: the rise and fall of the Chicago condo. When completed in 1987, River City’s 448 units were rentals designed to appeal to middle-income yuppies who found city living attractive but homeownership out of reach.

In 2001, one cycle of gentrification later and at the start of a massive run-up in the Chicago housing market, the concrete icon was converted to condos. But prices never recovered after the 2008 crash, and owners soon found themselves unable to recoup their investment and facing major maintenance bills. Investors trying to cash in on Chicago's hot rental market swooped in.

Making condos is easy. Unmaking condos is hard. When River City became a "deconversion" target in 2016, Chicago required 75 percent of owners to vote for a sale. (It's now 85 percent.) Once that happened, everyone else was compelled to sell at the agreed-upon rate. Chicago-based developer Marc Realty made three offers over two years for River City. After owners agreed to sell for \$100 million, Marc canceled the sale and dropped the offer by \$10 million. While owners pondered the lower bid, Marc pitched [additional deals to the holdouts](#)—a process some owners on both sides of the vote later categorized in a lawsuit as bribery. Even after Marc's hard bargaining, the sale was Chicago's priciest deconversion recorded and its largest by unit count. River City is a rental building again, and its raw concrete atrium has been painted white, a concession to the tastes of today's yuppie renters.

Stories like this make Chicago the perfect place to understand how condos usually meet their end—not in a pile of rubble, but in a buyout that leaves some owners feeling lucky and others feeling betrayed. Lauren Kerchill, the owner of a Gold Coast unit overlooking Lake Michigan, was a holdout when investors came to buy out her building. After fighting to toss her condo board, she [told Crain's Chicago Business](#) she was called "petty," "greedy," and "uneducated." She just didn't think she could find another home like hers nearby. In the end, she didn't have a choice. Her neighbors voted to sell her building, at 1400 Lake Shore Drive, [for \\$107 million in 2019](#)—another record, this time the most expensive deconversion in the country.

In an attempt to stand up for condo owners on the losing side of deconversion votes, the Chicago City Council decided in 2018 to increase the share of owners required to approve a sale, up to 85 percent from 75. "Most people, when they purchase a condominium, they are buying a home more than they're buying an investment. So, a condo deconversion has a direct impact on people's ability to plan their lives," Alderman Michele Smith told the Chicago Tribune.* Deconversions were upending the retirement plans of Chicagoans who thought they would not have to move again, she said, and developers didn't always just put things to a vote in order to take over a building.

Sometimes, developers bought up units on the sly, knowing that control over assessments and expenditures could come as soon as a majority. "Once you have a simple majority, it's pretty much game over," says Alex Argianas, a deconversion consultant in Chicago. When a bulk owner takes control, banks can balk at providing financing to new buyers. What if the bulk owner goes broke? That in turn makes it cheaper for investors to purchase the remaining units. The fewer retail owners to appease, the lower the deconversion bid (and the lower the payout for each unit). For investors, the approach is risky and slow, but potentially lucrative in a pricy rental market. That is what happened at 21 East Chestnut, also in Chicago's Gold Coast neighborhood, where the developer Strategic Properties bought nearly 40 percent of the building before [initiating a deconversion](#).

Professional landlords can pay above-market rates for apartments in deconversion sales, since the whole building is worth more than the sum of its units. They can finance and streamline the

maintenance that bedevils amateur boards. They can join firms like Blackstone in [profiting from a housing shortage](#) at a time when low interest rates have pushed investors to find new ways to make money.

Making condos is easy. Unmaking condos is hard.

Longtime homeowners tend to think that's not fair. Lawsuits abound, and some Chicago condo boards are starting to play defense by amending their bylaws to head off takeovers. But there's another side to the story, in which deconversion is the only way out for condo owners stuck in deteriorating properties. In June, the collapse of Champlain Towers South in Surfside, Florida, drew attention to the challenges that confront condo boards as they assess structural damage and raise money for repairs. Maintenance bills for the [Great American Condo Boom of the '70s and '80s are starting to come due](#) in areas like South Florida.

This is also a reason Chicago is the nation's capital of deconversion, a place where great swaths of owner-occupied apartments are being replaced with rentals.

While states like Florida, California, and Hawaii saw tons of new condo construction in the decades after the concept was established in the 1960s, Chicago saw a different kind of boom: older buildings becoming condos. Fearing rent control, facing declining profits, or saddled with obsolete prewar commercial space, landlords in Chicago raced to sell off their units in the 1970s. Yuppies and middle-class workers gobbled up these starter apartments, which provided an easy and cheap entry point to homeownership.

Fifty years later, those buildings are among the oldest condominiums in the country. Owners who have not kept on top of maintenance, and even some who have, sometimes find themselves facing massive repair bills.

Andy Friedman represents condo boards that are trying to find an exit strategy. One recent project featured 115 units among 113 owners. "Their resale values were stuck in the mud, and it was glaringly obvious that it was worth more as apartments," he said. "Units that could never sell over \$200,000 got \$250,000. Absolutely they get more for their unit—otherwise, why do the deconversion in the first place?"

When boards fail to drum up support for a deconversion, Friedman said, values can fall quickly once a bulk owner enters the picture or maintenance problems become apparent. In one dilapidated building in the Oak Park suburb of Chicago, owners rallied for a sale with 78 percent of the vote. Had Oak Park been subject to Chicago's new rule requiring 85 percent, Friedman said, the owners would have "raced each other down the toilet," panic-selling their high-maintenance units to professional landlords one by one.*

Often, deconversions are battles fought less between owners and investors than among the owners themselves. David Lampert managed operations at Kennelly Square, a 22-story building in Lincoln Park built in 1970. Like River City, Kennelly Square had gone from rentals for nurses and flight attendants to condos for young traders and retirees. Starting in 2003, Lampert shepherded the condo association

through some significant construction projects, including rebuilding the pool deck. But a multimillion-dollar bill for replacing the windows broke this spirit of collaboration.

Families and older, longtime residents who planned to live out their days overlooking the park were ready to spring for new windows. Younger owners and investors renting out their units balked, and prompted the search for a buyer. Kennelly Square was sold to Strategic Properties for \$78 million in 2018. Some owners felt the deconversion offer they received was the best one they'd ever get. Others said they were forced to sell their renovated, well-kept apartments in an expensive neighborhood at a discount.

At the end of the day, Lampert said, it wasn't even that anyone was being shortsighted or irrational. Long-term buyers rightly placed a high value on staying in a place they loved and recognized their deconversion payout wouldn't get them much nearby. Newer buyers rightly realized they'd be paying a huge assessment for a 40-year improvement that would never make its way into their resale price when they flipped in four years. The sale was approved by a couple of votes, and nearly a quarter of the owners were forced to sell against their wishes.

"The Kennelly Square deconversion should live on in the annals of condominium history as an example of what can happen when board members do not perform needed maintenance on a timely basis," the broker Bruce Theobald, who owned a condo in the building and voted to sell, [emailed to Crain's Chicago Business](#).

Today, it's K Square, and there's a shuffleboard table in the common room.

Forced out of their unsafe condo building, families set off into an uncertain future

By ANGIE DIMICHELE

SOUTH FLORIDA SUN SENTINEL |

AUG 05, 2021 AT 6:22 PM

CORAL SPRINGS — On the last night residents could stay in their homes at the Villa Bianca Condominiums, a few renters fraught with worry were still packing up their belongings shortly before dark.

Few windows showed any lights on inside. Moving trucks were parked in the lot as workers carried furniture and boxes outside into the heat. A little girl's twin mattress, the pink sheets still on, a child's bicycle and broken furniture sat in a haphazard pile next to the dumpster, the families not able to take them along.

ADVERTISING

Residents at the Coral Springs condo building were given little notice that they would need to leave their homes. Conditions at Villa Bianca lingered for years until the Surfside condo collapsed. Two weeks ago, the city deemed the building unsafe with its dilapidated roof, rotted wood and fire hazards. Pink slips of paper posted on the doors ordered everyone to be out by Thursday.

[RELATED: Condo building ruled unsafe; residents ordered to leave »](#)

They face an uncertain future. Though the city does not have an exact number of how many people are now displaced, a total of 25 people who lived there have been helped with temporary housing, city spokeswoman Lynn Martzall said.

Fifteen of the 16 units were occupied. People in nine of the units contacted the city looking for help, and they are all staying at a nearby hotel, paid for by the Coral Springs Community Chest, a local nonprofit organization. Family Success Centers, another nonprofit organization in Broward County, is working with residents to find permanent housing, Martzall said.



Pieces of the roof have cracked and fallen, the wood supporting the structure has rotted and walls and ceilings have been scattered with mold at the Villa Bianca Condominium in Coral Springs as occupants prepare vacate their units Thursday August 5, 2021. The City of Coral Springs deemed the building unsafe two weeks ago. The city gave owners the option to make the necessary repairs or it will be demolished. Pieces of the roof have cracked and fallen, the wood supporting the structure has rotted and walls and ceilings have been scattered with mold. (Mike Stocker / South Florida Sun Sentinel)

But the hotel stay buys them only five to seven days. Some plan to go stay with family. Many don't know where they will go after that.

James Haddad, 69, and his 20-year-old son live in one unit and own another. Haddad estimated that making the necessary repairs could cost about \$100,000 and could take a few months to complete.

Haddad moved there in the early 2000s. He remembered it when it was a building that owners maintained, years before it fell into its current state of disrepair. His son looked at the cracking steps up to the second floor and remembered growing up at the building.

"It was neglected economically," Haddad said. "Can you imagine a condo paid for one day, and the next day you're homeless?"

[RELATED: Building safety audit: Few Broward cities completed 40-year safety checks »](#)

Haddad recalled that three years ago, the members paid the condo association a \$225 monthly fee. It was then dropped to \$140. He said the last time anyone paid an association fee was about two years ago. Some owners have pointed fingers at others, but it is unclear when members last paid any fee since the association was defunct or how many members were paying the fee.

Attempts to reach names of those who were once on the condo association's board and those whose names are on the reinstated association were unsuccessful Wednesday and Thursday.

Records from the city show the condo was supposed to have its 40-year safety inspection done in 2015, but it never was. The city previously told the South Florida Sun Sentinel it had not sent notices to the condo until [four years went by](#).

Martzall said the condo association that existed was dissolved but reinstated Wednesday. Prior to Wednesday, the last record filed with the Broward County Property Appraiser's Office for the condo's incorporation was when it was administratively dissolved in September 2020.

The city gave the owners two options: make the repairs or the city will tear it down.

As of Thursday, Martzall said no owner or person from the newly reinstated association had responded to the city's ruling deeming it an unsafe structure. No one has contacted the city to say the repairs would be made or to let them know that the association was reinstated.

"Today is the day tenants must vacate and no repairs have been made, nor has any landlord or the association's registered agent contacted the city with updates about repairs," Martzall said in an email Thursday.

Aside from the list of seven violations given to the owners, Martzall said the water bill for the building at 3990 Woodside Drive is more than \$12,000 past due.

"This is not the reason for vacating, but important to note, because that important utility was not being paid, nor was the building being properly maintained," Martzall wrote.



Kayla Pierre,11, gets ready to leave thei apartment she lives in with her family at the Villa Bianca Condominium in Coral Springs on Thursday August 5, 2021.They plan to stay with family after the City of Coral Springs deemed the building unsafe and ordered all of the occupants to vacate the building. The city gave owners the option to make the necessary repairs or it will be demolished. Pieces of the roof have cracked and fallen, the wood supporting the structure has rotted and walls and ceilings have been scattered with mold. (Mike Stocker / South Florida Sun Sentinel)

Several residents said that their water had been shut off in the time that they lived at Villa Bianca. Ally, who declined to give her last name because she said she is embarrassed by the situation, said she went five days without water about a month and a half ago and more recently for three days.

The 30-year-old accountant and her two children, ages 6 and 7, have lived at Villa Bianca for a year. On Thursday afternoon, after a night of little sleep, she was still gathering her things before heading to the hotel where they will stay for the next five days.

“It’s nerve-racking, not going to know what’s going to happen,” Ally said at her condo Wednesday night.

She had planned to stay at the condo, saving until she could buy a home of her own. Now, she'll have to start over, she said.

"I'm trying to just take it one moment at a time," she said. "My babies are here, my plants. I basically built my life here."

Monica Defreitas, 48, who cleans homes in Coral Springs, and her 15-year-old daughter, Nadalie, left their unit on the second floor Thursday and moved into a new place.

She and her daughter left much behind as they moved their two beds in next to each other in their new one-room apartment. Defreitas said it took her almost the full two grueling weeks to find another place. She found the apartment the day before needing to move out.

"I went so many places, and people just taking your names, your address they won't call you back. A lot of places I went, and I didn't get through," Defreitas said.



Angie DiMichele

South Florida Sun Sentinel

The Surfside condo that collapsed was vulnerable to sinking earth, engineers say. Your house might be too.

By MARIO ARIZA and DAVID FLESHLER

SOUTH FLORIDA SUN SENTINEL |

AUG 07, 2021 AT 9:00 AM



A home at 222 West Kelly Park Road in Apopka is swallowed by a sinkhole on Sept. 19, 2017. The sinkhole is a result of Hurricane Irma. In South Florida, where sinkholes are rare and smaller than those to the north, subsidence is more gradual. When it takes place unevenly, with one side of a building settling faster than the other, it can crack floors, distort window frames and generate lawsuits over insurance coverage. (Stephen M. Dowell/Orlando Sentinel) (Stephen M. Dowell / Orlando Sentinel)

Just days after the collapse of the condo tower in Surfside, an obscure study emerged that the building had been sinking into the earth for years.

It remains unclear whether the settling, or subsidence, of Champlain Towers South [was a factor when the 12-story building crumbled](#) to the ground in the middle of the night on June 24, killing 98 residents. But the phenomenon of subsidence occurs throughout South Florida and has been implicated in damage to structures, especially houses, from Key West to Palm Beach.

In its most spectacular form, subsidence (pronounced subs-EYE-dense) appears as gaping sinkholes in Central Florida, where the ground collapses over limestone that's been dissolving for years, creating cavities that can swallow houses.

In South Florida, where sinkholes are rare and smaller than those to the north, subsidence is more gradual. But when it takes place unevenly, with one side of a building settling faster than the other, it can crack floors, distort window frames and generate lawsuits over insurance coverage.

The South Florida Sun Sentinel identified at least 30 instances over the past 15 years in which houses were damaged by shifting soil. In one extreme example from the 1980s, a Miami skyscraper sank 5 inches immediately after it was built. But in the majority of cases, it's only fractions of inches over decades.

But those examples are certainly an undercount. Scientists are [just now trying to map and measure subsidence in South Florida](#), not necessarily in response to the Surfside condo collapse but as an attempt to measure the impacts of sea level rise. The state Legislature has restricted payouts to homeowners for subsidence, reducing the number of claims likely to appear in the court record. Insurers don't have to report cases that they settle out of court, anyway.

[RELATED: Buildings don't just fall down. Why did the condo in Surfside? »](#)

But even with the Legislature's decade-old restrictions, Florida leads the nation in annual sinkhole insurance claims, with about 5,000 per year, according to [Mark Friedlander of the Insurance Information Institute](#). The average claim, Friedlander says, is for about \$140,000.

Subsidence has damaged the home of Surfside's former mayor. In Parkland, about a dozen homes required foundation repairs from subsidence in the past three years. In Palm Beach Gardens, sinking earth cost Constance Bonvechio her house, cracking the ceiling and foundation, and leading to a lawsuit against her insurance company.

“If the decision [of the court] was a sinkhole, I was covered for it,” Bonvechio said, “But I was not covered for organic matter.”

The damage to Bonvechio’s home wasn’t from a sinkhole. Bonvechio says inspectors drilled for sinkholes at least five times. The last time, “they went with an auger underneath the garage where the main problem seemed to be.”

They found pine trees, she said. “There were pine trees decomposing under the house,” causing subsidence.

Bonvechio and her insurance company ultimately settled the case for an undisclosed amount in January 2013, court records show. Unable to afford the cost of repairs. Bonvechio sold the house for its land value.

The new owners razed the damaged structure, refilled the lot, and built a new home.

An issue for your house

During the breakneck expansion of South Florida’s endless suburbs, some builders didn’t always drain and fill the swamp responsibly — opening the door to a future of buildings slowly and unevenly sinking across the region.

Though it has not been extensively studied by researchers, anecdotal evidence seems to point to subsidence occurring across Southeast Florida in small pockets, especially in areas where the soil contains organic matter or was not properly prepared.

Subsidence was a major issue during the initial development of the region, when swamp and marsh were first drained. As a 1960s soil survey of Broward County notes, “with drainage, the organic soils are subject to oxidation and subsidence.” The study mentions the Dania, Lauderhill, and Plantation soil formations as vulnerable. It says in order for the soil to be useful for anything other than farming, the topsoil of fertile muck has to be removed and replaced by fill.

“What happens is the guys didn’t do the preparation of the soil by the compaction methods that can be used or they did it half-baked,” said Richard Slider, president of Slider Engineering Groups of West Palm Beach, who investigates the causes of building damage.

That leaves homes with concrete slab foundations placed directly on the soil vulnerable to incorrectly prepared land.

[INVESTIGATION: Lax enforcement leaves South Florida condos at risk, Surfside catastrophe reveals »](#)

“As a result [of the subsidence], it causes this differential settlement,” Slider says, “and that’s what causes the problem. If the house is settling three-quarters of an inch on one side and a half-inch on the other, that’s a problem because the house wants to bend or break, and that’s what causes the cracks.”

“You have subsidence everywhere,” said Daniel Lavrich, the structural engineer who chairs the Broward Board of Rules and Appeals, which enforces the building code. “Soil tends to settle over a period of time. Whatever soil you have, if you put a heavy load on the soil, it’s going to settle more than if it didn’t have a heavy load on it.”



