The Galt Mile News

"An Official Publication of the Galt Mile Community Association"

JUNE 2008

SERVING THE 14,000 RESIDENTS OF THE GALT OCEAN MILE INCLUDING:

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Ocean Manor
Ocean Summit
Playa del Mar
Playa del Sol
Plaza East
Plaza South
Regency South
Regency Tower
Riviera
Royal Ambassador
Southpoint

Aftermath of 1944 Cleveland Natural Gas Disaster

GALT MILE RALLIES AGAINST
calypso holocaust threat

On April 7th, a meeting of the Galt Mile Presidents Council was convened to inform Association officials about the planned placement of a "Deepwater Port" for the offloading of Liquefied Natural Gas (LNG) 7 to 10 miles from the densely populated Galt Mile beach. Representatives of Suez Energy North America, Inc. or SENA, sponsor of the "Calypso" project, were invited to explain the project variables and respond to questions raised by concerned community participants. SENA's parent, SUEZ Energy International, is a subsidiary of SUEZ, a $73.2 billion (47.5 billion Euro) French conglomerate that addresses public utility needs for electricity, natural gas, energy services, water and waste management. Articles in the Galt Mile News and the Galt Mile Community Association web site that explained the project's underlying rationale also elicited serious safety concerns by depicting the tragic consequences that plagued similar installations. The meeting was attended by City Commissioner Christine Teel, who was instrumental in securing participation by project organizers. Changes in the laws governing LNG facility licensing procedures eliminated the requirement for local approval, making such meetings voluntary. The sponsors were afforded the opportunity to make an objective presentation with the understanding that association representatives would transmit what they learned to their association constituencies whose feedback would determine whether the project would encounter community support or opposition

The Suez North America representatives opened by explaining how the Calypso facility would help satisfy Florida's growing demand for gas-fired electricity generation. The Calypso Deepwater Port (DWP) is a planned transfer station, enabling tankers carrying liquefied natural gas to dump their load, vaporize the liquid fuel into a gaseous state and send it through a pipeline (the Calypso pipeline) towards Port Everglades where it will be introduced into the Florida Gas Transmission Pipeline System for distribution across the region. Reminiscent of Florida's dependence on oil during the 1970s, natural gas-fired energy is expected to comprise 45% of total energy generated in the state by 2016. The Calypso U.S. Pipeline is designed to supply 832,000 MMBtu of natural gas per day or two thirds of the incremental amount required to meet the state's projected 2014 demand of 1.2 billion cubic feet per day (as estimated by the Florida Public Service Commission).

Deploying large storyboards as visual aids and smaller handouts distributed before the presentation, project personnel described the operational components of the proposed regasification facility, stating, "The Calypso DWP is a submerged offloading buoy and anchoring system that will reside approximately 120 feet below the ocean surface when not in use and serve as an offshore delivery point for natural gas. The westernmost buoy (West Buoy) would be sited approximately 7.7 miles from shore in 805 feet of sea water (FSW) and would connect to the sea floor with eight mooring lines, using six suction piles and two gravity anchors. The easternmost buoy (East Buoy) would be sited approximately 10.3 miles from shore in 932 feet of sea water (FSW) and would connect to the sea floor with nine mooring lines, using six suction piles and three gravity anchors. Using the submerged unloading buoy system, the DWP will be capable of servicing two types of LNG vessels simultaneously; a storage and regasification ship (SRS) and a transport and regasification vessel (TRV)."

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Calypso..Continued

Enumerating factors impacting proposed project traffic, they continued, "Except during severe weather conditions, to perform maintenance or for inspection, the SRS would remain moored 'semi-permanently' to the East Buoy. Conventional LNG carriers would call on Calypso DWP and transfer LNG to the SRS approximately every two days. TRVs would call on Calypso DWP and moor to the West Buoy every 4 to 7 days (averaging once every 5 days)."

Questions were fielded during and after the presentation. Several members asked about the visibility of the impending structure, aspiring to determine whether it would mar the ocean view. Tom Allen of Suez North America explained that the deepwater port apparatus remains submerged until pressed into service by the arrival of a transport and regasification vessel (TRV). Pictures of vessels comparable in size to the two specialized tankers were taken as they passed 7 miles and 10 miles from shore and featured on presentation storyboards. Appearing significantly smaller than cruise ships that ordinarily traverse a traffic lane closer to the beach, the pictures confirmed that the vessel traffic would represent little more than a minor impediment to the view from the beach.

An Ocean Club director asked whether a damaged vessel could blacken the beach with organic leakage. Tom explained that natural gas is transported and stored in a liquefied state by maintaining containment temperature at -260 degrees Fahrenheit. When "regasified", the colorless, odorless gas dissipates into the atmosphere. When asked about the familiar distinctive scent that is generally associated with natural gas, Tom explained that the odor is chemically induced to help locate and identify gas leakages. He said that since the gas evaporates when the temperature increases above -260 degrees, there are no residual pollutants of the type that are ordinarily associated with oil spills.

As the presentation drew to a close, a Playa del Mar director started asking more incisive questions about the prospective danger of gas explosions. Bradley Cooley, another Suez representative, exclaimed that the gas didn't explode when ignited, but rather burst into flame. He stressed that an ignited gas cloud burned at fiercely hot temperatures, quickly incinerating almost anything caught in the conflagration. Referring to project dangers enumerated in a Galt Mile News article about the Calypso project, another attendee asked about whether a gas cloud could travel the seven miles from a damaged vessel to the beach. While claiming ignorance of any authoritative studies indicative of the distance that an ignitable gas cloud could travel, Brad expressed confidence in the 7 mile "cushion" separating the facility from landfall.

When asked about the risks associated with the project's prominence as a target for terrorism, Mr. Cooley said "In addition to anticipating in licensing process, the Coast Guard is charged with the responsibility of protecting the installation and the transport vessels while they are discharging." When a GMCA official expressed concern about the substantial volume of authoritative reports and studies that define LNG facilities as indefensible, the Suez spokespersons referred to the project impact statement that described planned security measures.

While adequately expanding on operational, procedural, licensing and some environmental issues, questions about prospective terrorist infiltration and the potential catastrophic ignition of lethal gas (as occurred in Cleveland in 1944 and Skikda, Algeria in 2004) were answered with casual generalizations, leaving many in the audience with lingering concerns about these marginally addressed threats. Following the meeting, Suez personnel politely answered dozens of additional questions by members dissatisfied with vague project safeguards.

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The Galt Mile News

The Galt Mile News is the official newsletter of the Galt Mile Community. Published 12 times a year, this publication is designed to educate the Galt residents of neighborhood-oriented current events and issues, and to offer residents Galt-specific discounts from various local merchants.