The house of Daniel Deitch, former mayor of Surfside, is settling. The subsidence has led to an uneven door. (Daniel Deitch/Daniel Deitch)

Daniel Deitch, former mayor of Surfside and a current resident, says he has uneven subsidence going on at his house.

“I know the house is on spread footers,” he says of his 1948 home. Spread footers are a type of foundation that distributes the weight of a structure on soft soils. Even with the special foundation, Deitch says he has cracks in his ceiling in one room and a door that has shifted.

Subsidence, if caught early, can be corrected.

City of Parkland building official Bill Tracy has experience dealing with sinking earth. In response to an inquiry from the Sun Sentinel, Tracy said Parkland has had “perhaps a dozen SFRs [single-family residences] that have had foundation repairs due to differential settling,” in just the past three years.

According to Tracy, subsidence issues with seven homes in the Cascata housing development were identified during construction and remediated. Tracy said most of the houses with foundation issues have been 25-40 years old.

[RELATED: Underground garages enrich developers, but create expensive problems for homeowners »](#)

“This is normally due to the ground under the slab drying and shrinking over decades.” he said, adding that the houses typically settle in only a ½- to 1-inch range. Engineers sometimes repair the slab using pressure-injected foam that levels the foundation, according to documents provided by Tracy.

But getting an insurance company to pay to fix the foundation is another matter entirely.

‘Cautious homeowners’ need multiple insurance plans

Florida’s homeowner insurance regulations often can leave people with a sinking feeling when they realize that uneven subsidence — and even full-on sinkholes — might not be covered.

Now, if you want to protect your home from subsidence you have to purchase extra insurance.

That’s because Florida law once required homeowners insurance to provide sinkhole coverage, but not coverage for subsidence. Today, it covers only “catastrophic ground cover collapse.”

By about 2010, sinkhole claims across Florida were rising. So in 2011, Florida’s Legislature altered the law to restrict payouts for sinkhole claims to only the most catastrophic cases. That meant that many people whose homes were merely damaged by subsidence in Southeast Florida were often not eligible for payouts.

Stephen Marino, managing partner of Ver Ploeg & Marino, a Miami law firm that represents insurance policy holders, said insurance companies have spent years carving out exceptions to homeowners coverage to reduce their costs. Now, if a homeowner wants coverage for a specific risk like a flood or a sinkhole, they have to buy it separately, he says.



In 1981, a sinkhole in Winter Park opened up gulping down 250,000 cubic yards of soil, five Porsches at a foreign car repair shop, the deep end of an Olympic-size swimming pool, chunks of two streets and a three-bedroom home. Picture taken May 11, 1981. (Red Huber, Orlando Sentinel file) (Orlando Sentinel)

“In Florida, to be a fully covered homeowner in certain parts of the state, you now have to have a property insurance policy for liability coverage, a windstorm policy, a flood policy and a sinkhole endorsement or separate sinkhole coverage,” he said. “Florida is treated differently than other states because a cautious homeowner has to buy four separate insurance policies for the same structure.”

Not a lot of people do, says Paul Handerhan, president of the Federal Association for Insurance Reform, a consumer-focused watchdog group.

“The broader coverage is more expensive, and I don’t believe many people purchase it,” he said.

One reason might be the high deductibles.

Friedlander, from the Insurance Information Institute, points out that optional sinkhole coverage has deductibles set by law at either “1%, 2%, 5% or 10% of the property dwelling limit. So, if your home’s dwelling limit is \$300,000, and you have a 5% deductible, the deductible would be \$15,000 before a claim payout is made by your insurer.”

In 2010, sinkhole damage claims in Southeast Florida almost doubled, data from the Florida Department of Insurance Regulation shows. Between 2006 and 2009, Miami-Dade and Broward accounted for only 2.9% of all sinkhole claims state-wide. In 2010, the two counties accounted for 4.2% of all claims statewide.

Hernando, Pasco, Hillsborough, and Pinellas counties, known as “the sinkhole belt,” accounted for well over 85% of all sinkhole claims in and payouts in the early 2000s.

The 2011 laws also had predictable effects. In one 2017 lawsuit out of West Kendall in Miami-Dade, a judge found in favor of an insurance company simply because the house in question had not collapsed — even though the insurance company recognized that the “cause of distress to the property is related to non-engineered fill causing settlement of the soils which caused damage to the home,” court records read.

But not all sinkhole claims go unpaid.

“I myself have 30, 40 claims in the Hollywood area, in the Plantation area, South Miami area, where the engineers for the insurance companies have confirmed sinkhole activity,” says Howard Levine, an attorney who has represented Broward homeowners in sinkhole cases against insurance companies.

Rarer in larger buildings, but possibly more dangerous.

Subsidence has affected at least one other large building in the area. In downtown Miami, the opening of the 47-story building now called Miami Tower was delayed in 1988 after the building sank 5 inches on

one side, disrupting the operation of its elevators. Engineers had to remove and reinstall the elevators after the building finished settling into its foundation.

In Surfside, the Champlain Towers building sank at a rate of about 2 millimeters a year in the 1990s, according to a study by Florida International University professor Shimon Wdowinski.

“Two millimeters per year is usually not a big threat,” Wdowinski said, unless the building was subsiding unevenly, though the data from his study cannot speak to that.

Wdowinski used satellite data to determine that the building itself was sinking. He also detected small pockets of land subsidence that were distributed along the western area of Miami Beach, a part of the city that was historically built on fill dredged from the bottom of Biscayne Bay.

[RELATED: Blame Miami Beach’s high-tide flooding on sea-level rise and climate change | Opinion »](#)

But it appears that the Surfside building may have lacked design elements intended to prevent it from settling unevenly, say two independent civil engineering experts who reviewed the building’s plans.

Like most large structures in Florida, Champlain Towers South was built on piles — long concrete rods sunk or pounded deep into the earth that hold the building up in soft or mushy soil.

Atorod Azizinamini, dean of the Department of Civil and Environmental Engineering at Florida International University, says that the plans for the Surfside building lacked any indication that its support pilings were connected by grade beams, which can tie them together and prevent them from settling at different rates.

Mohamed W. Fahmy, a lecturer in engineering at the University of Miami who also runs a structural consulting firm, concurs with Azizinamini’s analysis about the building’s vulnerability to lateral movement caused by differential subsidence.

He points out that the building’s foundation — an almost foot-thick slab of concrete laid around all the piles — does not have rebar connecting it to the piles at both its top and bottom.

Both Fahmy and Azizinamini said that the design elements lacking from the building don’t prove that uneven settlement actually took place, just that the building lacked an element designed to prevent it.

“You’re going to find out many factors played a role in this thing,” Azizinamini said. “Not just one.”

Allyn Kilsheimer, the engineer hired by the Town of Surfside to investigate the collapse, is skeptical of theories that the building was vulnerable to differential subsidence.

“We’ve done close to a thousand buildings that we have on piles. We don’t have grade beams in any of those,” he said.

Mario Ariza is an investigative reporter for the Sun Sentinel. You can follow him on Twitter

@inaminorkey or email him mariza@sunsentinel.com.

David Fleshler can be reached at dfleshler@sunsentinel.com and 954-356-4535.



Mario Ariza

South Florida Sun Sentinel

APPENDIX B-2

From: Caryl Shuham <CSHUHAM@hollywoodfl.org>
Sent: Sunday, August 8, 2021 12:55 PM
To: Geller, Steve <SGELLER@broward.org>
Subject: Re: [EXT]Aug. 9, 2021 Agenda - Broward County Condominium Structural Issues Committee

External Email Warning: This email originated from outside the Broward County email system. Do not reply, click links, or open attachments unless you recognize the sender's **email address** (not just the name) as legitimate and know the content is safe. Report any suspicious emails to ETSSecurity@broward.org.

Mayor Geller,

Thank you creating this very critical committee and allowing me to be a part of it. As an elected official in Hollywood's eastern most district with its many condos, as a lawyer with a degree in civil engineering focused on construction law, as a member of the board of my own beachside condo preparing for its 40-year inspection, and as a member of the Broward Climate Change Task Force, I feel uniquely qualified to participate and greatly appreciate the opportunity to do so. I will be joining the meetings remotely on 8/9 and in person on 8/23 and 8/30.

Please consider having Keren Bolter speak to the group about geological and land subsidence monitoring in coastal areas (and other resiliency topics). She was quoted immediately after Surfside in USA Today, "Investing in preventative measures instead of reactive responses saves lives, money and time."

<https://www.usatoday.com/restricted/?return=https%3A%2F%2Fwww.usatoday.com%2Fstory%2Fnews%2Finvestigations%2F2021%2F06%2F24%2Fbuilding-collapse-miami-structure-had-been-sinking-into-earth%2F7778631002%2F>. Here is her LinkedIn bio:

Dr. Keren Bolter leads climate change and resilience initiatives in South Florida. Her work as senior planner at Arcadis includes GIS modelling, vulnerability analyses, adaptation planning, green infrastructure, and outreach/engagement. She overlays risk data to map impacts of climate shocks and stressors with the intention of identifying opportunities for prioritizing risk hotspots. In 2018, Dr. Bolter led the development of five FEMA applications, all of which are being successfully awarded. These grants will provide nearly \$40 million to support planning and to protect infrastructure for jurisdictions in Florida and Virginia. Dr. Bolter has presented her Sea Level Rise and storm surge models for TEDx Miami, NBC, PBS, National Geographic, and more. Her success lies with her inner drive to increase awareness on environmental impacts in a positive way which inspires a call to action.

Recently, I organized a meeting between City staff members and Hollywood residents living in older condos on the barrier island within Hollywood. The meeting served to enhance staff's understanding of the challenges condo owners and their boards are facing. Below is a list of ideas the new County committee might consider as suggested by these residents and staff.

With warmest wishes,

Caryl

SUGGESTED CHANGES TO APPLICABLE LEGISLATION IN LIGHT OF SURFSIDE COLLAPSE (Please forgive typos, etc. we wanted to get this to you before tomorrow)

Mandated Certifications, Inspections, and Engineering Reports:

- The certification requirements need to be broader (e.g., include geotechnical, foundation, outdated safety issues and more)
- 40 years is too long to wait to re-certify any building. Suggested: initial 15 years plus every 5 thereafter; every 10 years with complete concrete and foundation checks. After the initial certification, re-certified every 5-7 years. (It is recommended that buildings be painted every 5-7 years, so it would make sense to ensure the concrete is in good shape before painting.)
- More frequent basic life-and-safety inspections. (Use these inspections to "force" or trigger an increase reserve schedule. That way associations have some professional engineering expertise driving what money is put aside.)
- Engineering report should be completed at least a year in advance of and repairs under contract by anniversary date.
- When an engineer is called in to certify or otherwise assess an issue, their report should be registered with the municipality. [This is important so that in the event there is a board change, the work that is recommended by the engineer stays on track.]
- Concrete roof slabs should be certified by an engineer before a roofing permit is issued.
- During the recertification, items that affect the safety should be updated to current code when possible. High risk safety rules should not be avoided by grandfathering. (e.g., the code for balcony railings has changed but older buildings are still allowed dangerously wide pickets due to grandfathering. If this is not mandated, members will not voluntarily spend money until something tragic happens.)
- Pilings/ foundations need to be part of the requisite certification process at certain key anniversaries (e.g., 20 years) Use ground-penetrating radar to analyze the concrete and steel that make up the building. Take samples of the concrete for strength testing.
-

Condo Laws (Fl. Sttt. Section 718)

Reserves

- Allow for partial reserves or full reserves but never no reserves. (Inadequate reserves are the reason for huge assessments which in turn displace seniors and others on fixed incomes)
- Mandate reserve studies every 3-5 years and the amount to be reserved should be based on that report.
- Broaden categories of expressly required reserves
- Mandate reserves for ongoing engineering studies.
- Mandate reserves for foundational investigations (or other roots of Champlain collapse once determined).
- Revise reserve accounting from the component method to the pooled method. This way if there is not enough money in, for example, the painting component you can use money from elevator component until you can replace the money in the reserve account.

Board Members

- Annual condo training mandatory – no opt out. Training to include basic building structural safety and proper maintenance as well as critical nature of professional engineering opinion (too many board members deem themselves “experts”)
- There should be a training component similar to the Supreme Court Certified Mediation Training program. This would make it easier to find qualified board members.
- Afford board members qualified immunity
- Create “safe harbor” for board members if they rely on a written professional opinion (e.g., engineering, legal)
- Legislate better indemnification/insurance coverage for board members.
- Allow for non-owners to be on a board of directors, if they have certain licensed professional qualifications, such as an attorney, engineer, real estate broker, community association manager, etc.

Property Management

- Any building that has more than X units (e.g.,40) or Y floors (e.g., 6) must utilize and budget for a licensed property manager.

Special Meetings

- Once the required engineering report is in hand, condo should be required to hold a special meeting where all owners get special notice (like annual meeting). Engineer and municipal building official must attend. Residents to be notified at this meeting that failure to timely repair will result in huge daily municipal penalties for which association is responsible (no longer can repairs be delayed.)

Owner Initiated Inspections

- Create unit owner-initiated private or municipal building department inspections (circumventing condo board). For example, if 10% of owners sign a complaint, an inspector must investigate identified safety issues (need a mechanism to preclude boards from sweeping issues under the rug and covering up in order to save money.)
-

Government Obligations

- Municipalities should send out required inspection notices at least 2 years before the subject building anniversary. In today’s market, 180-day period to complete repairs is impossibly short.
- Mandate that municipalities assess financial penalties for repair delays. (As incentive to compliance with certification rules)
- Municipality to provide a list of available/knowledgeable/qualified engineers who are taking on local work
- Any countywide engineering to be with shared (e.g., land subsidence /flooding/drainage, etc.)
- State/County should commence monitoring land shifts in coastal areas. (Inefficient for a single city or building to do this). Per Dr. Keren Bolter, "Investing in preventative measures instead of reactive responses saves lives, money and time." USA Today.
- FDOT must fix all roadway drainage issues may be damaging buildings or causing sinkholes due to flooding. (e.g. faulty storm drainage systems including flap gates and check valves from ICW have failed). Question: If the drainage pipes, basins, and check valves are the responsibility of FDOT and the State, are they also responsible for any structural damage that might have been caused by rising waters due to the failure of their equipment onto adjacent buildings all along

A1A? If yes, what action can a city take on behalf of its residents against FDOT and get FDOT to pay for any resulting damages, particularly now that there are ongoing structural inspections of buildings due to the calamity in Surfside?

- State/County should require developers do geotechnical investigation of surrounding buildings.
-

Insurance

- Insurance companies should offer discounts to condos that get engineering inspections:
 - 5 years 10% discount
 - 10 years 5 % discount
 - and so on

(These discounts would easily offset the cost of the engineer's reports and minimal maintenance instead of waiting till repairs are excessive.)

- Need better controls on insurance companies re: costs, deductibles and delays of payment using the court system.

Caryl S. Shuham

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Notice: Florida has a broad public records law. All correspondence sent to the

City of Hollywood via e-mail may be subject to disclosure as a matter of public record.

Andrew J. Meyers
County Attorney



OFFICE OF THE COUNTY ATTORNEY
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MEMORANDUM

TO: Mayor Steve Geller

FROM: Maite Azcoitia, Deputy County Attorney /s/ Maite Azcoitia

DATE: August 5, 2021

RE: **Condominium Structural Issues**
CAO File: 60053-0000

You have asked several questions related to condominiums and existing laws and regulations that would affect their redevelopment, including existing land use and density requirements, termination of condominiums, insurance requirements and statutory reserves, and Florida Building Code provisions requiring the demolition of unsafe buildings when correction of deficiencies exceed certain thresholds.

Land Use and Density Requirements

The maximum density permitted by the Broward County Land Use Plan is fifty (50) units per gross acres. However, existing condominiums in the Coastal High Hazard Area that were subject to past decreases in density resulting from the adoption of the 1977 or 1989 Broward County Land Use Plans may be redeveloped to the actual built density and intensity, provided that the redevelopment meets all public safety codes in effect at the time of redevelopment. This includes the Florida Building Code and the flood elevation and hurricane evacuation standards. The Coastal High Hazard Area, also referred to as the Coastal Storm Area, includes properties directly connected to the mainland by bridges and all low-lying properties that have restricted evacuation and emergency access. The Coastal High Hazard Area is reflected in the map attached to this memorandum.

Termination of Condominium

Condominiums are created as authorized by statute and are subject to covenants that encumber the land and restrict the use of real property. In some circumstances, the Florida Legislature has found that the continued enforcement of those covenants may create economic waste and areas of disrepair that threaten the safety and welfare of the public or cause obsolescence of the property for its intended use and thereby lower property tax values. In such instances, it is the public policy of the State to provide by statute a method to preserve the value of the property interests and the rights of alienation thereof that owners have in the condominium property before and after termination.

Accordingly, the Florida legislature established a method of termination of a condominium for economic waste or impossibility and an optional method of termination.

Section 718.117(2), F.S., establishes procedures to terminate a condominium form of ownership for economic waste or impossibility. Notwithstanding any provision in the declaration, a condominium form of ownership of a property may be terminated by a plan of termination approved by the lesser of the lowest percentage of voting interests necessary to amend the declaration or as otherwise provided in the declaration for approval of termination if:

- The total estimated cost of construction or repairs necessary to construct the intended improvements or restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of the units in the condominium after completion of the construction or repairs; or
- It becomes impossible to operate or reconstruct a condominium to its prior physical configuration because of land use laws or regulations.

The statute contains provisions for the termination of a condominium in which 75 percent or more of the units are timeshare units. In such a condominium, a plan of termination may be approved by 80 percent of the total voting interests of the association and the holders of 80 percent of the original principal amount of outstanding recorded mortgage liens of timeshare estates in the condominium, unless the declaration provides for a lower voting percentage. Section 718.118(2), F.S., further provides that a condominium that includes units and timeshare estates where the improvements have been totally destroyed or demolished may be terminated pursuant to a plan of termination proposed by a unit owner upon the filing of a petition in court seeking equitable relief.

If economic waste or impossibility is not the basis for a condominium termination, Section 718.117(3), F.S., establishes a procedure for optional termination. Under the statute, the condominium form of ownership may be terminated for all or a portion of the condominium property pursuant to a plan of termination meeting the requirements of Section 718.117(3), F.S., and approved by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation ("Division"). Before a residential association submits a plan to the Division, the plan must be approved by at least 80 percent of the total voting interests of the condominium and not have been rejected by 5 percent or more of the total voting interests of the condominium by negative vote or by providing written objections.

As you know, a previous version of Section 718.117, F.S., was the subject of an opinion by the Third District Court of Appeal in *Tropicana Condo. Ass'n, Inc. v. Tropical Condo., LLC*, 208 So. 3d 755 (Fla. 3rd DCA 2016). In *Tropicana*, the Court examined "whether a retroactive application of [Section 718.117(3), F.S.] exists to override the procedural defect of the Declaration amendments; and, if so, whether such retroactive application is constitutional." The condominium at issue in *Tropicana* had a provision within its declaration requiring unanimous approval of the owners for termination. After a number of attempts to amend this provision, the condominium board successfully secured a majority vote to amend the declaration to comport with the then recently enacted Section 718.117, F.S., reducing the number of required votes for termination to only 80 percent. Notably, the declaration did not include "*Kaufman*" language confirming that the Florida Condominium Act (which was referenced in the declaration) was incorporated "as amended from time to time". The Court held that, absent *Kaufman* language, an amendment to the Condominium Act will not have retroactive application to a condominium's Declaration if it impairs contractual obligations. The Court further held that the condominium unit holders had a vested right in the contractual provision relating to termination in the declaration, and that the retroactive effect of Section 718.117, F.S., was an impermissible impairment of contract.

The *Tropicana* court did attempt to determine "how much impairment is tolerable" by applying the three-prong balancing test found in *Pomponio v. Claridge of Pompano Condo., Inc.*, 378 So. 2d 774 (Fla. 1979) (although, notably, the court only evaluated the third prong: "[d]oes the law effect a temporary alteration of the contractual relationship of those within its coverage, or does it work a severe, permanent, and immediate change in those relationships irrevocably and retroactively?"), and determined that the amendment worked a severe, permanent and immediate change to the unit owners' safeguards against the condominium termination that are expressed in the declaration. *Id.* Therefore, no degree of impairment was held to be tolerable.

In *Pomponio*, the Florida Supreme Court examined whether Section 718.401, F.S., regarding the deposits of rents into the registry of the court during litigation involving obligations under a condominium lease impermissibly impaired the obligation of contracts in violation of Article I, Section 10 of the Florida and federal constitutions. The Court held that "virtually no degree of contract impairment is tolerable in this state" and that the conclusion "that 'virtually' no impairment is tolerable **necessarily implies that some impairment is tolerable** [emphasis added], although perhaps not so much as would be acceptable under traditional federal contract clause analysis." *Id.* at 780. The court adopted the following three-prong balancing test:

To determine how much impairment is tolerable, we must weigh the degree to which a party's contract rights are statutorily impaired against both the source of authority under which the state purports to alter the contractual

relationship and the evil which it seeks to remedy. Obviously, this becomes a balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state's objective, or whether it unreasonably intrudes into the parties' bargain to a degree greater than is necessary to achieve that objective.

Ultimately, the Court held that the statute's application against the declaration constituted an unconstitutional impairment of contract and that the state's justification of exercising its police powers was not sufficient to tolerate any degree of impairment. *Id.* at 782.

The Florida Supreme Court revisited the contract impairment issue in *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State of Florida*, 209 So. 3d 1181 (Fla. 2017), a case examining the constitutionality of statutory limitations on attorneys' fees against a contract negotiated by the parties. The Court held that "an impairment may be constitutional if it is reasonable and necessary to serve an important public purpose. . . . However, where the impairment is severe, '[t]he severity of the impairment is said to increase the level of scrutiny to which the legislation will be subjected.' . . . There must be a 'significant and legitimate public purpose behind the regulation.'" *Searcy, Denney, Scarola, Barnhart & Shipley, etc.* at 1192 (quoting *U.S. Trust Co. v. New Jersey*, 431 U.S. 1, 25, 97 S.Ct. 1505, 52 L.Ed.2d 92 (1977) and quoting *Energy Reserves*, 459 U.S. at 411, 103 S.Ct. 697). Most recently, in *Northwood Assocs., LLC v. Ertel*, 265 So. 3d 665, 670 (Fla. 1st DCA 2019), the First District Court of Appeal affirmed that "an impairment may be constitutional if it is reasonable and necessary to serve an important public purpose."

Notably, Subsections (c) and (d) of Section 718.117(1), F.S., state:

(c) It is contrary to the public policy of this state to require the continued operation of a condominium when to do so constitutes economic waste or when the ability to do so is made impossible by law or regulation.

(d) It is in the best interest of the state to provide for termination of the covenants of a declaration of condominium in certain circumstances in order to:

1. Ensure the continued maintenance, management, and repair of stormwater management systems, conservation areas, and conservation easements.

2. Avoid transferring the expense of maintaining infrastructure serving the condominium property, including, but not limited to, stormwater systems and conservation areas, to the general tax bases of the state and local governments.

3. Prevent covenants from impairing the continued productive use of the property.

4. **Protect state residents from health and safety hazards created by derelict, damaged, obsolete, or abandoned condominium properties.**

5. **Provide fair treatment and just compensation for individuals and preserve property values and the local property tax base.**

6. Preserve the state's long history of protecting homestead property and homestead property rights by ensuring that such protection is extended to homestead property owners in the context of a termination of the covenants of a declaration of condominium. [Emphasis added]

In conclusion, if a condominium association can demonstrate that economic waste or impossibility exists (as described in the statute), the procedure outlined in Section 718.117(2), F.S., may be utilized to terminate the condominium. If neither economic waste or impossibility exists and the condominium association still wishes to terminate, the condominium may seek to terminate pursuant to the optional termination provisions of Section 718.117(3), F.S. If the declaration does not contain *Kaufman* language, an optional termination may be deemed an impermissible impairment of contract. Courts may apply the *Pomponio* three-prong balancing test to weigh the degree to which a party's contract rights are statutorily impaired against both the source of authority under which the state purports to alter the contractual relationship and the evil which it seeks to remedy. Moreover, a Court may find that an impairment is constitutional if it is reasonable and necessary to serve an important public purpose.

Condominium Insurance Requirements

Section 718.111(11), F.S., requires associations controlled by unit owners operating as a residential condominium to use their **best efforts** to obtain and maintain property insurance to protect the association, the association property, the common elements, and the condominium property insured for full insurable value, replacement cost, or similar coverage, based on the replacement cost of the property to be insured, as determined by an independent insurance appraisal conducted at least once every 36 months. This language is consistent with case law that recognizes that some buildings may be uninsurable or extremely expensive.

In *Citizens Prop. Ins. Corp. v. River Manor Condo. Ass'n, Inc.*, 125 So. 3d 846, 848 (Fla. 4th DCA 2013), a condominium association brought suit against Citizens Property Insurance, claiming that certain language in the policy "requiring that it be amended to 'conform' to any conflicting statutes of the State where the property is located" conflicted with Section 718.111(11), F.S. "requir[ing] insurers that issue condominium policies to provide coverage for '[a]ll portions of the condominium property located outside the units,' and '[a]ll portions of the condominium property for which the declaration of condominium requires coverage by the association." The Court held "that when considered as a

cohesive whole, Section 718.111(11), Florida Statutes (2005), is intended to regulate the insurance obligation of condominium associations by: (a) specifying the items that the association is responsible for covering versus the items that the unit owners are responsible for covering; and (b) requiring associations to use their "best efforts" to obtain the coverage it is responsible for securing. The statute was not intended to impose a mandatory insurance obligation upon carriers." *Id.* at 853.

Notably, other jurisdictions have adopted statutes similar to Section 718.111(11), F.S. For example, North Carolina requires associations to maintain insurance against commonly insured perils "to the extent available." See N.C St. § 47C-3-113. Maryland has a similar "reasonably available" requirement. Md. Code., Real Prop. § 11-114. Conversely, in Illinois, any policy issued to a condominium association must provide certain coverage, which is unlike Florida where a condominium association has discretion to get coverage for some things and not others. See 765 ILCS 605/12.

Statutory Reserves

Section 718.112(f)2.a., F.S., states that, "[i]n addition to annual operating expenses, budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost that exceeds \$10,000... This subsection does not apply to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection." Notwithstanding, statutory reserves are often not maintained pursuant to this opt-out, requiring that structural repairs be funded by special assessment. In many instances, condominium owners do not have the means to a pay special assessment.

It is worth noting that very few states require reserves to be funded. A general guide on all 50 states concerning reserves and reserve funding is available at <https://www.caionline.org/Advocacy/Priorities/ReserveStudy/Pages/default.aspx>.

Florida Building Code Regarding Demolition of Unsafe Structures

Section 116.2.2 of the Florida Building Code provides that, if the cost of completion, repair, and/or replacement of an unsafe building or structure, or part thereof, exceeds 50% of its value, or if the cost of structural repair or replacement of an unsafe building or structure, or part thereof, exceeds 33% of its structural value, the building or structure, or part thereof, must be demolished and removed from the premises. An exception to the foregoing percentages may be recognized, provided: (1) the owner of the property has the ways and means to complete the work; (2) all imminent danger has been removed

Mayor Steve Geller
August 5, 2021
Page 7

from the site; (3) all applicable zoning regulations are met; (4) all applicable requirements of other departments and agencies are met; (5) criteria noted in the Florida Building Code Existing Building are followed; and (6) any remaining portion of the structure to be used in rebuilding is certified as safe by an engineer or architect.

If you have any questions or need additional clarification, please let me know.

MA/gmb

c: Andrew J. Meyers, County Attorney

Broward County Condominium Structural Issues Committee: Insurance

Commercial Residential Insurance Institutions:

- 1) Reinsurers
- 2) Primary Insurers
 1. Admitted Insurers
 2. Excess & Surplus Lines Insurers
- 3) Residual Market Mechanism – Citizens Property Insurance Corporation (CPIC)

Macro Challenges for Commercial Residential Insurance Coverage Can Be Bifurcated into Availability and Affordability:

- 1) Availability
 1. Reinsurance, Primary Insurance, Residual Market (CPIC) - Appetite/Capacity
 - a. Private underwriting
 - A1. Property age, 20+ years
 - A2. Property height, 5 stories and up
 - A3. Property Location, Coastal vs. Inland (Wave wash erosion)
 - A4. Significant industry concerns over veracity of the current inspection process
 - b. Residual market underwriting
 - B1. Windstorm area – wind only
 - B2. Multiperil- no differences in conditions (DIC) or liability coverage
 - B3. Structural inspections required for sinkhole coverage only
 - B4. Electrical and roof inspections required
- 2) Affordability
 1. Primary Insurers – 20-25% minimums
 - a. Admitted
 - b. Excess & Surplus Lines
 2. Residual Market (CPIC) – 10% glide path – Fire resistive non sinkhole, best rates

718.111 The association.—

(11) (a) Adequate property insurance, regardless of any requirement in the declaration of condominium for coverage by the association for ***full insurable value, replacement cost, or similar coverage***, must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. ***The replacement cost must be determined at least once every 36 months.***

1. An association or group of associations ***may provide adequate property insurance through a self-insurance fund*** that complies with the requirements of ss. [624.460-624.488](#).
2. The association ***may also provide adequate property insurance coverage for a group of at least three communities*** created and operating under this chapter, chapter 719, chapter 720, or chapter 721 by obtaining and maintaining for such communities insurance coverage sufficient to

cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event.

SEA LEVEL RISE – PROJECTIONS, IMPACTS, AND RESILIENCE CONSIDERATIONS FOR CONDOMINIUMS

CONDOMINIUM STRUCTURAL ISSUES COMMITTEE
AUGUST 9, 2021



SEA LEVEL RISE AND OTHER CLIMATE IMPACTS - THE UNIQUE COASTAL RISK

Compounded Effects

- Sea Level Rise
- Increase in Rainfall and Storms
- Storm Surge
- Tidal Flooding

Impacts

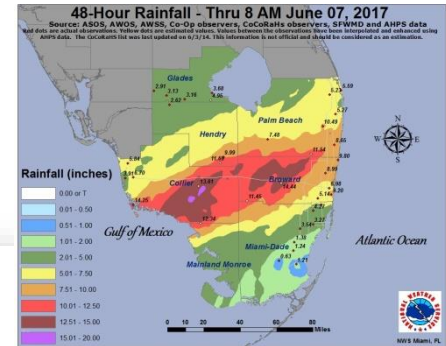
- More frequent
- More severe
- More widespread

Exposures

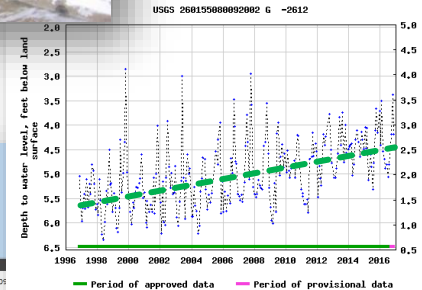
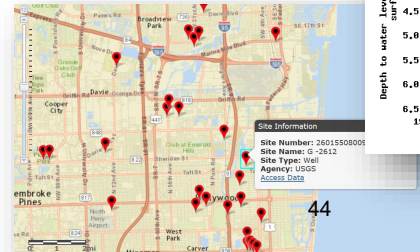
- Chronic and Acute



High Tides and Surge



Extreme Rainfall

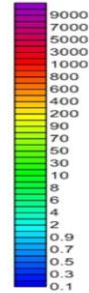
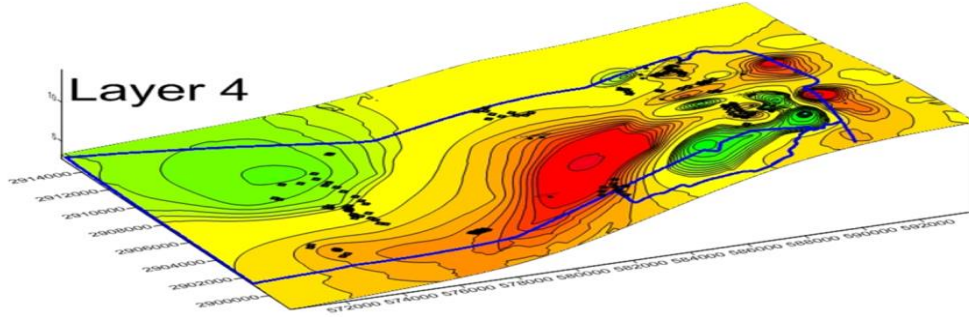


Higher Groundwater

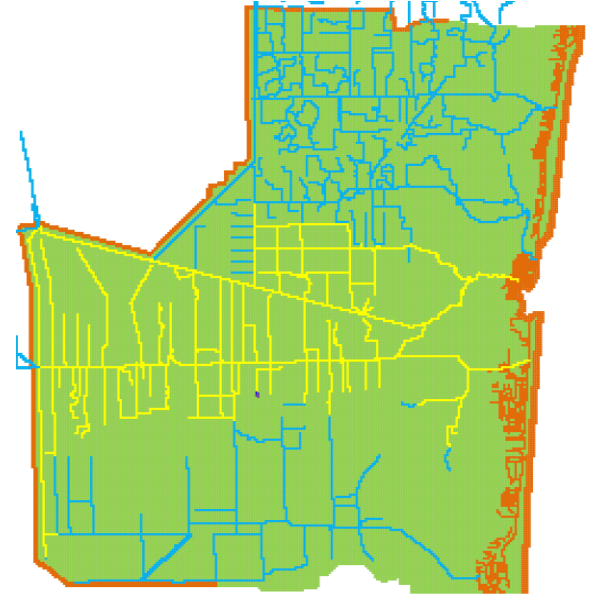
Geology, Hydrology, and Sea Level Rise

Transmissive Geology

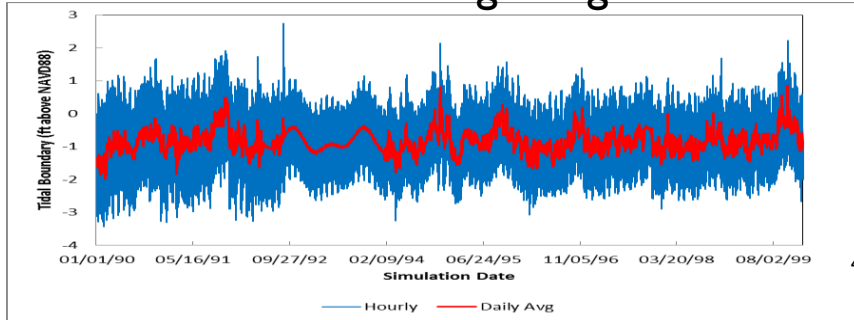
Horizontal Hydraulic Conductivity (m^2/d)