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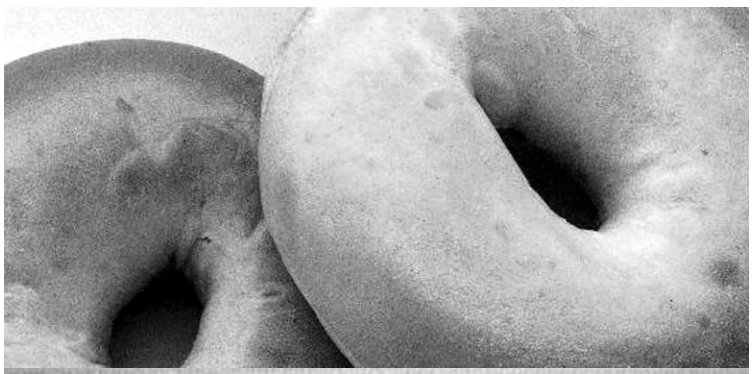

Calypso...Continued

In the weeks following the meeting, the residual trepidations felt by many of the attending Council participants were imparted to friends and neighbors, spreading epidemically throughout almost every association. Galt Mile residents took the time and trouble to weigh claimed improvements to the State's energy delivery system against the possible actualization of a mind-bending holocaust. Emails poured into the Galt Mile Community Association expressing fear and anger over being confronted by potential incineration. A set of exploratory links following an article about Calypso on the Association web site suddenly experienced an explosion of incremental hits.

One link entitled "The Risks and Danger of Liquefied Natural Gas" by California Attorney Tim Riley offered an acclaimed DVD presentation of the issue, focusing on dangers and drawbacks understandably ignored by LNG facility license applicants. The web site also details the manipulative government and industry tactics implemented to negate the necessity for local approval. Fed up with problematic licensing delays from individuals and local governments opposed to dangerous but lucrative energy facilities, the Administration engineered the amendment of federal oversight laws and created executive orders to ostensibly "fast-track" energy facilities licensing procedures. To legitimize the ejection of protective licensing components considered "dilatory", a "White House Task Force on Energy Project Streamlining" recommended an inter-agency cooperation order requiring every federal agency to mutually support one another's efforts, effectively dispensing with independent review.

A few months later (November 2004), Congressional supporters of the Administration's effort to pre-empt local licensing obstacles covertly inserted controversial language into the conference report for a massive appropriations bill (H.R. 4818) that was in neither the House nor Senate versions – without a vote or hearing – that undermined the ability of states and local communities to participate in the approval process. Later, the Energy Policy Act of 2005 (H.R. 6) finally actualized President Bush's Energy Policy, radically limiting the ability of states to have adequate jurisdiction over the permitting and siting of LNG facilities. Title III (Oil & Gas), Subtitle B, Section 311 (Exportation Or Importation Of Natural Gas) (e)(1) states that the Federal Energy Regulatory "Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal. (b)(11) 'LNG terminal' includes all natural gas facilities located onshore or in State waters…" States are only allowed to "consult" on permitting, rather than exercise unique regulatory authority to protect their communities.

In addition to being designated as the "lead" agency, the language directs that FERC alone "shall establish a schedule" for all federal and state LNG proceedings and maintain the "exclusive record" of the proceedings. The language only requires FERC to "consult with the State commission of the state in which the liquefication or gasification natural gas terminal is located" – so if a state disagrees with FERC procedures and/or rulings, FERC can simply ignore the state's concerns. While the Act allows states to "conduct safety inspections", this is permitted only AFTER the facility has been approved by FERC and built. After providing written notice to FERC of its intentions, since the state can only conduct such safety inspections under FERC guidelines (rather than those of the state's public utility commission), if a state has tougher safety standards than the federal government, only the weaker federal standard could be enforced. The language is clearly aimed at a July 2004 lawsuit filed by the State of California (challenging the placement of an unwanted LNG facility) claiming that FERC illegally ruled in a March 24, 2004 declaratory order that states have limited jurisdiction over the permitting and siting of LNG facilities inside their borders, FERC exclusively decides LNG licensing approvals By sneaking in language supportive of FERC's unilateral usurping of local licensing approval, the conferees undermined the basis for the lawsuits.

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In June of 2005, the National Governor's Association wrote the U.S. Senate urging them to support the bi-partisan amendment to the energy bill protecting the ability of states to have adequate say over the siting and permitting of proposed LNG facilities. Under White House pressure, the Senate rejected the National Governor's Association's request. On June 22, 2005 the US Senate voted 52 to 45 (3 not voting) rejecting an amendment to the energy bill that would have provided Governors the right to veto proposed LNG projects. Earlier, the House struck down an amendment by a 237 to 194 vote that removed language giving the federal government exclusive jurisdiction over LNG permitting and siting. Now that the industry-composed Energy policy is law, with permission of either the Coast Guard or the Maritime Administration, any solvent company can build an LNG facility (or a nuclear reactor) in your swimming pool. Fortunately, in certain circumstances, the Governor of each state can still exercise veto power over some of these projects.

For the $17,495,044 in direct contributions to key legislators and the $112,289,825 spread around by lobbyists, the Energy Industry bought $6 billion in Oil & Gas subsidies, $9 billion in Coal subsidies, $12 billion in Nuclear Power subsidies, $2 billion in Electric Power subsidies and across-the-board regulatory rollbacks exempting compliance with the Safe Drinking Water Act, the Federal Water Pollution Control Act, the National Environmental Policy Act and the Coastal Zone Management Act. Laugh it up... half of these giveaways were incentives to build facilities that already existed. Finally, the Act codified the elimination of local licensing approval for LNG facilities. Based on discredited trickle down pipedreams, instead of lowering energy prices, allowing energy industry lobbyists to write the bill is having the predicted effect of sending fuel prices and energy costs through the roof.

Upon recognizing the full extent of this threat, Plaza South residents Bill and Terry Claire spontaneously commenced efforts to organize effective opposition, inviting residents to attend viewings of Riley's video. When angry residents from Plaza South, Ocean Club, Royal Ambassador and L'Hermitage contacted GMCA officials, they discovered that they were the tip of the iceberg. The Galt Mile Community Association Board of Directors voted unanimously to oppose the project. The vote authorized the creation of a letter to the Governor expressing our concerns and recommending a project veto. To authorize the broadening of several individual efforts into a more effective community-wide campaign, the GMCA Advisory Board voted unanimously at the May 15th meeting to universally oppose the project. On May 7th, City Commissioner Christine Teel wrote to constituents, "I fully support those who oppose this project and will continue to express my opposition to the State and Federal government officials who will ultimately decide the fate of the Calypso Project. As additional information becomes available, including the details of the public hearing, I will share it with the Galt Mile Community Association so they may disseminate it to its members." After filing a Final Environmental Impact Statement (FEIS), the applicant (Calypso) must convene a public hearing which is projected to take place in late June or early July.

Dozens of counter-terrorism authorities have warned against the establishment of LNG facilities in densely populated areas. A December 2007 Government Accountability Office (GAO) Maritime Security report confirms that LNG tankers face "suicide attacks from explosive-laden boats, 'standoff' attacks with weapons launched from a distance and armed assaults" resulting in a "severe threat to public safety, environmental consequences, and disruption of the energy supply chain." This Congressional Report by the GAO exhorts that "the Coast Guard - the lead federal agency for Maritime Security - has insufficient resources to meet its own self-imposed security standards."