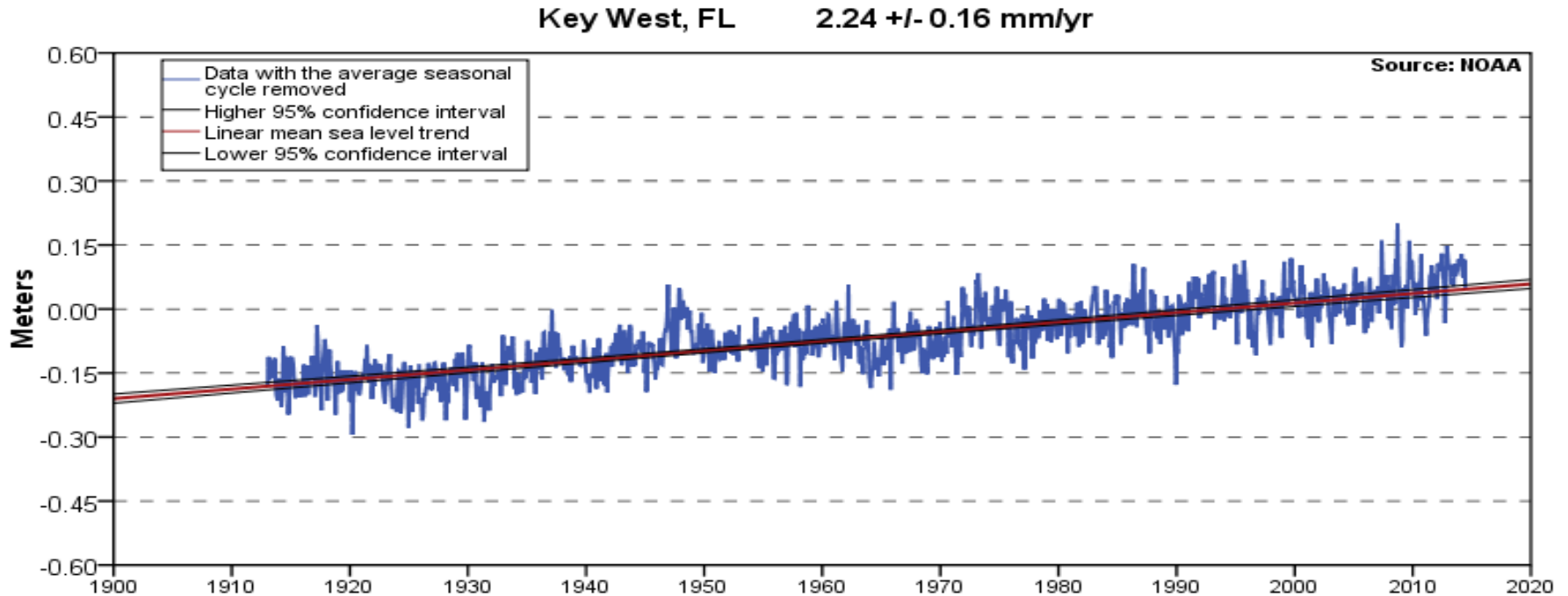
Broward County Water Management System



Integrating Sea Level Rise



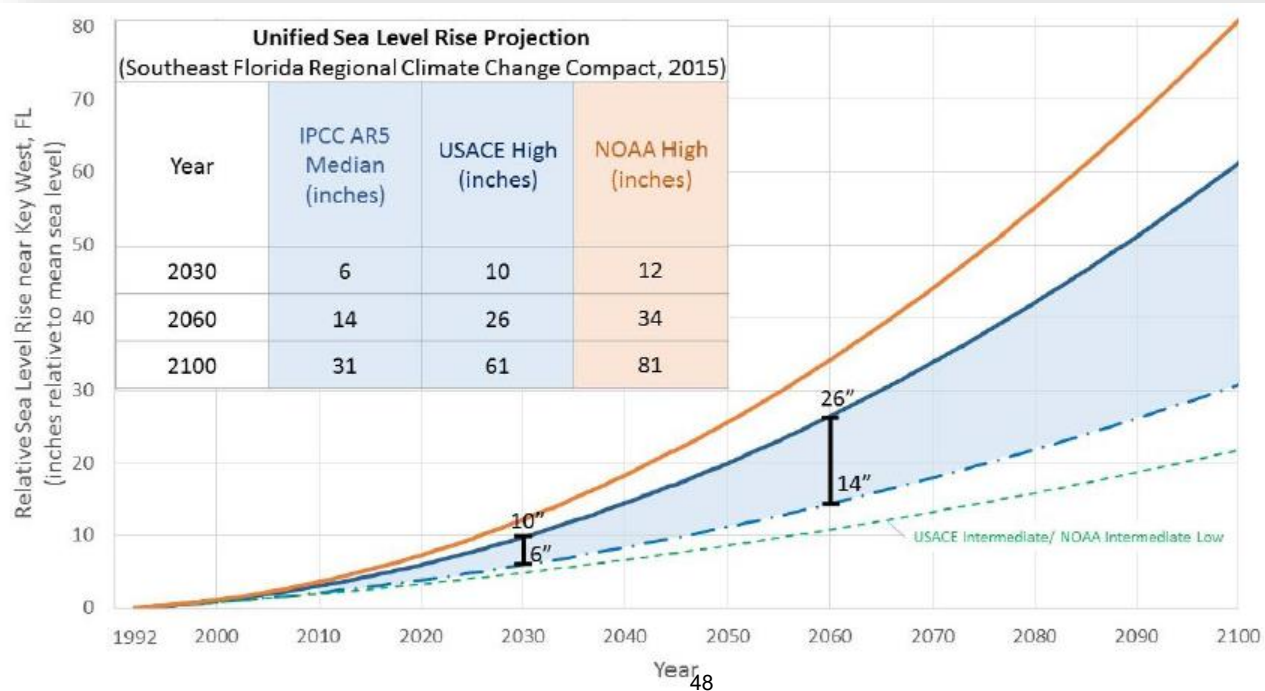
SEA LEVEL RISE - A STATEWIDE TREND



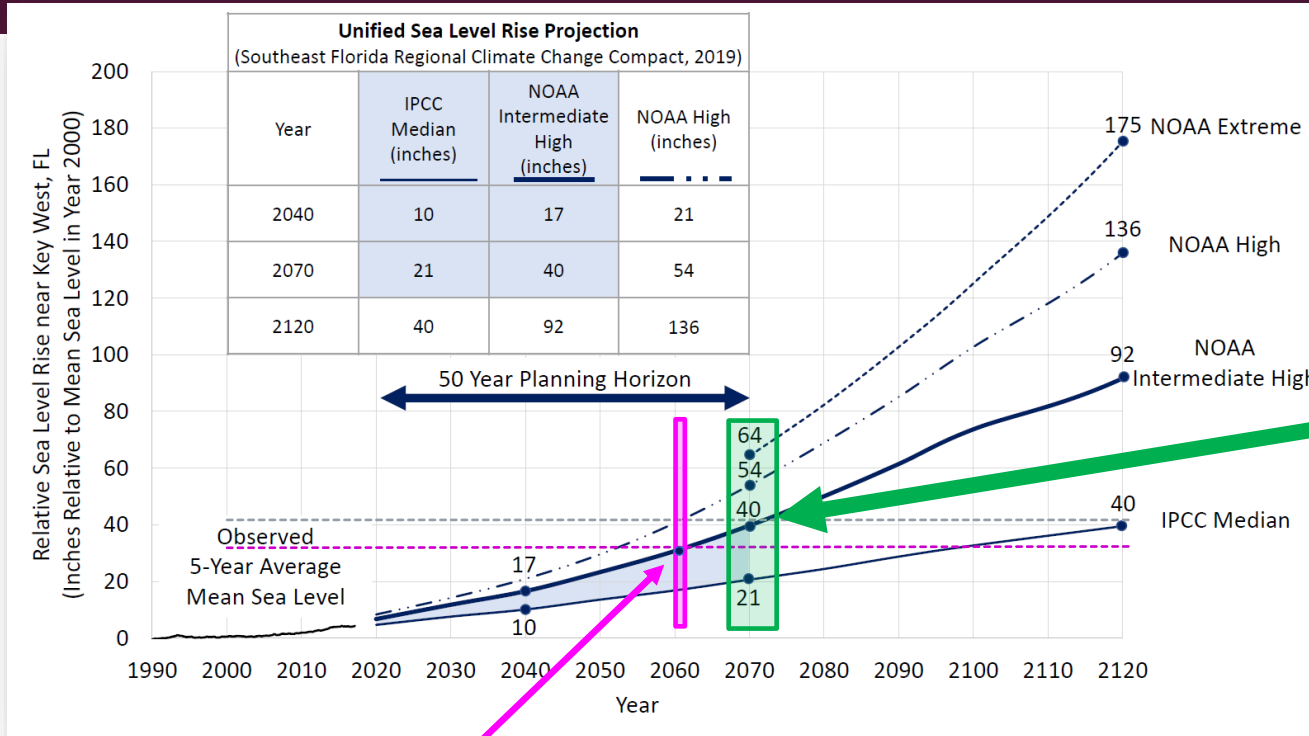
HOW HAS ACCELERATION AFFECTED THE RATE OF RISE?

- 9 inches of sea level rise from 1900 to 2000
(100 years, 1 inch every 11 years)
- 3 inches of sea level rise from 1992 to 2015
(23 years), 1 inch every 7.6 years
- 4 inches sea level rise from 2000 to 2017
(17 years) or 1 inch every 4.25 years

REGIONAL PLANNING: 2015 UNIFIED SEA LEVEL RISE PROJECTION



UPDATE: 2019 REGIONAL SEA LEVEL RISE PROJECTION



**40 inches
by 2070
(current)**

27 inches by 2060 (previous)

IMPLICATIONS FOR INFRASTRUCTURE AND INVESTMENTS

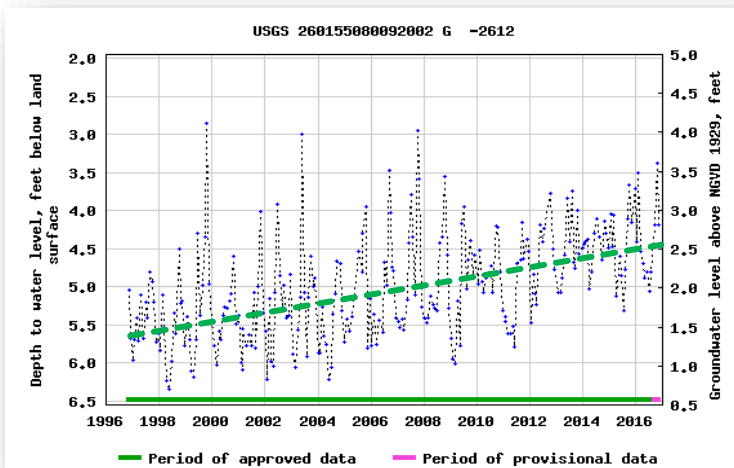
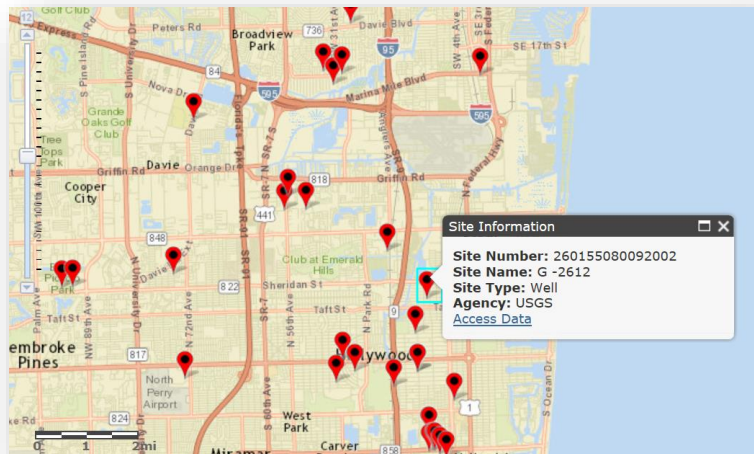
- Higher Flood Elevations
- Increase in Tidal Flooding
- Constrained Water Management
- Drainage Limitations
- Sanitary Sewer I&I
- Foundation Saturation
- Subterranean Flooding
- Roadbed Undermining





GROUNDWATER TABLE RISE

MEASURED INCREASE IN GROUNDWATER TABLE

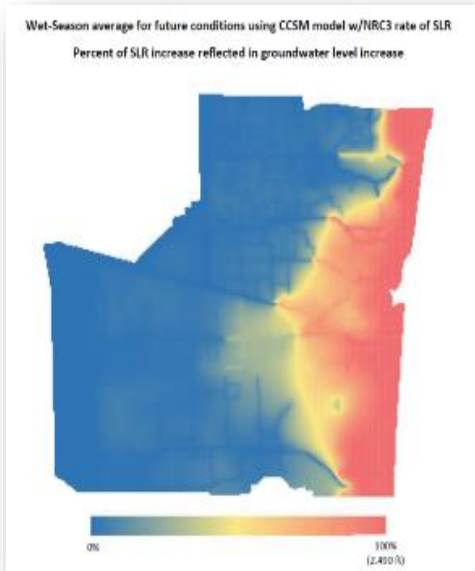


REDUCTION IN SOIL STORAGE IMPACTS DRAINAGE

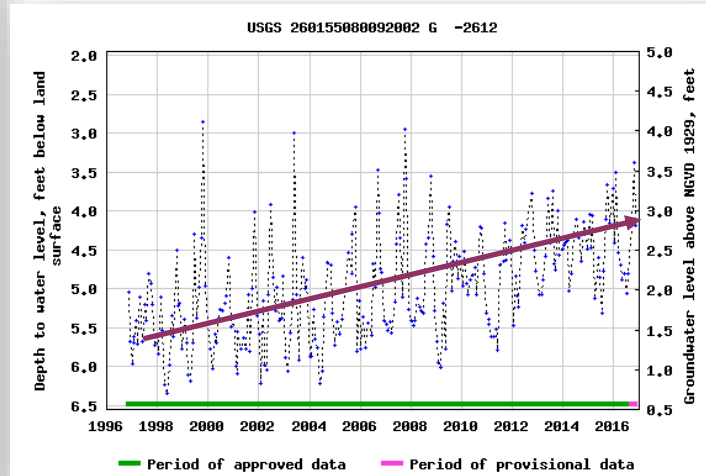


FUTURE CONDITIONS GROUNDWATER TABLE MAP – ESTABLISHED JULY 2017

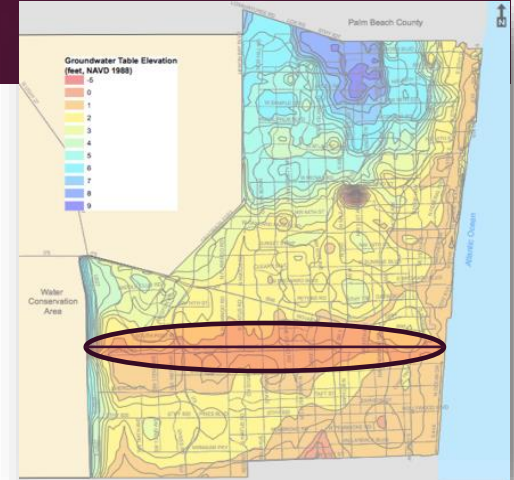
Section 27-200, Plate WM 2.1
Code of County Ordinances