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THE OMNIBUS CONDOMINIUM BILL

As the session entered its final weeks, the numerous community association bills were consolidated into three separate offerings: a condominium bill, a homeowners association bill and a regulation bill (filed on behalf of the Department of Business and Professional Regulation). The three bills selected for this purpose were reconfigured to house condominium issues in HB 995 and SB 2084. HB 679 and SB 2504 were chosen to hold provisions governing Homeowners Associations. The bills containing regulatory refinements impacting the Department of Business and Professional Regulation were SB 2086 (SB 2498) and HB 601 (HB 1249). The provisions in bills that addressed several association categories were redistributed accordingly. For instance, provisions in HB 1349 and SB 2470 that affected condominiums were folded into HB 995 and SB 2084 while those related to Homeowner Associations were merged with HB 679 and SB 2504. Since Galt Mile Community Association members are primarily affected by the regulations in the condo bill, Association officials joined with condo owners and their respective condominium, civic and neighborhood associations from all over Florida to analyze hundreds of changes to the legislation as it progressed through the Statehouse and the Senate.

HB 995 and SB 2084 were double-edged swords, combining useful elements with provisions that were pointless, expensive, contradictory and destructive. The bill sponsors and their supporters presented Florida condo owners with two unacceptable options. To salvage the bills' useful provisions by supporting its passage as drafted, condo owners would have to undergo an adulteration of their right to govern themselves. To alternatively retain the right of self-governance, they would have to oppose the bill, throwing out the baby with the bathwater. Instead, a comprehensive effort was initiated to strip the most egregious provisions from the bill, reshaping it into legislation worthy of broad support. On March 12th and April 9th, the reviewing committees responded to corrective testimony by adopting strike-all amendments to the bill, wholly abandoning the text and replacing it with a Committee substitute. Since the bill was constantly changing through March and April, with virtually every section partially or fully substituted several times, many of the legislation's details weren't revealed until the end of the session. Condo owners inundated their legislators with specific criteria they expected to be met before agreeing to support the bill. Lawmakers were drafted to help convince the bill sponsors to embrace scores of corrective measures in exchange for support sufficient to enact the legislation. From April 14th through April 18th, Representative Robaina accepted several dozen amendments that addressed the bill's serious deficiencies.

Tallahassee generates Omnibus Condominiun Bill

During that last week before the final vote in the Statehouse, officials of the Galt Mile Community Association remained in constant contact with lawmakers, assorted State officials and association activists from all parts of Florida to help negotiate the scores of eleventh hour improvements needed to make the bills acceptable. A team headed by Representative Ellyn Bogdanoff worked incessantly with association experts such as Peter Dunbar and a statewide aggregation of civic leaders and association officials to excise the most regressive elements from the omnibus condominium bill.

Major impediments had to be revised, such as the bill's removal of the right of unit owners to structure the terms served on their own governing boards. The provision that stated, "The terms of all members of the board shall expire at the annual meeting" elicited thousands of angry letters, phone calls, emails and faxes from ordinarily passive unit owners to Statehouse Representatives, Senators and the Governor – bringing focus to this issue. The original version of the bill would have eliminated staggered terms of more than one year for every association in the State, despite the dictates of their by-laws. The bill was finally amended to permit a majority of the voting interests to affirm staggered terms of no more than 2 years if permitted by an association's bylaws. For associations whose bylaws required staggered two-year terms for board members, a one-time favorable vote by the members will confirm its validity. However, in mostly larger associations with commensurately larger representative boards of 9 or 11 members, any majority decision by unit owners or provision in the bylaws adopting staggered three-year terms will be arbitrarily overturned by the legislation, limiting their future options to one or two year terms. If the two-year terms are selected, underlying provisions must be installed into the association's bylaws by a favorable vote of all the members accompanied simultaneously by a redundant confirmation vote of all the members.

The section requiring buildings greater than 3 stories to sponsor a report by an architect or engineer every 5 years attesting to its required maintenance, useful life, and replacement costs was also amended with an "opt-out" provision. Enigmatically, other than mandating an expensive report every 5 years to redundantly investigate the same three data points, the bill is silent as to the reason for this mysterious expenditure. There is no subsequent requirement to address threats to safety or reconsider the reserve assessments expected to ultimately fund an item's replacement cost. Associations that simply pay tens of thousands of dollars for the investigation and file the report away will have fully complied with this poorly drafted exercise in misdirecting resources. The corrective amendment will allow Associations to "opt-out" by a vote of a majority of the owners present in person or by proxy. Such meeting and approval must take place prior to the end of the 5 year period and is only effective for that 5 year period. To further waive this requirement, the approval procedure must be repeated for each 5-year cycle. While Galt Mile Associations 40 years or older must still conduct the safety inspections that were reasonably ordained by the City, they will not have to undergo expensive redundant inspections every 5 years for no ostensible reason.

Provisions in HB 1349/SB 2470 that addressed reconstruction after casualty and imbued boards with emergency powers to fast-track post-storm repairs to condominiums were grafted into the bill, equipping condo boards with heretofore unavailable tools

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Calypso...Continued

On April 24, 2008, the House of Representatives overwhelmingly approved a bill (HR 2830) by a vote of 395 Yeas vs. 7 Nays making the Coast Guard enforce security zones around eight LNG terminals and any arriving tankers – all potential terrorism targets – despite a threatened Administration veto. Acknowledging the Coast Guard's admitted inability to meet its own security standards, the White House supported an amendment (H.Amdt. 1024 by Rep. Steven LaTourette [R-OH]) that allows the Coast Guard to use state or local government resources to assist in enforcing any security zone when deciding on security plans for LNG sites. In sharing the enormous security burden with local jurisdictions, the amendment acts as an unfunded mandate on the potential victims of a security breach. By making local taxpayers responsible for their own protection, the Administration could deflect media notoriety from a security failure while relieving the Coast Guard of a task it is admittedly incapable of performing.

Former White House counter-terrorism chief Richard Clarke wrote a report entitled "LNG Facilities in Urban Areas" in May of 2005 for Attorney General Patrick Lynch of Rhode Island warning that "Both the proposed urban LNG off loading facility and the proposed LNG tanker transit through 29 miles of Rhode Island have security vulnerabilities that are unlikely to be successfully remediated." Citing the consequences, he stated, "Many fires could exceed the 2000 BTU limit for the employment of fire fighters, necessitating a 'let it burn' approach to many structures. There would be both prompt and delayed fatalities." Speaking to the economic aftermath, he said, "The financial cost of compensating victims and rebuilding damaged or destroyed facilities following a catastrophic attack on the urban LNG facility and/or LNG tanker would likely exceed any insurance carried by the owners and operators of the LNG facility and tanker." Clarke continued, "In the absence of adequate insurance to pay victims and rebuild damaged or destroyed facilities, the LNG operators would be transferring the financial cost of the risk they would be creating either to the victims or to governments, or to some combination of both. Governments would also bear costs for greatly enhanced security and consequence management, including mass trauma and burn capabilities."

Serving as terrorism chief under Presidents George W. Bush and Bill Clinton until retiring in 2003, Clarke admonished that senior Bush Administration officials knew "that al-Qaeda operatives had been infiltrating Boston by coming in on liquid natural gas tankers from Algeria" prior to the 9-11 terrorist attacks. Having also held national security posts under Presidents Reagan and George H. Bush, 11-year White House veteran Clarke advises clients about corporate security risk management, information security technology, counterterrorism and dealing with the Federal Government on security and IT issues as Chairman of Good Harbor Consulting.

LNG terminals are "a terrorist attack waiting to happen," said Anne Korin, director of policy and strategic planning at the Institute for the Analysis of Global Security, a nonprofit think tank in Washington, D.C., that focuses on energy security issues. Korin said the type of attack conducted against the double-hulled French oil tanker Limburg, in which a boat loaded with explosives rammed into the ship, and penetrated both hulls, could be a disaster when directed at an LNG tanker. Chairman Peter Levene of Lloyds, the world's second-largest commercial insurer, told Houston business leaders that a terrorist attack on an LNG tanker "would have the force of a small nuclear explosion."

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Calypso...Continued

Upon breach of its container, Liquefied Natural Gas rapidly becomes an ignitable vapor cloud that will drift downwind (on shore). The vaporous gas is 90% methane and about 9% ethane with trace amounts of water and various other hydrocarbons such as propane and butane. Once the gas dispersion levels reach from 5% to 15% of gas to oxygen, ordinarily innocuous sources such as cell phones, cigarette lighters, light switches, engine spark plugs – even a static carpet spark – could trigger ignition. While the gas doesn't explode upon ignition, it bursts into a wide-spread super heated inferno beyond the suppression capabilities of most fire departments. When asked by local residents about the area endangered by a prospective coherent gas cloud, project representatives contended that there are no studies that demonstrate how far a gas cloud can travel while remaining sufficiently coherent to ignite. IN FACT, THERE ARE.

In March 2005, the U.S. Coast Guard requested that Sandia National Laboratories review the "Independent Risk Assessment of the Proposed Cabrillo Port LNG Deepwater Port Project" off the coast of Malibu, California. Released in January of 2006, the Sandia Report considered the worst credible intentional or accidental event release of 53 million gallons (200,000 m3) from two tanks of LNG. It was determined that a wind speed of 2 m/s (4.5 mph) resulted in the "worst case" in which the flammable vapor cloud extended about 7.3 miles (6.3 Nautical Miles or 11.7 km) downwind from the proposed offshore LNG Floating Storage and Regasification Unit. The planned placement of the proposed deepwater port is 7 to 10 miles from the Galt Mile beach.

A 1977 Environmental Impact Report by Socio Economics Systems, Inc. for a proposed LNG Facility in the City of Oxnard, California calculated a Vapor Cloud/Population Risk Scenario. Based upon an off shore LNG carrier collision in the Channel traffic lane (125,000 cubic meter spill, five tank rupture), an ignitable vapor cloud could spread 30 miles before dissipating, placing at risk a local population of about 70,000. Since the energy content of a typical 125,000 cubic meter LNG tanker is equivalent to seven-tenths of a megaton of TNT, or 55 Hiroshima bombs (as per a 1982 Lovins & Lovins Pentagon study entitled "Brittle Power: Energy Strategy for National Security"), any miscalculation inherent in this untested technology could instantly transform Fort Lauderdale into a Kuiper Belt Object – not unlike Pluto.

Ominously, the first onshore LNG facility in America suffered a major accident, incinerating one square mile of Cleveland in 1944, killing 131 and leaving 680 people homeless. At least 27 people were killed and 72 injured when a 2004 explosive blaze ripped through a liquefied natural gas plant in Skikda, Algeria. Although initially attributed to a defective boiler, documentation presented by plant owner Sonatrach demonstrated that a large amount of liquid gas escaped from a pipe and formed a cloud of highly flammable and explosive vapor that hovered over the facility until ignited by an unknown flame source.

In 1973, 40 Staten Island workers repairing an out-of-service LNG tank were incinerated when liquefied natural gas that had leaked through the tank liner into the surrounding soil and tank wall berm was ignited by a spark from one of the irons or vacuum cleaners used during the repair. Every one of the more than 2 dozen LNG incidents that occurred during the past 50 years was preceded by corporate assurances of adequate safety and security precautions. Not surprisingly, the second factor shared by these incidents is their corporate immunity to damages restitution. Through regulatory slight-of-hand, the governing laws provide the offending corporate perpetrator with a get-out-of-jail-free card, passing the fiscal punishment to the victims and their local governments.

All LNG vessel owners are protected by The Limitation of Vessel Owner's Liability Act, 46 U.S.C. §181, et seq., a law enacted by Congress in 1851 to provide U.S. ship owners a chance to be competitive with foreign-flagged vessels whose liability was limited under European seafaring codes. The Act limits the owner's liability to the post-disaster value of the vessel and its cargo contents. Since the U.S. Supreme Court has long held that the sinking of a ship marks the termination of both the voyage and the vessel's value, the vessel owner's financial liability in an LNG tanker disaster is severely limited. Notwithstanding prospective widespread damage to property or infrastructure in the $billions, the ship owner's property exposure (outside the ship and cargo) is ZERO and loss of life and bodily injuries would be limited to just $420 per vessel ton. The Deepwater Port Act similarly limits the financial liability of an LNG deepwater port facility operator to $350 million. The Maritime Transportation Security Act of 2002 (MTSA) amended the Deepwater Port Act (DWPA) of 1974, 33 United States Code 1501, et seq., to include natural gas. The damages limitation was created for offshore oil ports contemplating sufficient liability for an oil spill and cleanup costs, not LNG storage and regasification facilities capable of incinerating entire communities. Bottom line: the losses are passed to the victims and their local governments' taxpayers.

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Calypso....Continued

In addition to threats posed by terrorist activity and human error, the area's increased exposure to hurricanes heightens the potential danger. The Great Lakes and the Florida Straights are littered with vessels snapped like twigs by devastating storms. Such an event would instantaneously release a tanker's full complement of LNG into the surrounding ocean. In addition to an incipient vapor cloud, the immediate ocean habitat would experience an environmental holocaust.

In an earlier meeting with project representatives, GMCA officials questioned the placement of the deepwater port off the Galt Mile beach instead of a location closer to the pipeline's Port Everglades landfall. Apparently, environmental impact studies indicated that the hardbottom seabed environment of locations closer to Port Everglades were more worthy of protection than the Galt Mile site. While discussing placement parameters, they said that they would have preferred installing the deepwater port 40 or 50 miles from the populated shore. They said that the Miami Escarpment, an undersea geological feature about 10 miles from the Fort Lauderdale shoreline in which the sea floor drops precipitously rendered that alternative structurally unfeasible. Since the gas is transported by pipeline from the deepwater port to the shore, consideration should have been given to offshore sites unaffected by this underwater cliff. The deepwater port's proximity to Fort Lauderdale is obviously unnecessary since the project's original license placed the regasification structure in the Bahamas, with the gas traveling by pipeline to Port Everglades. By providing a 40 to 50 mile cushion between the installation and the densely populated Broward beachfront, a similar open ocean placement anywhere along the coast would sufficiently insulate the population from any catastrophic ramifications.