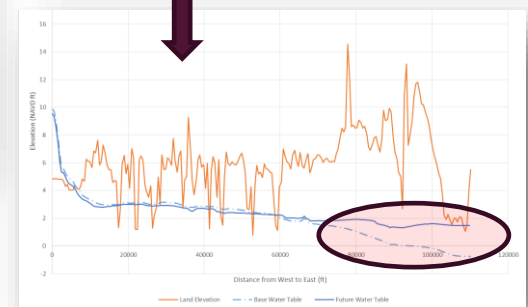
Modeled Rise



Measured⁵Rise

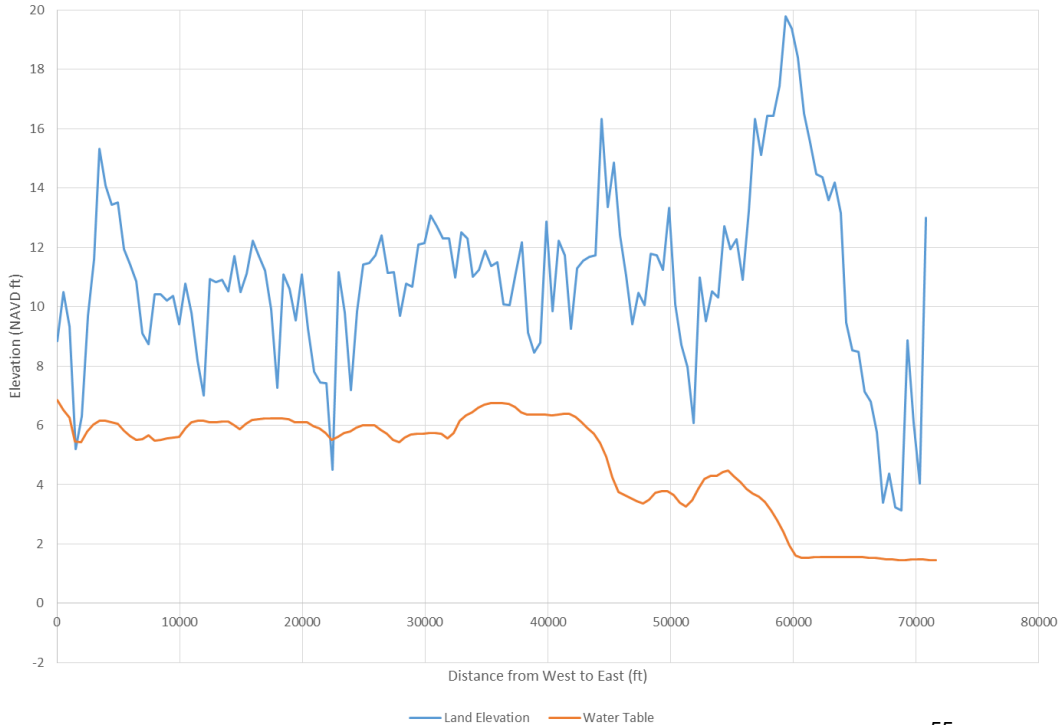


Cross-Section



NORTHERN CROSS-SECTION

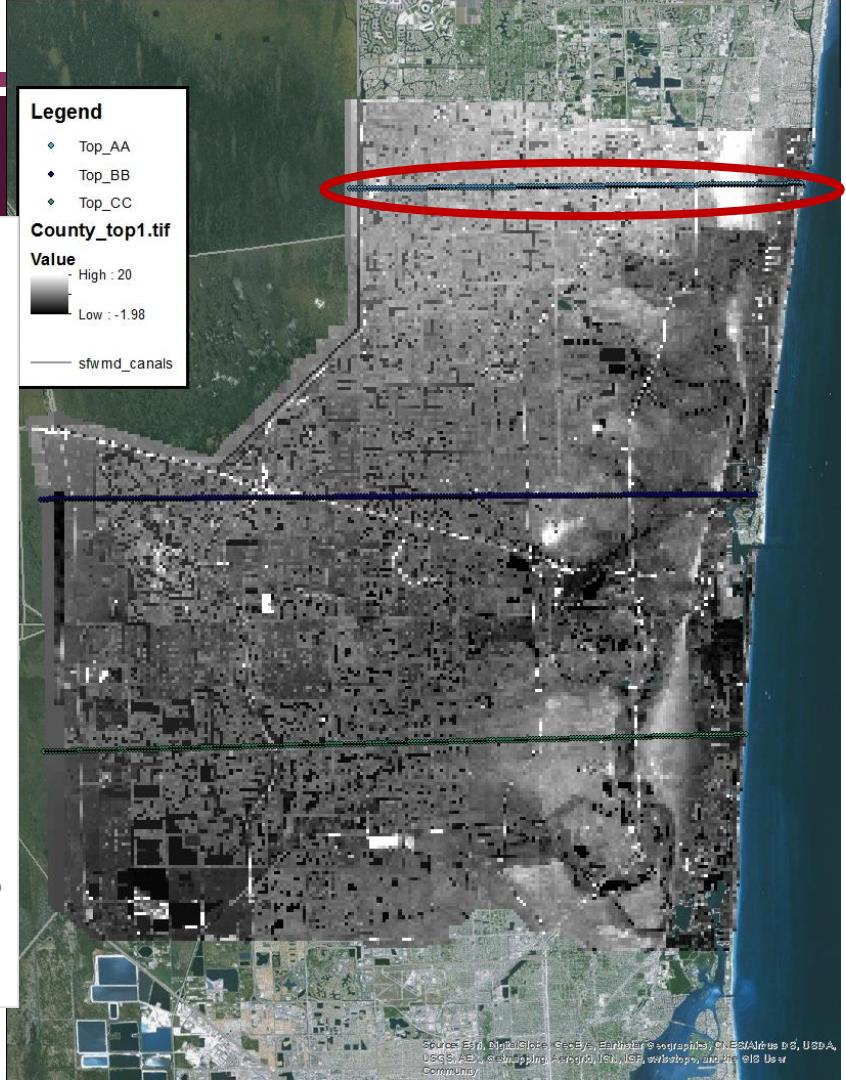
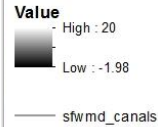
Northern X-Section



Legend

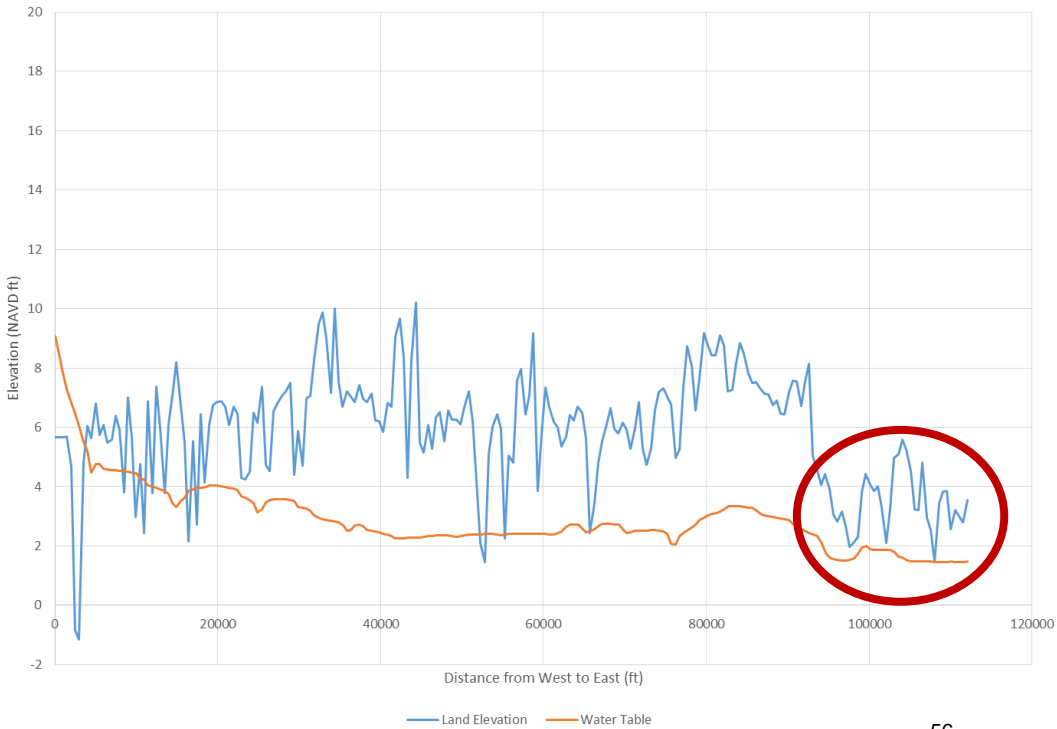
- ◆ Top_AA
- ◆ Top_BB
- ◆ Top_CC

County_top1.tif



CENTRAL CROSS-SECTION

Central X-Section



Legend

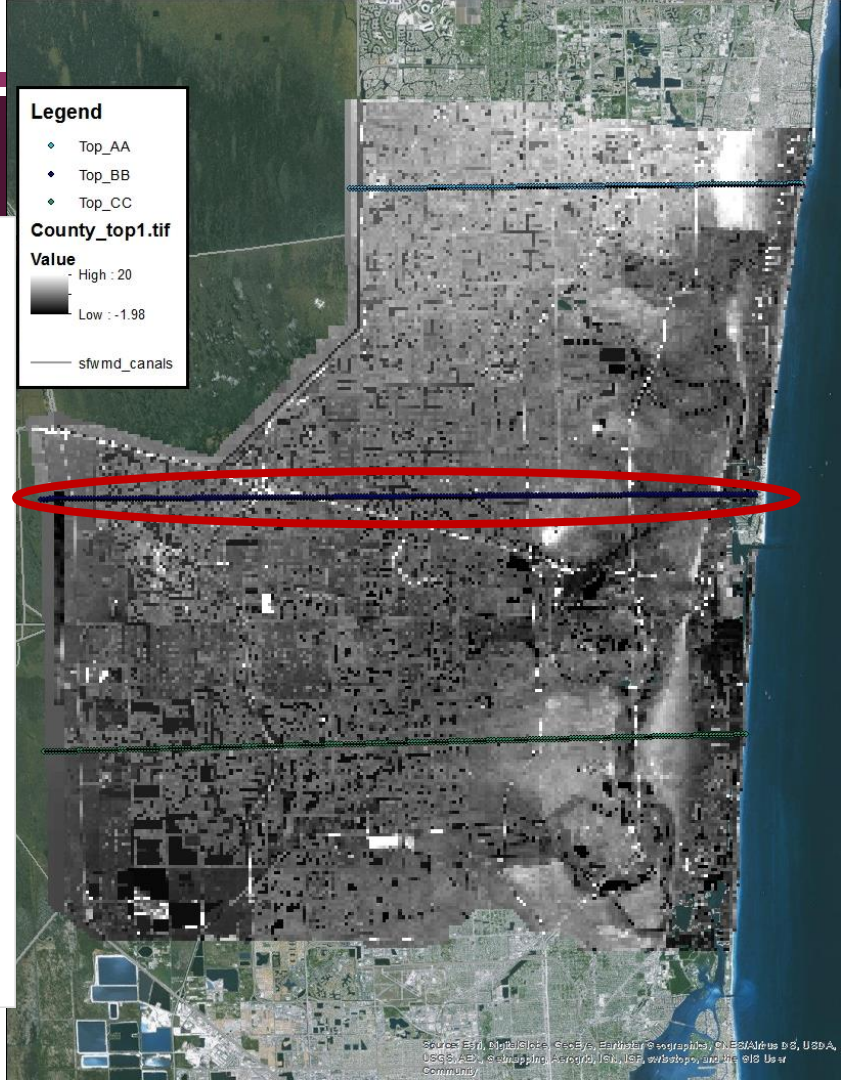
- ◆ Top_AA
- ◆ Top_BB
- ◆ Top_CC

County_top1.tif

Value

- High : 20
- Low : -1.98

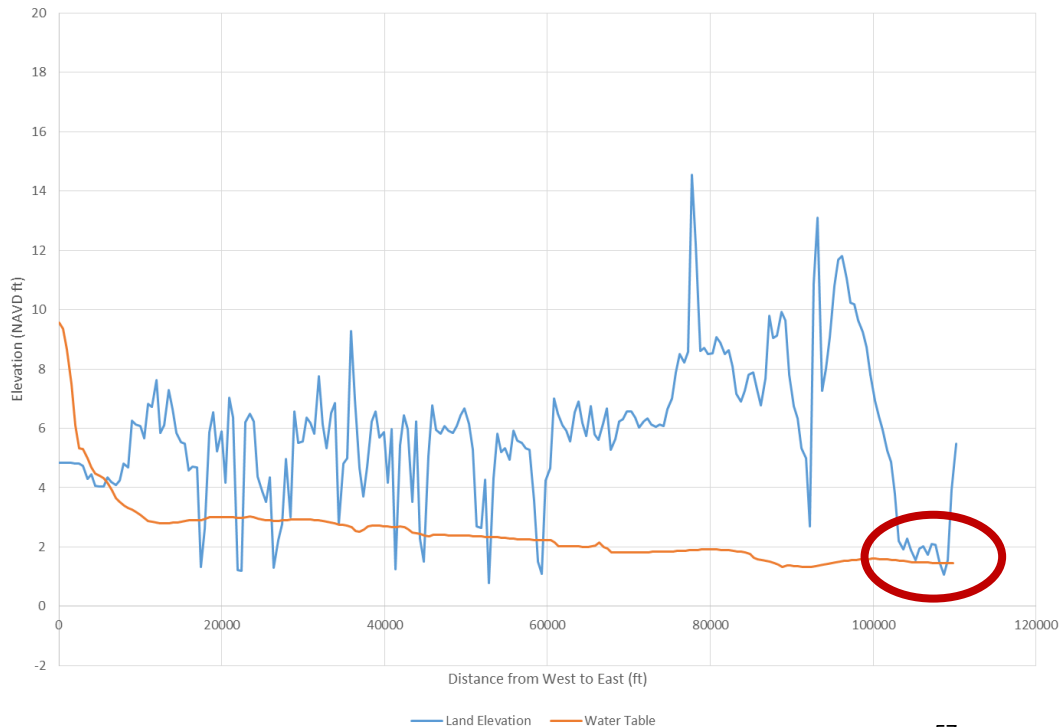
— sfwmd_canals



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, USGS, swisstopo, and the GIS User Community

SOUTHERN CROSS-SECTION

Southern X-Section



Legend

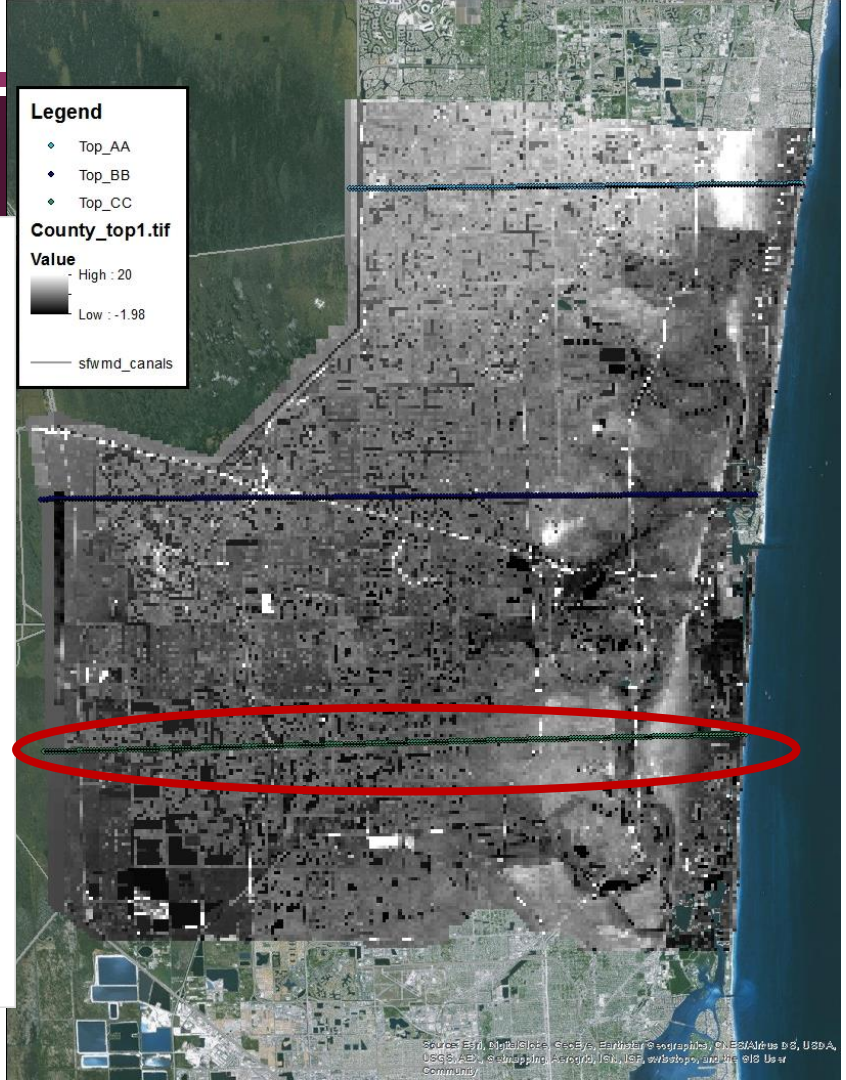
- ◆ Top_AA
- ◆ Top_BB
- ◆ Top_CC

County_top1.tif

Value

- High : 20
- Low : -1.98

— sfwmd_canals



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, SIA, swisstopo, and the GIS User Community

Surface Water Management
Design Example 1



Permitted Condition

- 38% exceeded capacity

Adjusted SLR Design

- +40' trench
- + pump on drainage well

Surface Water Management
Design Example 2



Permitted Condition

- Dry retention inundated
- Berm overtopped, pipe submerged

Adjusted SLR Design

- +85' trench
- Raise berm 5" and orifice 2'

Surface Water Management
Design Example 3



Permitted Condition

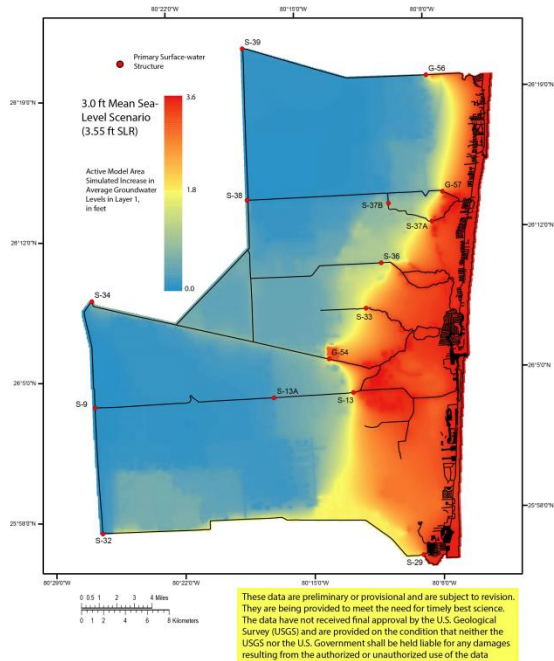
- -58% capacity
- Lot inundated
- Cause offsite flooding

Adjusted SLR Design

- Stem wall initially
- Raise parking lot 2'
- Add drainage well

2021 GROUNDWATER TABLE MAP UPDATE

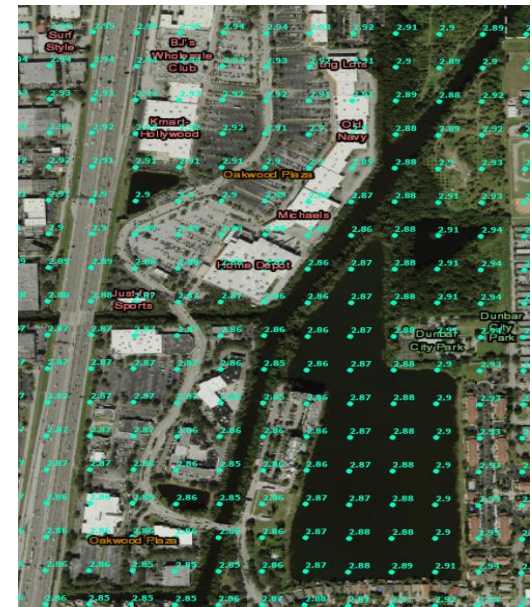
2021 Modeled Results (Draft)
(2019 Projection)



2017 Map
(2015 Projection)



2021 Draft Update
(2019 Projection)



0.5' Historic  1.5' 2017 Map  3.0' 2021 Results

OPPORTUNITY #1 – GROUNDWATER RISE

- Require upgrade of site drainage consistent with future conditions standards as part of 40-year recertification process.
- Require coastal properties to improve/seal foundation to sustain exposure to (salty) groundwater



TIDAL FLOODING AND EXPOSURE



RESILIENT TIDAL FLOOD BARRIERS

Issue:

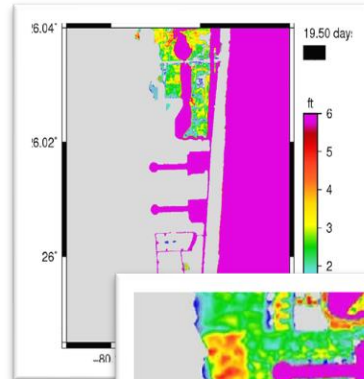
- Tidal overtopping of seawalls
- Allows additional exposure/intrusion of saltwater to structure
- Address via upgrades, consistent with new standards



COUNTY-WIDE RESILIENCE STANDARD: TIDAL FLOOD BARRIERS

- Established **5 feet NAVD by 2050**, allowing **4 feet NAVD until 2035**
- Requires municipal adoption in 2 years – March 2022.
- Applies to new construction, major restoration, properties cited for tidal trespass
- Expand to 40-year Recertification?

Modeled 4' sea wall



Sea wall + surge

Hollywood Marina



OPPORTUNITY #2 – TIDAL FLOOD PROTECTION

- Consider required upgrade of seawall, berms, and related tidal flood barriers in accordance with county code, concurrent with the 40-year recertification process.



FUTURE CONDITIONS FLOOD RISK



BROWARD'S FINISHED FLOOR REQUIREMENTS

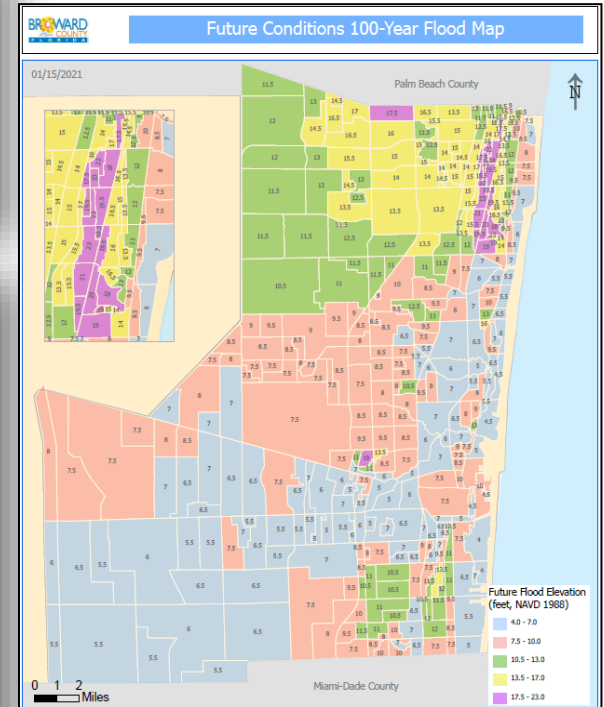
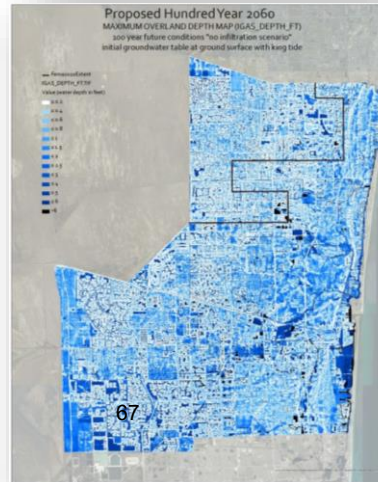
County code requires higher of the following:

- County 100-yr flood map
- County Future Conditions Flood Map
- FEMA maps - existing conditions
- Site specific 100-year calculation
- 18 inches above crown of road



100-YEAR FUTURE CONDITIONS FLOOD MAP

- Accounts for:
 - 2 Feet SLR
 - King tides
 - Increase rainfall (13%)
 - Ground saturation
- 368 discrete flood areas
- Informed by basins, topographic features, drainage



FLOOD ELEVATION CHANGE COMPARISON

1977 COMMUNITY MAP COMPARED TO
ADOPTED FEMA 2014 FLOOD ELEVATIONS

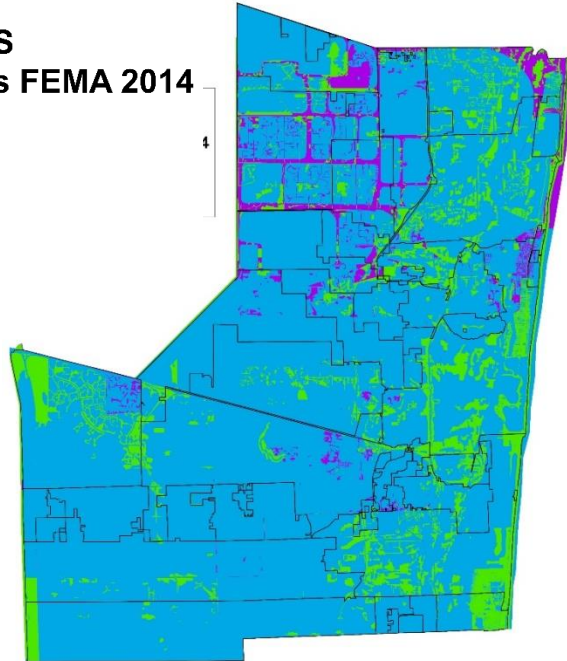
PROPOSED FUTURE FLOOD MAP COMPARED TO HIGHER OF
ADOPTED FEMA 2014 / PROPOSED FEMA 2019 FLOOD ELEVATIONS

Legend

-CITY LIMITS

1977 MAP vs FEMA 2014

- HIGHER
- LOWER
- EQUAL



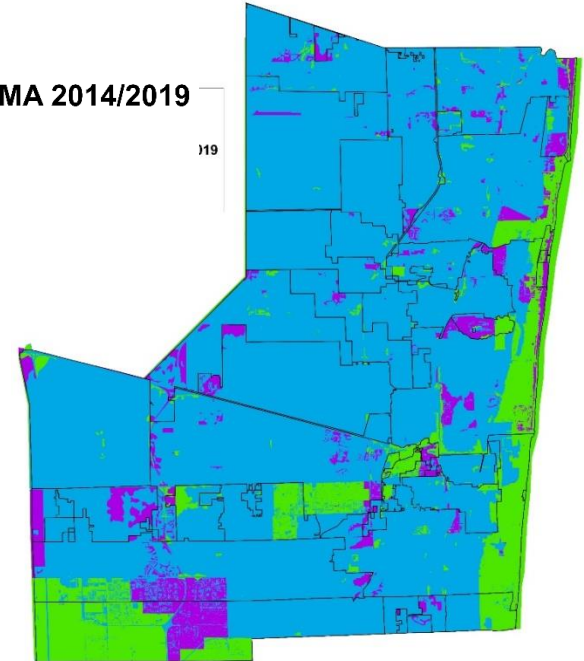
Legend

-CITY LIMITS

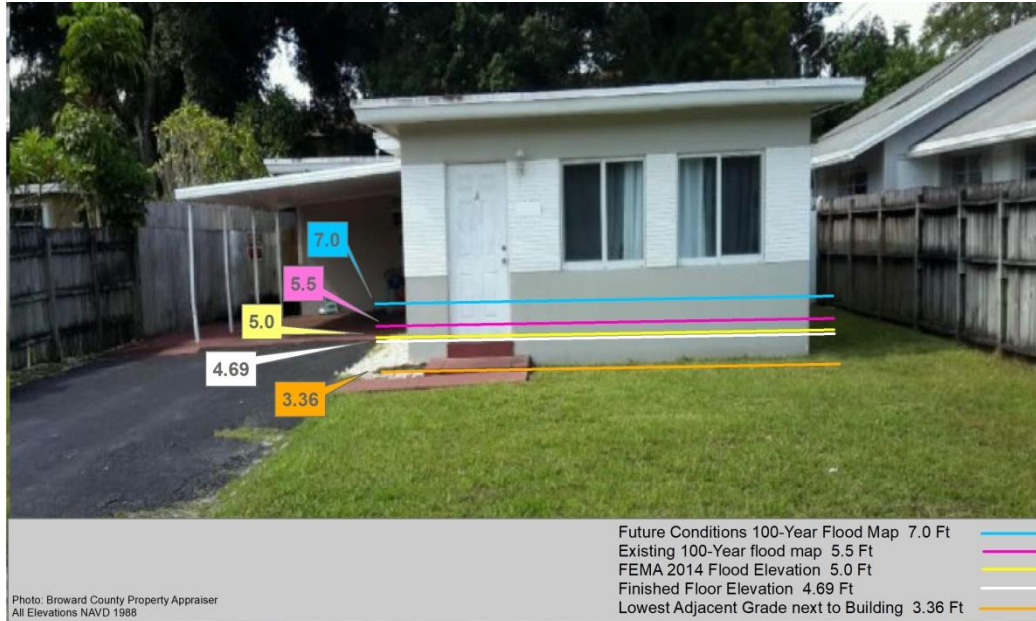
FLOOD_UNION

NEW MAP vs FEMA 2014/2019

- HIGHER
- LOWER
- EQUAL



COMMERCIAL AND RESIDENTIAL RELEVANCE



OPPORTUNITY #3 – BASE FLOOD ELEVATION

- Require wet/dry-proofing of infrastructure below the highest applicable flood elevation.
- Require relocation and/or hardening of critical infrastructure (e.g., electrical panels and systems) above applicable base flood elevation.
- Require architect/engineer to certify that structure is flood-proofed to new flood elevation.

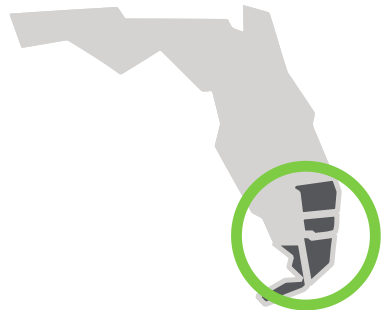
OPPORTUNITY #4 – ENERGY AND COOLING

- Consider mechanism for achieving upgrades consistent with the International Energy Code, as the accepted standard (Florida Building Code lags by ca. 6 years).
- Require that where roof replacement and improvement is required, require compliance with commercial cool roof standards (Broward/Miami-Dade BORA effort).

Resilience Return on Investment

Project Purpose

To identify the **return on investment** for resilience and adaptation measures in Southeast Florida.



Key Findings



There is a **regional business case** for resilience in Southeast Florida.

4:1

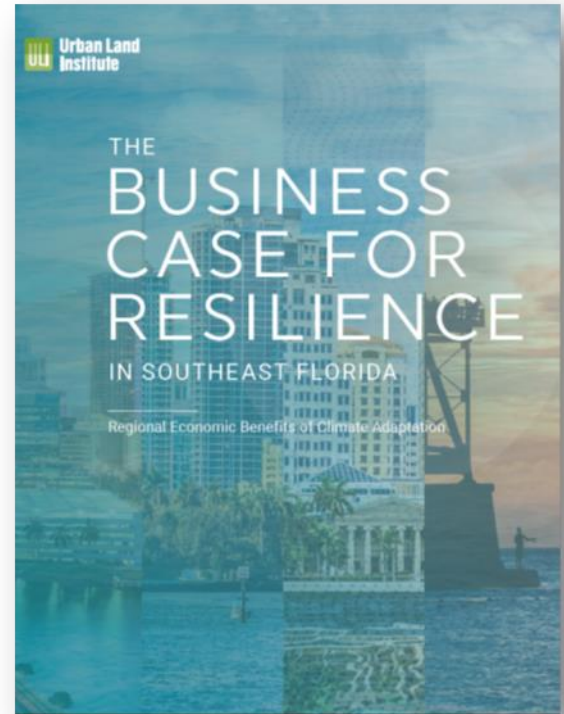
Building-level adaptation strategies outweigh the costs 4:1

2:1

Community-wide adaptation strategies outweigh the costs 2:1

72

Note: Community-wide and building-level adaptation strategies work together.



ANALYSIS OF RESILIENCE ROI

Community-wide Adaptation

- A combination of soft and hard engineering investments at the open coast, intracoastal, and inland areas.

- Seawalls
- Beaches
- Berms

Building-level Adaptation

- A combination of structural improvements to property itself.

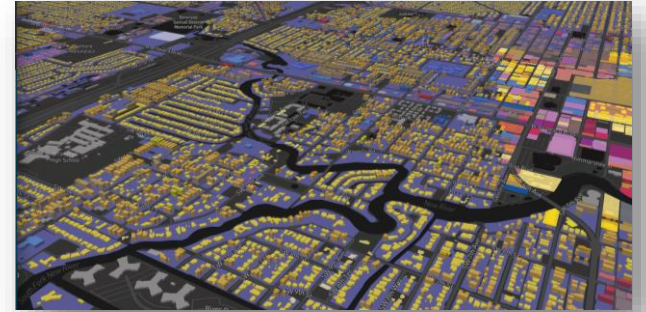
- Elevate
- Flood proof



Note: Building-level adaptation will not provide benefit to regional infrastructure or to coastal resources such as beaches.

NEXT STEPS: COUNTY-WIDE RESILIENCE PLAN

- Project elements
 - Basin-level analysis
 - Redevelopment strategies
 - Water storage and management
 - Infrastructure siting
- Deliverables
 - Planning level cost estimates
 - Shared database and planning platform
 - Quantified flood and risk reduction
- Outcome
 - Organized investment
 - Multi-decade plan



SUMMARY

- Broward County has advanced several resilience policies and standards addressing land use and infrastructure design
- Integration of resilience in the certification process should be considered a necessary standard of care.
- Building-level adaptation is an essential area of investment, along-side community-wide improvements.
- Investment are not only critical for long-term risk reduction but will likely be instrumental to both insurance affordability and availability.
- Update of 40-year recertification requirements to address vulnerabilities by incorporating resilience criteria into the standard of care reduces sea-level rise-related impacts, losses, and threats to public safety.
- Resilience planning maps and tools are available via the Broward Resilience Dashboard at broward.org/resilience

Thank You!

Jennifer L. Jurado, Ph.D.
Chief Resilience Officer and Deputy Director
Environmental Protection and Growth Management Department

jjurado@broward.org

954-519-1464



be heard >



Submitted by Mayor Joy Cooper



miamibeach



KEEPING OTHERS SAFE IS EVERYONE'S BUSINESS
#StrongerFlorida



incentives to encourage structural and electrical repairs to multi-family residential buildings endorsed by miami beach planning board

August 21, 2021



susan askew



incentives to encourage structural and electrical repairs to multi-family residential buildings endorsed by miami beach planning board: proposal is one idea to improve building safety following surfside collapse

Following the collapse of the Champlain Towers South condominium building in Surfside, Miami Beach joined a number of municipalities in looking at ways to prevent another occurrence including changes to the City Code. One of the proposals would incentivize the repair and rehabilitation of existing, non-conforming residential buildings by allowing them to exceed the "50% rule" which refers to the value of building improvements, provided no new floor area is added.

Non-conforming buildings are those that met all Code requirements when built but as requirements changed, the buildings no longer met them, making them legal, non-conforming structures. Under current law, if the value of improvements exceeds 50% of the value of the building, the entire building must be brought up to current code including meeting current FAR (Floor Area Ratio), height, and setback limits in order to not lose its legal, non-conforming status. In other words, all or parts of the building would have to be torn down. That provision has kept some owners from making improvements because it is difficult to not trip the 50% threshold given the cost or they elect to do them piecemeal over a period of time.

In a memo to the Board, Planning Director Tom Mooney wrote, "The proposed amendment [to the Land Development Regulations] would allow non-conforming multi-family residential buildings to exceed the 50% rule and maintain all existing non-conforming attributes provided the work includes structural, electrical, life-safety and related repairs to comply with and/or exceed the requirements of the Florida Building Code."

"The proposed amendment would provide an [incentive] for building owners and condo associations to implement repairs by allowing a building's legal nonconforming status to remain (including nonconforming FAR, height, setbacks, open space, minimum and average unit size, and parking credits) even if the work exceeds 50 percent of the value of the building."

"To ensure compliance, the amendment requires the following," Mooney noted:

1. All portions of the entire building shall remain fully intact and retained.
2. The building shall meet or exceed the minimum structural, life-safety and electrical requirements of the Florida Building Code.
3. Increases in the size of exterior window and door openings shall not be permitted unless required by the Florida Building Code.

First Assistant City Attorney Nick Kallergis emphasized the proposal is "limited to residential multi-family buildings."

Planning Board member Alex Fernandez said, "We need to be encouraging building owners to do everything that they can to make sure the buildings are up to the standards and to the codes and to the safety codes that are necessary to ensure the safety of those who occupy these buildings."

"I think this is critically important to provide a third alternative," Board member Tanya Bhatt said. "Because currently you either have a building like some that we have in North Beach, for instance, that are owned actually by people in Surfside who are not repairing their buildings. We have buildings that are at risk for not conforming to current standards of safety putting their residents at risk or you have the alternative of

letting the building get into such disrepair that people choose to leave and then developers come in, raze the building and put in something else so those families then get displaced. This is a third way which encourages and incentivizes, if you will, the owners, the residents, and the organizing forces of those buildings to get their acts together, to make the repairs they need to to ensure that their buildings are safe and continue about their life. It shouldn't be a 'risk your life every night or be displaced from your home' option and this provides a third pass, so I fully support this."

With two members absent, the Board voted 5-0 to send a favorable recommendation to the City Commission which will hold two readings on the legislation as required.