Project representatives plainly expressed their reliance on the Coast Guard for protection against terrorist attack. Given the Coast Guard's stated inability to effectively perform this function due to inadequate resources, the threat assumes unacceptable proportions. Despite representations by officials of Suez North America and Calypso LLC that they will do all in their power to protect against a holocaust, our thousands of neighbors living along the coast are understandably unwilling to risk their lives to provide these companies with more efficient product distribution. In view of the horrific consequences attendant to a security oversight, an error in judgment or hurricane damage, no prospective benefit to the State can justify the potential loss of life and property.

For additional information, go to the GMCA web site (www.galtmile.com) and click on the article headline entitled, "Galt Mile Residents: No Calypso" dated May 15, 2008. The article contains numerous links to important source material. At the bottom of the article, access is provided to "a comprehensive list of links relevant to Liquefied Natural Gas and LNG Facilities." Included in these links is documentation referred to in another important article just preceding the list of links.

P.S. Only Florida's Governor, Charlie Crist, is empowered to veto this project. However, on May 20th, the Ft. Lauderdale City Commmission voted to issue a resolution proposed by City Commissioner Christine Teel opposed to the construction of this dangerous facility across from a densely populated Galt Mile beach.

to mitigate incremental damage arising from catastrophic structural deficits. It also helps clarify a long-standing grey area in the material alteration provisions of the condominium statute, defining the funding responsibility for repairing improvements added by unit owners to their homes.

Following the whirlwind week of intensive corrective surgery to the Statehouse condominium bill (HB 995), legislators and concerned condo owners turned their attention to its sister bill in the Senate, Senate Bill 2084. The new provisions in the overhauled House Bill were officially received by the Senate on April 22nd at about 4:20 PM and immediately scheduled for consideration by Senate Committees on Regulated Industries, Community Affairs and the Judiciary Committee. By mid-afternoon of the following day, the unamended Senate bill was withdrawn from Committee review and replaced with a mirror image of the reworked House bill. The balance of April 23rd was devoted to insuring that Senator Villalobos' companion bill accurately reflected the changes made to HB 995. After being carefully reviewed for consistency, Senate Bill 2084 was "laid on the table". Replaced by the now identical Statehouse counterpart HB 995, it was passed unanimously (40 yeas vs. 0 nays) by the late morning of April 24th.

Having been notified by Galt Mile officials about expected changes to the Senate bill, Senator Jeffrey Atwater was prepared to oppose the bill if its supporters attempted to pass the unamended version. Once informed that SB 2084 was improved as promised, Atwater participated in the passage of SB 2084. On Friday, April 25th, the legislation was enrolled in preparation for submission to the Governor.

By finally opening their bills to corrective input, Representative Robaina and Senator Villalobos elicited unanimous passage in the Statehouse (110 yeas vs. 0 nays) and the Senate (40 yeas vs. 0 nays). While the 87 pages of bill text is understandably afflicted with some drawbacks, the omnibus condo bill equips associations with critically needed emergency procedures for responding to catastrophic hurricane damage, gives unit owners increased access to meeting agendas, adds protection against identity theft, clarifies responsibility for casualty repair costs, defines record-keeping guidelines and expands on minimum financial reporting requirements. A comprehensive review of the bill's full impact is enumerated in the following bulleted summary.

- As altered in Chapter 468 of the Florida Statutes, the bill will require community association management firms to be licensed if the firm manages more than 10 units or a budget of $100,000 or more. Empowers Regulatory Council of Community Association Managers (RCCAM) to recruit input and advise Division about improving rules and educational output.

  License applicants practicing CAM functions prior to being licensed will be denied. It is a violation for a licensee to engage in a contract with an entity in which the licensee holds an undisclosed financial interest. Defines grounds for licensee disciplinary action and provides for normalization of status once compliance is confirmed.

- 718.111(1)(b): Provides that a director who abstains from voting shall be presumed to have taken no position with regard to the action taken.

  Ordinarily, an abstention inures to an issue's endorsement. Since abstentions will hence exert zero impact, decisions can no longer b made by passive affirmation.

- 718.111(1)(d): This section includes a standard of care for directors similar to the standard of care imposed on directors of a not-for-profit corporation pursuant to Section 617.0830, Florida Statutes, (governing not-for-profit corporations). It requires that directors act in good faith and in a manner that he or she reasonably believes is in the best interest of the association. It also provides that directors will be liable for money damages if the director commits a crime, if the director derived an improper personal benefit, either directly or indirectly, or if the act constitutes recklessness, bad faith, with a malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety or property.

  This liability provision is similar to the provision in the not-for-profit statute, 617.0834.

- 718.111(12)(a)11. and 718.112(12)(c): States that anyone who knowingly and intentionally defaces or destroys accounting records required to be maintained by the statute, or knowingly or intentionally fails to create or maintain accounting records required by statute, is personally subject to a civil penalty.

  The words "knowingly or intentionally" were added to the original bill to clarify a motive for triggering a civil penalty. Otherwise, the questionable language in the original bill could have penalized everyone for documents lost or misplaced by anyone.

- 718.111(12)(b): Requires that all official records must be maintained for at least 7 years and within 45 miles of the condominium or within the county where the condominium is located. It gives the association an option to maintain and provide the records to the owners in an electronic format.

- 718.111(2)(c): Provides that social security numbers, drivers' license numbers, credit card numbers and other personal identifying information are not accessible to unit owners. This is one of the most important protections built into the bill, creating a basis for establishing a class of information unavailable for harvesting by "identity thieves".

- 718.111 (13): Requires the Division (Division of Florida Land Sales, Condominiums and Mobile Homes) to adopt additional rules regarding information to be included in financial report such as a summary of the reserves including information as to whether such reserves are being funded at a level sufficient to prevent the need for a special assessment and, if not, the amount of the assessments necessary to bring the reserves up to the level necessary to avoid a special assessment