Details of the Planning Board item are here.

tags

tom mooney

micky steinberg

nick kallergis

tanya bhatt

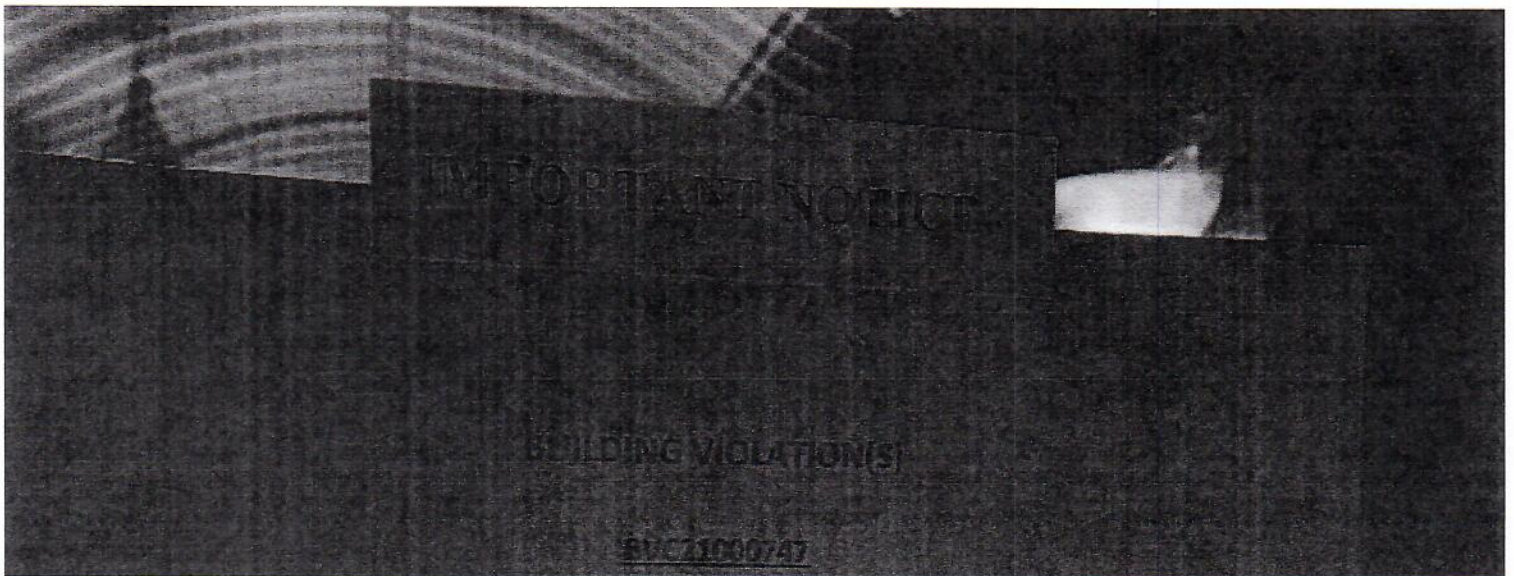
alex fernandez

surfside

champlain towers south

miami beach reports 22 percent of buildings in 40/50-year recertification process have not produced required professional reports on safety

July 31, 2021



APPENDIX B-7

From: Mary <marymacfie333@gmail.com>
Date: August 18, 2021 at 1:52:09 PM EDT
To: Steve Geller <sgeller@broward.org>
Subject: Re: Lisa's presentation to committee

Lisa Magill's presentation no longer than 15 min...

Purpose of presentation is to discuss and offer suggestions with respect to:

1. Purpose & benefits of reserve study to include discussion of
 - a. confusion and distinction between reserve studies and building condition evaluations/building/structural inspections
 - b. suggestions for legislative proposals to define terms & establish parameters/criteria before imposing reserve study and/or reserve funding mandates
 - c. discuss funding options (to include suggestions for ramp-up time for underfunded communities and alternatives)
 - i. possible consideration of extending PACE type program to fund structural/life safety repairs for economically distressed communities
2. suggestions for improvements to transition process (turnover from developer control)
 - a. preventative maintenance schedules / manuals
3. educating/warning consumers about real cost of ownership – with legislative suggestions
 - a. development of preventative maintenance schedules / manuals / local inspection programs
 - b. disclosure requirements to purchasers and existing owners on periodic basis
 - i. existing funds
 - ii. funding plan
 - iii. building inspection needs & projected costs
 - c. discussion of affordability factors
4. Shortcomings of reliance on board-education mandates
5. Possible expansion of condominium ombudsman program or development of local program to
 1. provide resources to community leaders and owners to include DBPR/county suggested preventative maintenance schedules / manuals based on various types of construction and building components (to be developed by appropriate professionals)
 2. develop education with respect to preventative and corrective maintenance/repair of buildings and improvements
 3. develop education regarding climate resilience/adaptation and energy efficiency improvements

The devastating tragedy in Surfside shocked and saddened all of us at Kaye Bender Rembaum along with the community association industry as a whole. Remember we are available to help clients implement best practices for association operations.

Lisa A. Magill, Esq.

Board Certified Specialist, Condominium and Planned Development Law

Fellow, College of Community Association Lawyers (CCAL)



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COMMERCIAL REAL ESTATE

57-year-old condo could be demolished, rebuilt taller in Miami Beach



IN THIS ARTICLE

Construction



By Brian Bandell
Senior Reporter, South Florida Business Journal

Company Aug 25, 2021, 11:53am EDT

Starwood Capital Mortgage

Company

Mast Capital and Starwood Capital have filed plans to

ODP Architecture & Design

demolish and redevelop a Miami Beach condo after

Ben Kasdin purchasing the majority of the units in the beachfront

building.

Neisen Kasdin

Person

The city's Design Review Board will hear plans for the 2.43-acre site at 5333 Collins Ave. on Sept. 10. The La Costa, a 15-story condo with 120 units that was built in 1964, is currently on the property. The building was deemed unsafe following a recent inspection.

For years, there has been a trend of older condos in coastal areas being bought out and redeveloped with more expensive units under modern building codes. The collapse of the Champlain Towers South condo in Surfside in June has accelerated this trend, as cities have cracked down on delayed repairs in older buildings.

Starting in May, a joint venture between Miami-based Mast Capital and Miami Beach-based Starwood, 5333 Collins Acquisitions LP, began acquiring 104 condos in La Costa from the individual owners. That gave it control of the condo association and the ability to terminate it, converting all units back to a single piece of property. There are no residents living there now, a spokesperson for Mast Capital has confirmed.

The developers otherwise wouldn't comment on their project.

Their application says the new condo would total 317,918 square feet in 19 stories, with 100 units, 183 parking spaces, a pool deck, a clubhouse, and a private restaurant. It was designed by Hollywood-based ODP Architects and the Office for Metropolitan Architecture led by Rem Koolhaas in the Netherlands. Akerman attorney Neisen Kasdin represents the developers.

The developer described the building design in the application as follows:

“Rather than conceiving the building as a monolithic slab or filling the site to block the distinctive water-to-water location, a series of slender ‘towers’ are rotated to orient views away from neighbors towards the Atlantic Ocean and Biscayne Bay. These “towers” are then merged and lifted into one simple and timeless form, shaped by the specifics of site. This multi-tower design and its 45-degree articulation to the water on two sides allows residents to experience unique open views of sunrise, sunset, the Miami skyline and the ocean while enjoying multiple corner exposures.”

Units would range from 711 to 4,815 square feet. There would be 10 studios, 12 one-bedroom units, 49 two-bedroom units, three three-bedroom units, and 26 four-bedroom units.

In July, 5333 Collins Acquisitions obtained a \$75 million mortgage on its property from ACRC Lender LLC, in care of Ares Commercial Real Management in New York.

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T H E L I S T

South Florida Condominium Developers by Starts

Ranked by 2019 S. Fla. starts

Rank	Company	2019 S. Fla. Starts
1	El-Ad National Properties	384
2	Aria Development Group	231
3	Okan Group	163

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COMMERCIAL REAL ESTATE

Related Group, Two Roads near deal to buy out Bal Harbour condo




Carlton Terrace at 10245 Collins Ave., Bal Harbour.

GOOGLE STREETVIEW

IN THIS ARTICLE

Construction

 By Brian Bandell
Senior Reporter, South Florida Business Journal
Person Aug 25, 2021, 5:02pm EDT

Jaret Turkell

Person
The Related Group and Two Roads Development formed a 50/50 joint venture they say is close to buying out an oceanfront condo in Bal Harbour for redevelopment.

Jorge M. Pérez

Person

According to a source with knowledge of the deal, the 50/50 venture between Miami-based Related Group and West Palm Beach-based Two Roads has pledged to pay about \$130 million to buy out all 88 units in Carlton Terrace. The 15-story condo was built at 10245 Collins Ave. in 1956.

Related Group and Two Roads were competitors in recent years as they developed nearby condos in Miami's Edgewater. Now, they are working together to craft a condo tower in this wealthy town, known for luxury retail center Bal Harbour Shops and pricey penthouses.

Bal Harbour has some of the highest prices per square foot for condos, making it easier to justify paying big bucks to buy out an existing condo.

The average price per square foot for a Bal Harbour condo in the second quarter was \$1,041, with a median sales price of \$1.2 million, according to Douglas Elliman.

Given the condo's age, the cost of maintenance and repairs can be expensive. After the collapse of the Champlain South Tower in nearby Surfside in June, South Florida cities have cracked down on delayed repairs in older condos, so that has spurred some unit owners to consider selling to developers.

"Related Group and Two Roads Development have proudly joined forces to bring about a project that will define Bal Harbour for years to come," the developers stated. "As of today, we have acquired sufficient units to pave the way for redevelopment of the property, and will be sharing additional details in the coming months."

According to county records, Carlton Terrace Acquisition LLC, managed by Related Group CEO Jorge M. Pérez, has acquired eight condos in the building so far in deals that started in early July. These transactions were often profitable for the sellers. For instance, the developers paid \$1.51 million for Unit 14C, which last traded for \$407,000 in May 2020. It bought Unit 15A for \$2.4 million, after it sold in January for \$1 million.

Scott Wadler and Jaret Turkell of Berkadia worked with the majority of the condo owners at Carlton Terrace in advising them on the bulk sale.

The developers didn't reveal information about the project they are planning here. Current zoning allows for

development that's taller than the 15 stories Carlton Terrace measures today. The tallest building in Bal Harbour is the Oceana Bal Harbour at 28 stories.

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THE LIST

South Florida Condominium Developers by Starts

Ranked by 2019 S. Fla. starts

Rank	Company	2019 S. Fla. Starts
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Related Group obtains \$84M construction loan for downtown tower



Condo proposed on waterfront site in one of S. Fla.'s wealthiest areas



APPENDIX C-1

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

August 9, 2021

**Governmental Center, County Commission Chambers, Room 422
115 S. Andrews Avenue, Fort Lauderdale, FL**

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 10:05 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Lauren Book; Senator Perry E. Thurston; Representative Michael Gottlieb; Representative Chip LaMarca; Mayor Jane Bolin (Oakland Park); Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood) (telephonically); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals; Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado.

Members absent: Commissioner Mark Bogen, (Broward County); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks, including the charge and scope of the Committee. Self-introductions were then provided by the Committee members.

OVERVIEW OF EXISTING LAWS AND REGULATIONS REGARDING CONDOMINIUMS

Deputy County Attorney Maite Azcoitia provided a summary of a memorandum dated August 5, 2021, that was previously provided to the Committee, and responded to questions regarding the termination of condominiums, land use/density issues for redeveloped condominiums, and reserve funding for condominiums.

Paul Hanrahan provided information related to insurance and condominiums. Mr. Hanrahan discussed the differences between admitted insurance companies, excess/surplus lines of insurance, and

Citizens insurance and the types of liabilities typically insured by each. Mr. Hanrahan predicts a minimum of 20%-25% increase in insurance rates in the near future and that insurance companies will require an engineer's certification prior to providing insurance to condominiums. In response to questions received, Mr. Hanrahan explained the distinction between an engineer's certification and the 36 month appraisal required of condominiums and the responsibilities of condominium boards and condominium association managers for insurance and inspection of condominiums.

Dr. Jennifer Jurado made a presentation regarding "Sea Level Rise-Projections, Impacts, and Resilience Considerations for Condominiums." The information demonstrated that sea level rise is occurring more quickly than previously projected. As a result, many existing structures are below the current minimum required elevation. The presentation included information regarding recent County enactments requiring an increase in the height of seawalls that are below 4 feet, when the lower height is causing water to trespass onto neighboring properties or the public right-of-way. Dr. Jurado's presentation also provided recommendations for condominiums to address sea level rise, including waterproofing. Dr. Jurado responded to questions from the Committee, including regarding the inspection of seawalls and methods to provide for water retention onsite.

[After a lunch break, Senator Thurston and Commissioner Shuham participated by phone.]

Senior Assistant County Attorney Michael Owens discussed Broward County's recent enactment of an ordinance requiring that the height of seawalls be increased to 4 feet by 2035 and 5 feet by 2050. The basis for the requirement is founded upon common law principles of nuisance and water trespass.

Mr. Chapnick expressed a concern regarding the constitutionality of terminating condominiums under current statutory authority.

Ms. Bolin expressed her belief that condominium association managers are able to provide needed assistance to condominium boards and that the current licensing exemption for condominium managers if there are less than 50 units or a budget of \$100,000 or more should be eliminated.

Mr. Lavrich discussed the impact of sea level rise on the integrity of condominium structures and the impact of salt on the structures. He stressed the importance of adequately shoring structures when performing repairs. In response to questions from Committee members, Mr. Lavrich discussed the testing of concrete and Broward County's 40 Year Inspection Program, including the engineer's responsibilities and the notice requirements to the applicable city.

At the request of Mayor Cooper, Julian Sanchez, P.E., Todd Wasserman, and Lance Kaplan of LTM Group, LLC, provided information related to the waterproofing of condominium structures, the benefits of having community association managers oversee the letting and financing of necessary repairs, and experiences from having managed condominiums. This included discussion of spot checks for purposes of obtaining bids for work on the condominiums.

Ms. Johnson expressed her belief that condominium statutory reserves should not be waivable.

Mr. Nesbitt stated that action should not be taken until it is learned what caused the recent condominium collapse.

Commissioner Molina-Macfie discussed reserve studies as a valuable source for a condominium board to plan the financing of necessary repairs. Commissioner Molina-Macfie also stated that she believes that the \$4 per door that is currently collected for the Condominium Trust Fund should not be swept and should be retained for education and enforcement. Chair Geller stated that he tried to ensure that it was not swept when he was at the Legislature but was unable to do so.

Chair Geller stated that the discussion would be continued at its next meeting on August 23rd and public input would be allowed, if time permits.

ADJOURNMENT

The meeting was adjourned at 5:10 PM.

APPENDIX C-2

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

August 23, 2021

**Governmental Center, County Commission Chambers, Room 422
115 S. Andrews Avenue, Fort Lauderdale, FL**

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 9:35 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Lauren Book; Senator Perry E. Thurston; Representative Michael Gottlieb; Representative Chip LaMarca; Mayor Joy Cooper (Hallandale Beach) (telephonically); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals; Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado.

Members absent: Commissioner Mark Bogen, (Broward County); Mayor Jane Boline (Oakland Park); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks. Self-introductions were then provided by the Committee members.

APPROVAL OF MINUTES OF MEETING OF AUGUST 9, 2021

Commissioner Molina-Macfie indicated that page 3 of the Minutes should reflect her statement that the \$4 per door that is currently collected for the Condominium Trust Fund should not be swept and should be retained for education and enforcement. Also, Chair Geller's statement that he tried to ensure that it was not swept when he was at the Legislature but was unable to do so.

A motion was made by Senator Book, seconded by Toby Feuer to approve the minutes as amended by Commissioner Molina-Macfie. The motion passed unanimously.

EXISTING LAWS AND REGULATIONS REGARDING CONDOMINIUMS

At the previous meeting an overview was received regarding existing laws and regulations. The Committee discussed statutory reserves, what the minimum should be to require reserves, whether condominium associations should be able to waive the requirement and, if so, under what conditions.

Paul Handerhan provided information related to insurance, the types of inspections of condominiums typically performed by insurance companies, and the coverage generally afforded. Mr. Handerhan suggested that the statutory "best efforts" language for condominiums to obtain insurance could be eliminated or better defined.

At the request of Commissioner Molina-Macfie, Lisa Magill, Esq., made a presentation regarding reserve studies. Ms. Magill is an attorney and Board certified specialist in Condominium and Planned Development Law and is Co-Chair of the Reserve Study and Reserve Funding Plan task Force. Ms. Magill indicated that reserve studies are budgetary tools to assist condominium boards with preventative maintenance and required repairs. Reserve studies are not required to be performed in Florida. Ms. Magill suggested that reserve studies could be better defined and parameters established for when a reserve study needs to be prepared by a professional. Additionally, Ms. Magill suggested that building officials could develop manuals for the upkeep of various building components.

At the request of Commissioner Shuham, City of Hollywood Building Official Russell Long discussed steps implemented at the City post Surfside, including the development of a triage for development that began with the inspection of oceanfront condominiums and then proceeded inland, prioritizing condominiums over 6 stories in height and over 40 years old. Mr. Long indicated that determining the age of the buildings can be problematic because the age of buildings that used to be hotels is measured from the time that the units were converted to private ownership. The Property Appraiser's Office is aware of the issue and is working towards resolving it.

The Committee discussed adding items to the statutory list of items for which condominium associations must provide reserve funding, absent a waiver. These included elevators and structural components such as concrete, glass, and steel. The general consensus was that the current catch-all be retained with possible modification of the amount from \$10,000 to a percentage of the association's budget, or both. The Committee generally agreed that if waiver of statutory reserves is going to continue to be permitted, additional requirements should have to be satisfied in order to do so. These included requiring a supermajority vote of the unit owners, the number of units, the location of the building, the

height of the building, conducting of a reserve study, and disclosing the reserve study to unit owners and purchasers.

Broward County's 40 year inspection program was discussed, including its purpose, enforcement, whether consideration should be given to the location of buildings, and whether the program should provide for the initial inspection earlier than 40 years with subsequent inspections earlier than 10 years thereafter.