Continued on page 12

JUNE/JULY 2008

SUN	MON	TUE	WED	THU	FRI	SAT
8 Urban Gourmet Market Las Olas Blvd. 10 a.m. to 4 p.m. Info.: 954-462-4166	**9**	**10** **2008 Sea Turtle Walk** (Also 6/11, 6/12, 6/17, 6/18, 6/24, 6/25, 6/26, 7/1, 7/2, 7/3, 7/8, 7/9, 7/10, 7/15, & 7/16) Museum of Discovery & Science 9 p.m. to 1 a.m.	**11** Pearl Jam Sound Advice Amphitheatre Tix.: www.ticketmaster.com	**12**	**13** Jesus Christ Superstar (Through 6/19) Broward Center Info.: 954-462-0222 Mango Festival (Through 6/15) Deerfield Beach Info.: 954-592-9653	**14**
15 Father's Day Urban Gourmet Market Las Olas Blvd. 10 a.m. to 4 p.m. Info.: 954-462-4166	**16** Vice Mayor Teel Pre-Agenda Meeting Beach Community Center 6 p.m. Info: 954-828-5033	**17** Ft. Lauderdale City Commmission Meeting City Hall 6 p.m. Melissa Etheridge Amphitheater at Mizner Park Tix.: www.miznerpark.com	**18**	**19** GMCA Advisory Board Meeting Nick's Italian Restaurant 11 a.m.	**20** Starlight Musicals (country) 7 to 10 p.m. Holiday Park Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m.	**21** Rockin' With The Rhythm (Through 6/22) Broward Center Tix.: 954-462-0222
22 Urban Gourmet Market Las Olas Blvd. 10 a.m. to 4 p.m. Info.: 954-462-4166	**23**	**24**	**25**	**26**	**27** Short 4 Kids (Through 6/28) Broward Center Tix.: 954-462-0222 Starlight Musicals Valerie Tyson Band 7 to 10 p.m. Holiday Park	**28** Backyard Bubble Bash (Through 6/29) Museum of Discovery & Science Info.: 954-713-0930
29 Urban Gourmet Market Las Olas Blvd. 10 a.m. to 4 p.m. Info.: 954-462-4166	**30** Vice Mayor Teel Pre-Agenda Meeting Beach Community Center 6 p.m. Info: 954-828-5033	**1** Ft. Lauderdale City Commmission Meeting City Hall 6 p.m.	**2**	**3**	**4** Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092 July 4th Fireworks Spectacular Ft. Lauderdale Beach	**5**
6 SUNTRUST SUNDAY JAZZ BRUNCH On Riverwalk **Sunday Jazz Brunch** Riverwalk, Downtown FL 11 a.m. to 2 p.m.	**7**	**8**	**9**	**10** Rapunzel (Through 7/12) Broward Center Tix.: 954-462-0222	**11** Sushi & Stroll The Morikami Museum 5:30 to 8:30 p.m. Info.: 561-495-0233 Starlight Musicals Jimmy Stowe & the Stowaways 7 to 10 p.m., Holiday Park	**12** International Mango Festival Mangos of Africa (Through 7/13) Fairchild Tropical Gardens 9:30 to 4:30 p.m. Info.: 954-776-5092

A look ahead

July 18 Starlight Musicals- Joey Gilmore Band (Blues) Holiday Park, 7 to 10 p.m.
July 18 - 20 US Open Junior Judo Championships Broward Convention Center, Tix.: 954-765-5900
July 26 - 27 Butterfly Days at Fairchild Fairchild Tropical Gardens, Info.: 305-667-1651 ext. 3344
August 3 George Michael BankAtlantic Center, Tix.: 954-835-SHOW
August 5 Jobing.com Career Expo Broward Convention Center, Tix.: 954-765-5900

SUMMERTIME IS FINALLY HERE...

• 718.111(13): Permits the vote to waive the financial report to be taken before the start of the fiscal year.

• 718.111(13): Cannot waive financial reports for more than 3 consecutive years.

Consistent with ethical business practices, most medium and large associations annually create a financial report for the benefit of the membership. In the original bill, unit owners in small associations had to budget funds for annual financial reports, even if every unit owner voted against its necessity. This was amended with a provision taken from HB 679 which prohibits an association from waiving the required financial statements for three consecutive years. In other words, small associations could waive for three consecutive years but must create a report on the fourth year.

• 718.112(2)(b)2.: Units owned by Association cannot be counted for any purpose. This provision is intended to prevent a board from functionally disenfranchising unit owners in an association that owns most of the units.

• 718.112(2)(c): Provides that if 20 percent of the voting interests petition the board to address and item of business, it must be considered by the board and its next regular meeting or at a special meeting, but not more than 60 days after receipt of the petition. This provides unit owners with a vehicle for directly inserting an item into the meeting agenda.

• 718.112(2)(c): States that notice of any meetings at which regular or special assessments will be considered shall specifically state the nature, estimated cost, and description of the reasons for assessment.

The current law requires that the notice of meetings at which "regular" assessments will be considered contain a statement that assessments will be considered and the nature of the assessment. The proposed change requires this information also for "special" assessments and would also require that the notice include the estimated cost and description of the reasons for the assessment. Elsewhere in the bill, a contradictory provision declares that certain special assessments DO NOT REQUIRE this data, imbuing boards with emergency powers to effect mitigating repairs financed by special assessment. Again, this provision demonstrates the advantage of allowing unit owners to decide notice procedures based on the nature and immediacy of the assessment's necessity.

Governor Charles Crist signs Condominiun Bill

• 718.112(2)(d)1.: Require that the annual meeting be held at the location provided in the bylaws, and if the bylaws are silent, must be held within 45 miles of condominium.

• 718.112(2)(d)1.: All board members must stand for election at annual meeting. However, if the bylaws permit staggered terms of no more than 2 years and if a majority of the total voting interests approve, the directors can serve for 2 year staggered terms. Also states that if no one is interested in or demonstrates an intention to run, such person whose term has expired is automatically reappointed and does not have to stand for election. (This compromise language was inserted following widespread objections by condo owners to the original requirement of one-year terms for every condo board member in the State.)

• 718.112(2)(d)1.: Co-owners in condos with more than 10 units cannot serve on the board at the same time.

As with most anecdotally-driven legislation, this provision creates new inequities while resolving nothing. It presupposes that all unit co-owners elected to a board will conspire to vote for issues that somehow benefit their shared unit. If the association's unit owners want to elect co-owners to their board that are members in good standing, how are they benefited by some Tallahassee bureaucrat overruling the majority wishes of the association electorate? By creating another "one-size-fits-all" regulation, Robaina arbitrarily disenfranchises thousands of condo co-owners throughout the State by inhibiting their right to serve on the association board – as contractually guaranteed by their association documents. If the association's unit owners envision some threat from allowing board participation to unit co-owners, pet owners, members of the same family or people whose favorite color is blue, they can reflect that in their own documents without imposing their prejudices on other associations. Statewide regulations that expropriate these decisions from the homeowners living in an association senselessly infringe on the right of condominium owners to govern themselves.

• 718.112(2)(d)1.: Provides that a person who has been suspended or removed by division, or is delinquent in the payment of assessment as

Continued on page 13

provided in s. 718.112(2)(n) is not eligible for board membership. It also provides that a person who has been convicted of any felony is not eligible to serve on the board until 5 years after his or her civil rights have been restored.

Most associations already require that board candidates be members in good standing, disallowing participation by unit owners that fail to fulfill their obligation to pay their share of the association's expenses. Determining eligibility criteria for members convicted of a crime can be more effectively performed by the association's unit owners than by legislators assigning arbitrary requirements for 22,000 different associations.

- 718.112(2)(d)3.: Requires candidates to certify, on a form provided by the Division, that they have read and understand "to the best of their ability" the condominium documents, statute, and applicable rules. The form must
  be submitted along with the notice of intent to run for the board.

- 718.112(2)(d)8.: Provides that in order to "opt-out" of voting and election procedures in the statute, the condominium must consist of only 10 units or less.

- 718.112(2)(f)1.: The current law states that the budget shall show "common expenses." The proposed change states that the budget shall show "estimated revenues and expenses."

- 718.112(2)(f)4.: Requires that proxy questions to waive or reduce reserves or to use reserves for other than the purposes for which they were intended must contain the following statement in capitalized, bold letters, in a font larger than used on the face of the proxy: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

Continued on page 15

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Omnibus..Continued

- 718.112(2)(n): Provides that directors who are 90 days delinquent in the payment of regular assessments shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to law.

- 718.112(2)(o): Provides that a board member who is charged with felony theft or embezzlement involving the association's funds shall be removed from office, creating a vacancy in the office to be filled according to law. If the charges are resolved without a finding of guilt, the director shall be reinstated for the remainder of the term, if any.

- 718.1124, 718.117(7)(a), and 718.127: Revises procedures for the appointment of a receiver. If the association is unable to enlist unit owner participation adequate to seat enough board members to form a quorum, any member can engage in a process that ultimately transfers authority from the board to a receiver appointed by Tallahassee - at the unit owners' expense.

- 718.113(2)(a): Includes the language: "This provision is intended to clarify existing law and applies to associations existing on the effective date of the act."

  This is a "clean-up" amendment to include language that was inadvertently left out when amendments to this section were previously adopted.

- 718.113(5) and 718.115(1)(e): Provides that Board can install hurricane protection that complies with or exceeds applicable building codes (i.e. code compliant hurricane shutters, impact glass, etc). A vote of the owners is not
  required if the hurricane protection to be installed is the maintenance, repair, and replacement responsibility of the association. The cost to install the hurricane protection is a common expense if the hurricane protection to be installed is the maintenance, repair, or replacement responsibility of the association. In such case, owners who have previously installed code compliant hurricane protection will receive a credit on the assessment.

Continued on page 16

Omnibus...Continued

This section was altered to provide for associations wherein the mitigation is considered the responsibility of the unit owner. Originally, the regulation required the association to pay for all repairs and replacement, unfairly forcing a double assessment for some members.

- 718.113(6): Requires an inspection report by architect or engineer every 5 years for buildings more than 3 stories attesting to required maintenance, useful life, and replacement costs. Also provides for an "opt-out" vote by a majority of the owners present in person or by proxy. Such meeting and approval must take place prior to the end of the 5 year period and is only effective for that 5 year period.

  Since the only requirement for the inspector was to attest to required maintenance, useful life, and replacement costs, this expensive exercise did nothing to increase safety. Once the report was filed, the association would be considered in compliance. Enigmatically, the regulation failed to require attendant repairs or rehabilitation. The "opt-out" provision was inserted to address the broad statewide objection to paying tens of thousands of dollars every five years for an update of information ordinarily available for free when a structural element is replaced!

- 718.113(7): Provides that an association cannot refuse an owner a reasonable accommodation for the attachment on the mantle or frame of the unit door a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep

- 718.121(4): Requires 30-day notice before filing a lien and requires service by certified mail and regular first-class mail. However, if the address of the owner is outside the United States, the notice must be sent by first-class mail to the unit address and to the last known address by regular mail with international postage. Alternatively, the notice can be served as authorized by Chapter 48 and the rules of civil procedures.

Continued on page 17

Omnibus...Continued

- 718.1224: Prohibition against "SLAPP" suits. This provision is nearly identical to the "SLAPP" suit provision in the Homeowners' Association Act (720.304).
- 718.1255: Removes language from "arbitration" section of statute stating that courts are becoming overcrowded with condominium and other disputes. Why? - because it's not true!
- 718.1265: Provides for emergency powers for Boards.
- 718.301(1): Will require turnover to occur if the developer files for bankruptcy or if a receiver for the developer has been appointed and has not been discharged within 30 days after such appointment.
- 718.301(4)(p): Will require the developer to prepare and turn over to the association a report, under seal of an architect or engineer, attesting to the maintenance, useful life, and replacement costs of a number of items including roof, elevator, heating and cooling systems, seawalls, etc.
- 718.3025(1)(f): States that no written contract providing for maintenance or management services shall be enforceable unless the contract discloses any financial or ownership interest a board member or any party providing maintenance or management services to the association holds with the contracting party.
- 718.3026: Changes the ability of associations to "opt-out" of this section. Would permit only associations with 10 units or less to opt-out.
- 718.3026(2)(a)2.: Currently, this section states that contracts executed before January 1, 1992, and any renewal thereof, is not subject to competitive bidding requirements. The bill removes this language. Therefore, even if contract was entered into before January 1, 1992, the renewal must be subject to competitive bidding.
- 718.3026: Changes the ability of associations to "opt-out" of this section. Would permit only associations with 10 units or less to opt-out.
- 718.3026(2)(a)2.: Currently, this section states that contracts executed before January 1, 1992, and any renewal thereof, is not subject to competitive bidding requirements. The bill removes this language. Therefore, even if contract was entered into before January 1, 1992, the renewal must be subject to competitive bidding.
- 718.3026(3): This is a new provision addressing contracts between the association and one or more of its directors of any corporation, firm, or entity in which one or more of its directors are financially interested. Will require certain disclosures to be made and the contract must be approved by two-thirds of the directors present at the meeting. It also permits the contract to be cancelled at the next regular or special meeting of the members. Upon motion of any member, the contract shall be brought up for vote and may be cancelled by a majority vote of the members present. Should the members cancel the contract, the association shall only be liable for the reasonable value of goods and services provided up to the time of cancellation.
- 718.303(3): States that members of a fining committee cannot be board members or persons residing in a board member's household.
- 718.501(1): Changes jurisdiction of Division. If turnover has occurred, Division only has jurisdiction over financial issues, elections and access to records.

Continued on page 18

Note that there has been another bill filed (HB 7101) which will reduce the fees paid by unit owners to the Division from $4 per unit to $2 per unit. Presumably, the reduction in fees is related to the change in jurisdiction. The Division is primarily responsible for the uneventful transition of an association from a developer to the unit owners.

- 718.501(1)(a)2.: Permits the Division to issue orders against additional persons including developer-designated members of the board or officers, developer-designated agents or assignees, community association managers, and community association management firms.

- 718.501(1)(a)3.: Permits the Division to bring an action in circuit court against a developer who fails to pay any restitution determined by Division to be owed to association. Also permits Division to temporarily revoke its acceptance of developer's filing to which the restitution relates until payment of the restitution.

- 718.501(1)(a)4.: Permits the Division to order the removal of an individual as an officer or from the board and may prohibit such person from serving as an officer or board member for a period of time.

- 718.501(1)(a)5.: States that if a unit owner presents the Division with proof that the unit owner has twice requested to review association documents and the association has failed or refused to provide access, the Division shall issue a subpoena requiring document production where the records are kept if the unit owner follows the defined procedure.

- 718.501(1)(j): Requires the Division to provide educational programs (in addition to training programs), which may include web-based, electronic media and live training and seminars. Also provides that the Division shall have the authority to review and approve education and training programs offered by providers and to maintain a current list of such approved programs and providers.

- 718.501(1)(n): Requires board members, employees, developers, managers and management firms to reasonably cooperate with the Division in its investigation. Further, the Division shall refer to local law enforcement authorities any person who the Division believes has altered, destroyed, concealed, or removed any record, document or thing required to be kept or maintained by this chapter with the purpose to impair its verity or availability in the department's investigation.

- 718.5012(9): Gives the Ombudsman's office the power to assist with resolution of disputes between unit owners and the association or between unit owners when the dispute is not within the jurisdiction of the division to resolve.

- 718.50151(1): Changes Advisory Council to "Community Association Living Study Council." It is appointed every 5 years for 6 months starting on July 1, 2008.

- 718.503: Requires sellers to provide prospective purchasers a "governance form" adopted by Division which explains the basic tenets of the condominium system.