Chair Geller stated that the discussion would continue at its next meeting on August 30, 2021, including the redevelopment of condominiums. Chair Geller asked that Committee members provide their recommendations no later than Thursday, August 26th, so that they may be discussed at the next meeting.

ADJOURNMENT

The meeting was adjourned at 4:56 PM.

APPENDIX C-3

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

August 30, 2021

**Governmental Center, County Commission Chambers, Room 422
115 S. Andrews Avenue, Fort Lauderdale, FL**

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 9:36 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Lauren Book; Senator Perry E. Thurston; Representative Michael Gottlieb; Mayor Jane Bolin (Oakland Park) (telephonically); Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals (BORA); Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia; and Dr. Jennifer Jurado.

Members absent: Representative Chip LaMarca; Commissioner Mark Bogen, (Broward County); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks. Self-introductions were then provided by the Committee members.

APPROVAL OF NOTES OF MEETING OF AUGUST 23, 2021

A motion was made by Toby Feuer, seconded by Mayor Cooper to approve the notes of the meeting of August 23, 2021. The motion passed unanimously.

GENERAL CONSENSUS ITEMS

The Mayor listed items believed to have reached general consensus that could form the basis for the Committee's recommendations: the need for more frequent inspections and more items to be

inspected; community association manager certification and requirements; reserve funding; insurance coverage; increased education for condominium board members; better quality concrete in construction; special assessment funding options for low income communities; inspections and waterproofing; increased municipal enforcement; maintenance of buildings; condominium affordability; post-inspection condominium meeting; Condominium Trust Funds; Department of Business and Professional Regulation as a central repository; disclosures to condominium unit owners and purchasers; and condominium redevelopment.

At the request of Representative Gottlieb, William O'Donnell, P.E., Managing Principal of DeSimone Consulting Engineers' Miami office, appeared and described the inspections and testing performed by his firm as part of BORA's Building Safety Inspection Program, including destructive and nondestructive material testing; the effect of salt and saltwater on building components; and the impact of threshold inspections on the soundness of buildings and building materials; and recommended that the BORA's inspection requirements be reduced to 30 years.

At the request of Representative Gottlieb, Matt Kuisle, Regional Executive Director of Reserve Advisors, LLC, appeared telephonically. Mr. Kuisle discussed reserve studies, including their purpose, cost, items included, and the estimating of repair costs; recommended that the requirements for waiving reserve studies be increased with the eventual elimination of waivability, with a commensurate phase-in of reserve requirements over a period of time. Thereafter, reserve studies should be performed at least every thirty-six (36) months.

The Committee agreed to consider the following items for recommendation at its next meeting:

(1) Motion by Mr. Lavrich, seconded by Mayor Cooper to recommend to the Florida Building Commission that it adopt the American Concrete Institute requirement regarding serviceability. The motion passed unanimously.

(2) Motion by Dr. Jurado, seconded by Mayor Cooper to recommend that the 40 year inspection deadline under the Building Safety Inspection Program be reduced to 30 years; with any existing building that is more than 30 years old but less than 37 years old being required to come into compliance within thirty-six (36) months. The motion passed 13-2, which Mr. Nesbitt and Mr. Lavrich voting no.

(3) Without objection, to increase the number of continuing education hours needed biennially to renew community association management licenses from fifteen (15) hours to twenty (20)

hours, including one (1) hour in each of the following areas: building maintenance, building inspections, and reserves.

(4) Mayor Bolin agreed to provide proposed statutory amendment language that would make community association managers responsible for identifying structural maintenance and integrity issues for the buildings they manage.

(5) A motion was made by Commissioner Molina-Macfie, seconded by Commissioner Shuham to require that condominium associations, including master associations, with greater than fifty (50) units and/or a budget of \$100,000 or more be required to obtain the services of a community association manager, licensed pursuant to Part VIII of Chapter 468, Florida Statutes, to manage the condominium property, unless a majority of the members of the board of the condominium association have obtained the minimum continuing education requirements for community association managers. The motion passed unanimously.

(6) A motion was made by Senator Book, seconded by Representative Gottlieb to allow the waiver of statutory reserves only if: (i) a reserve study is conducted at least every thirty-six (36) months; (ii) a copy of the reserve study is provided to all unit owners prior to the vote related to waiving of the reserves; and (iii) the waiver is approved by at least a seventy-five percent (75%) majority vote of a quorum at a duly called meeting of the association. The motion passed 14-1, with Mayor Cooper voting no.

(7) A motion was made by Senator Book, seconded by Ms. Johnson, to remove the "best efforts" language related to condominium insurance from Section 718.111(11)(d), Florida Statutes. The motion passed unanimously.

(8) Dr. Jurado agreed to prepare language to be considered at the Committee's next meeting to expand the Building Safety Inspection Program requirements to include assessment of seawalls.

(9) Without objection, that the \$4 per unit collected for the Condominium Trust Fund should remain in the Condominium Trust Fund and be used for its intended purpose; i.e., education and enforcement, rather than being reallocated to the General Fund.

(10) Without objection, a requirement that engineers providing reports for condominium associations file a copy of the report with the applicable local government. This is applicable to all structural reports and is not limited to reports required under the Building Safety Inspection Program.

(11) Without objection, that the Building Safety Inspection Program be amended to require that no later than thirty (30) days after receipt of an inspection report issued pursuant to the Building Safety Inspection Program, condominium associations distribute copies of the inspection report, or the

Executive Summary of said report, if provided, to all unit owners. Additionally, the condominium board shall call a special meeting to discuss the report, with notice having been provided consistent with Section 718.112(2)(c), Florida Statutes.

(12) Motion by Commissioner Shuham, seconded by Senator Book to allow for the pooling of reserve accounts; provided current law does not permit pooling of reserves with a vote of the unit owners.

(13) Commissioner Shuham requested for a possible recommendation of reenactment the language of Section 718.113(6), Florida Statutes (2008), requiring condominium association boards of buildings greater than three (3) stories in height to have the building inspected and for the provision of a report under seal of an architect or engineer authorized to practice in the State at least every five (5) years. The report would attest to required maintenance, useful life, and replacement costs of the common elements. Mr. Chapnick agreed to provide same.

(13) Motion by Commissioner Shuham, seconded by Mayor Cooper that condominium unit owners who have entered into a contract for the sale of the condominium unit be required to provide prospective purchasers with the most recent reserve study, if one was prepared within the previous thirty-six (36) months. If a reserve study current to within the previous thirty-six (36) months does not exist, the unit owners shall provide information related to existing reserves or waivers, as applicable. The motion passed unanimously.

(14) Motion by Commissioner Molina-Macfie, seconded by Ms. Feuer that the Florida Realtors' form contract for the purchase and sale of real property be amended to incorporate the language of Section 718.112(2)(f)4., Florida Statutes, including font size requirements, requiring that disclosure be provided for condominium sales where the funding of reserves has been previously waived by the condominium association.

(15) Mr. Nesbitt agreed to provide a draft recommendations that would provide for municipal notice of upcoming required action(s) pursuant to the Building Safety Inspection Program.

(16) Without objection, that condominium association insurance documents be required to be filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation (Division).

(17) Motion by Mr. Chapnick, seconded by Mr. Lavrich that existing educational and training programs required for condominium board members also include a minimum of two (2) hours related to maintenance of condominium buildings. The motion passed unanimously.

(18) Motion by Commissioner Molina-Macfie, seconded by Mr. Chapnick to remove the certification option for newly elected or appointed condominium association board members, thereby

requiring that new board members must satisfactorily complete an educational curriculum administered by a Division-approved condominium education provider. The motion passed unanimously.

(19) Motion by Commissioner Shuham, seconded by Commissioner Molina-Macfie that, with the assistance of the Florida Condominium Ombudsman Office, there be increased education for residential condominium board members and unit owners related to the cost of condominium ownership, maintenance, reserve funding, etc. Additionally, that condominium association board members be required to complete the educational curriculum every two (2) years. The motion passed unanimously.

(20) Without objection, that reserve studies be better defined statutorily, to include but not be limited to, maintenance and deferred maintenance.

(21) Without objection, that educational materials be developed by the Division or BORA regarding the maintenance of condominium property, including the benefits of regular maintenance, for distribution by the Property Appraiser's Office with the TRIM Notices.

(22) By unanimous consent, that reserve accounts be required for concrete/structural issues. Motion by Commissioner Shuman, seconded by Commissioner Molina-Macfie that condominium association budgets include reserve accounts for items with deferred maintenance or replacement costs exceeding the lower of \$100,000 or ten percent (10%) of the association's budget. The motion passed unanimously.

The next and final meeting of the Committee will be on September 17, 2021, at 10:00 AM, at which time the foregoing recommendations will be considered.

ADJOURNMENT

The meeting was adjourned at 5:55 PM.

APPENDIX C-4

**Summary Meeting Minutes of the Meeting of the
BROWARD COUNTY CONDOMINIUM STRUCTURAL ISSUES COMMITTEE**

September 17, 2021

Governmental Center, County Commission Chambers, Room 422

115 S. Andrews Avenue, Fort Lauderdale, FL

CALL TO ORDER

The meeting was called to order by Mayor Steve Geller, Chair, at 10:03 AM.

Members present: Senator Steve Geller, Mayor and County Commissioner (Chair); Senator Perry E. Thurston; Representative Chip LaMarca; Representative Michael Gottlieb; Mayor Jane Bolin (Oakland Park); Mayor Joy Cooper (Hallandale Beach); Commissioner Mary Molina-Macfie (Weston); Commissioner Caryl Shuham (Hollywood); Michael Chapnick, Esq.; Toby Feuer, President of the Presidents Council of Bonaventure, Inc.; Karen Johnson, President of the Broward Palm Beaches and St. Lucie Realtors; Daniel Lavrich, P.E., Chair of the Broward County Board of Rules and Appeals (BORA); Fred Nesbitt, President and Chairman of the Presidents Council for the Galt Mile Community Association; Deputy County Attorney Maite Azcoitia (telephonically); and Dr. Jennifer Jurado.

Members absent: Senator Lauren Book; Commissioner Mark Bogen, (Broward County); Greg Bastista, P.E., President of G. Batista Engineering & Construction; Raul Schwerdt, P.E., President of RAS Engineering; and Deputy County Attorney Annika Ashton.

INTRODUCTORY REMARKS AND SELF-INTRODUCTIONS

Chair Geller provided introductory remarks. Self-introductions were then provided by the Committee members.

APPROVAL OF NOTES OF MEETING OF AUGUST 30, 2021

A motion was made by Mayor Cooper, seconded by Representative LaMarca to approve the Minutes of the meeting of August 30, 2021. The motion passed unanimously.

RECOMMENDATIONS

The Committee discussed each recommendation contained in the draft Committee Report and approved the following as final recommendations:

Inspections

- (1) That the Building Safety Inspection Program be made Statewide and require the inspection of buildings that are at least thirty (30) years old, with existing buildings that are between thirty (30) and thirty-seven (37) years old having thirty-six (36) months to come into compliance by having the appropriate inspection(s) performed. Subsequent reinspections shall occur every ten (10) years after the initial inspection.
- (2) That the Building Safety Inspection Program require that, prior to each required inspection, including the ten (10) year reinspections (Required Inspection):
 - Two (2) Years Before the Required Inspection: no later than March 31, condominiums will receive written notification from the applicable local government about the upcoming safety inspection, stating that the engineer's preliminary evaluation of the structure and electrical systems must be completed by March 31 of the following year and submitted to the local government. This notice shall be posted on the condominium's official bulletin board and website (if it has one).
 - One (1) Year Before Required Inspection: The engineer's preliminary safety inspection listing any deficiencies must be filed with the applicable local government no later than March 31. At that time, the condominium would be required to submit its plan(s) to address the deficiencies, including a timetable, funding source, and condominium board-approved resolution binding the condominium to complete the repairs by the end of the next year. A copy of this report and the board's proposed actions will be posted on the condominium's official bulletin board and website (if it has one). If the engineer's report identifies no deficiencies, the engineer's report will serve as the official report for the Building Safety Inspection Program.
 - Inspection Year: Unless the engineer's report identified no deficiencies, a final engineering report shall be submitted to the applicable local government no later than December 31, showing that the condominium is in full compliance with the safety inspection and that all deficiencies have been corrected. Failure to comply with this deadline will be addressed by the applicable local government.
- (3) That Building Safety Inspection Program requirements include:
 - (i) (For waterfront condominiums only) Assessment of seawall(s) for:

1. evidence for tidal overtopping and potential source contributing to site flooding or tidal water pooling likely to impact the building (with potential need to elevate); and
 2. potential weaknesses (e.g., seepage/failure) that could compromise the building foundation (with potential need to restore/replace);
- (ii) Material testing of concrete core samples for signs of material degradation that impact concrete strength, as reasonably recommended by the engineer of record; and

[This portion of the recommendation passed with a vote of 11-3, with Representative LaMarca, Mr. Lavrich, and Mr. Nesbitt voting No.]

- (iii) Geotechnical analysis to assess potential for structural or foundation issues, as reasonably recommended by the engineer of record.

[This portion of the recommendation passed with a vote of 11-3, with Representative LaMarca, Mr. Lavrich, and Mr. Nesbitt voting No.]

- (4) That the Florida Statutes be amended to require that no later than thirty (30) days after receipt of an inspection report issued pursuant to the Building Safety Inspection Program, condominium associations distribute copies of the inspection report, or the Executive Summary of said report, if provided, to all unit owners. Additionally, the condominium board shall call a special meeting to discuss the report, with notice having been provided consistent with Section 718.112(2)(c), Florida Statutes. This requirement is applicable even if no deficiencies were noted in the inspection report.
- (5) That the Florida Statutes be amended to require engineers performing work for condominium associations to file a copy of their report(s) with the applicable local government and provide written notification to the condominium association and the applicable local government of any life safety issues observed. This requirement applies and includes all inspections and is not limited to inspections required by the Building Safety Inspection Program and requires engineers to report all life safety issues that are discovered by the engineer while performing work for a condominium association.

Condominium Reserves

- (6) That the Florida Statutes be amended to require that the list of required reserves in condominium association budgets also include reserve accounts for concrete restoration and other structural issues, and additional items with deferred maintenance or replacement costs exceeding the lower of \$100,000 or ten percent (10%) of the association's annual budget.

- (7) That the Florida Statutes be amended to require that a reserve study be performed at least every thirty-six (36) months and that, in order to waive or reduce required statutory reserves, a condominium association must: (i) have conducted a reserve study within the previous thirty-six (36) months; (ii) prior to the vote related to waiving or reducing the reserves, provide a copy of the reserve study to all unit owners by physical or electronic means, if the condominium bylaws authorize electronic notice; and (iii) approve the waiver or reduction by at least a seventy-five percent (75%) majority vote of the voting interests present at a duly called meeting of the association.
- (8) That the Florida Statutes be amended to require condominium associations to provide prospective purchasers of units within the condominium with the most recent reserve study, if one was prepared within the previous thirty-six (36) months. If a reserve study current to within the previous thirty-six (36) months does not exist, the condominium association shall provide information related to existing reserves or waivers, as applicable.
- (9) That the Florida Realtors' form contract for the purchase and sale of real property be amended to incorporate the language of Section 718.112(2)(f)4., Florida Statutes, including font size requirements, requiring that disclosure be provided for condominium sales where the funding of reserves has been previously waived or reduced by the condominium association.

Insurance

- (10) That the Florida Statutes be amended to: (i) remove best efforts language of Section 718.111(11)(d), Florida Statutes, thereby requiring associations to obtain and maintain adequate property insurance; (ii) require that condominium association insurance documents be filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation (Division); and (iii) require that a copy of notices of cancellation issued by insurers or their agents to condominium associations be filed with the Division.

Condominium Association Management

- (11) That the Florida Statutes be amended to require that condominium associations, including master associations, with greater than fifty (50) units and/or a budget of \$100,000 or more be required to obtain the services of a community association manager, licensed pursuant to Part VIII of Chapter 468, Florida Statutes, to manage the condominium property, unless a majority of the members of the board of the condominium association have obtained the minimum continuing education requirements of Rule 61E14-4.001, F.A.C., for community association managers.

- (12) That the Florida Statutes and/or the Florida Administrative Code be amended to increase the number of continuing education hours needed biennially to renew community association management licenses from fifteen (15) hours to twenty (20) hours, including one (1) hour in each of the following areas: building maintenance, building inspections, and reserves.
- (13) That the Florida Statutes be amended to include an obligation for community association managers as part of their management functions to identify issues related to the structural maintenance and integrity of the buildings, and other life safety issues, and report these findings in writing to all condominium association board members.

Education

- (14) That the Florida Statutes be amended to (i) remove the certification option for newly elected or appointed condominium association board members, thereby requiring that new board members must satisfactorily complete an educational curriculum administered by a Division-approved condominium education provider; (ii) require that condominium association board members complete the educational curriculum every two (2) years; and (iii) include an additional one (1) hour related to maintenance of condominium buildings in the educational and training programs required for condominium board members.
- (15) That the \$4 per unit collected for the Condominium Trust Fund pursuant to Rule 61B-23.002, F.A.C., should remain in the Condominium Trust Fund and be used for its intended purpose; i.e., education and enforcement, rather than being reallocated to the General Fund.
- (16) With the assistance of the Florida Condominium Ombudsman Office, that there be increased education for residential condominium board members and unit owners related to the duties and responsibilities of condominium board members and unit owners, the cost of condominium ownership, maintenance, reserve funding, etc.
- (17) That educational materials be developed by the Division, the Florida Building Commission, and local or regional governments regarding the maintenance of condominium property, including the benefits of regular maintenance, for distribution by the Property Appraiser's Offices with the TRIM Notices.

A motion was made by Commissioner Molina-Macfie, seconded by Commissioner Shuham, to accept the foregoing recommendations. The motion passed unanimously.

ADJOURNMENT

The meeting was adjourned at 12:21 PM.