Ultimately, the surviving Association bills in both legislative bodies were further consolidated in preparation for being engrossed and presented to the Governor for consideration. On April 30th, HB 995 was signed by the officers and presented to the Governor. On May 1st, it was signed into law (Chapter 2008-28). The effective date for the new law's implementation is October 1, 2008.

The Homeowners' Association bill, HB 679, after being passed in the House on April 23rd (115 yeas vs. 1 nay), was sent to the Senate. On May 2nd, after replacing its Senate counterpart SB 2504, it was amended and passed (38 yeas vs. 0 nays). The amended bill was sent back to the House, where HB 679 was again voted favorably (117 yeas vs. 0 nays).

The regulations bill, HB 601, passed the House on April 25th by 110 yeas vs. 0 nays and sent to the Senate. On May 2nd, it was substituted for its Senate counterparts SB 2086 and SB 2498, amended and passed (40 yeas vs. 0 nays). The amended bill was sent back to the House where HB 601 was again passed (117 yeas vs. 0 nays) and ordered enrolled.

An insurance accountability bill entitled the "homeowners' bill of rights" co-sponsored by Senator Jeff Atwater (Senate Bill 2860), survived a dogfight in the Senate by a 33 yeas vs. 5 nays vote on May 1st. After flying through the Statehouse by a 117 yeas vs. 0 nays on April 30th, the compromise bill encountered withering opposition by insurance lobbyists. The Bill evolved from hearings conducted earlier this year by the Office of Insurance Regulation and the Senate Select Committee on Property Insurance Accountability examining property insurers' pricing practices and Statehouse hearings scrutinizing the state's insurance programs.

The compromise insurance bill beefs up penalties for insurers who violate state law and extends a freeze on Citizens Property Insurance Corporation's rates for one year, to January 2010. It requires insurers to notify policyholders 180 days before dropping them and to pay undisputed claims within 90 days of deciding the amount of the payment. Plugging an elephantine loophole in the current regulatory process, the bill prohibits insurers from using arbitration panels to approve rate hikes after state insurance regulators reject them. This practice became so prevalent that carriers would bill the increased rates to customers before they were even considered by regulators. The bill also stops insurers from basing rate hikes on Hurricane Models actually designed for that purpose. Carriers used the skewed models despite the legal requirement that insurers use state-approved methods to predict the risk of hurricanes, cynically claiming that the law didn't preclude them from also using the models engineered to justify rate increases. The bill would form a task force charged with helping shrink Citizens and it would require the state Office of Insurance Regulation to provide more information about its rate-making procedures. The bill takes $250 million from Citizens to fund loans to private insurers that agree to help depopulate their client list by assuming some of their policies.

Another bill designed to lower the state's insurance risk exposure, SB 2156, aspired to shrink the $28 billion Florida Hurricane Catastrophe Fund by 3 billion. Despite receiving support from Florida Chief Financial Officer Alex Sink, it died because of concerns that it would increase the already astronomical cost of property insurance.

For additional information, go to the GMCA web page (www.galtmile.com) and click on the article headline entitled, "Omnibus Condo Bill Becomes Law" dated May 8, 2008. Links to the various bill sections and to the final text of the new law are available.•

Representative Ellyn Bogdonaff and Senator Jeffrey Atwater discuss legislation.

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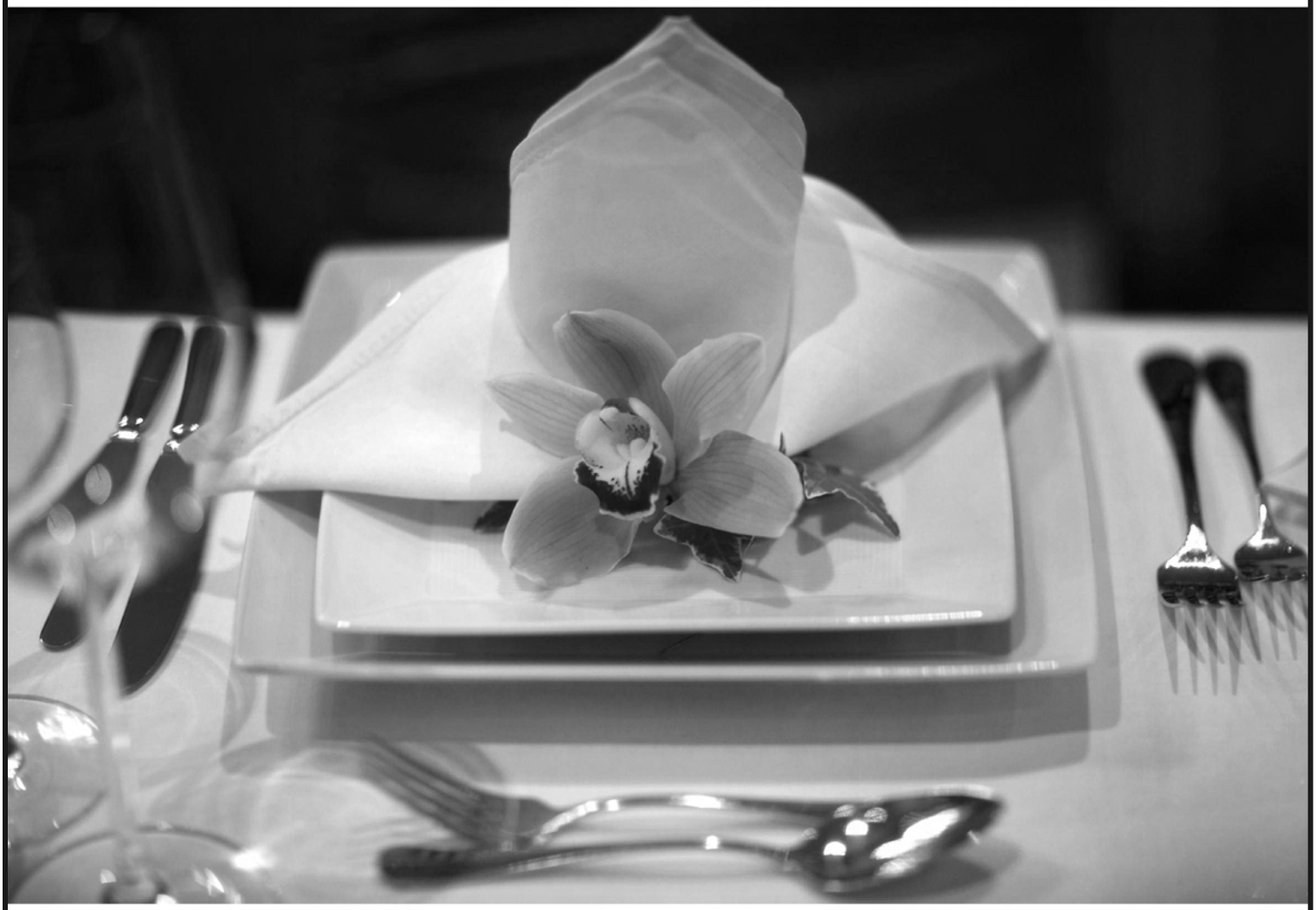

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