

GALT MILE NEWS

THE OFFICIAL PUBLICATION OF THE OMCA

July 13 **BOCA** BURGER BATTLE

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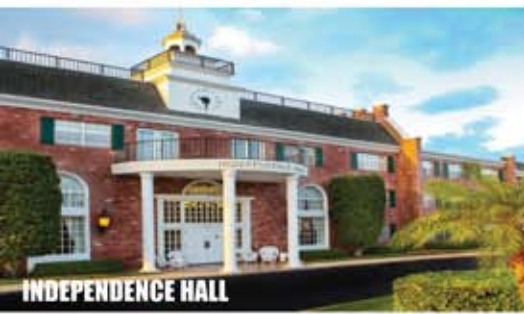


JUNE 2013

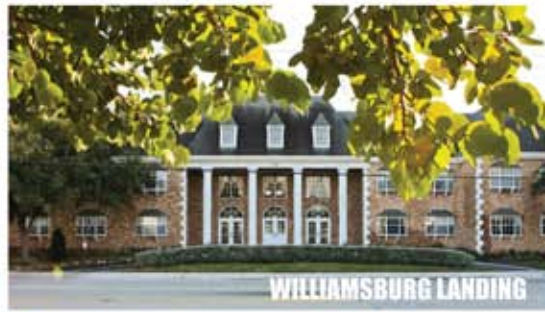
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Free to
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Everybody is Welcome!

➤ **Interactive fun with Professional Football Players Ryan Tannehill, Dan Carpenter and Brandon Fields.**



➤ **Meet professional cheerleaders!**

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➤ Q & A with physicians.

➤ Food, music and fun!

➤ Free giveaways...Win a **TV, iPad, a Nike +Fuelband** and other great raffle prizes!

➤ **Kids Corner** including face painting.

➤ Visit our local participating vendors including **Harley Davidson, Mustang Club of Florida** and many more!

➤ **Karate Demonstration, Salsa Dancing** performances, **Rock Climbing Wall, Football Toss** and other **FUN** activities.



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TENANTS' RIGHTS

By Eric Berkowitz

VS

DEADBEATS & SOCIOPATHS

When the sputtering economy chewed up their disposable income, tens of thousands of association members survived by renting out units that long served as vacation homes or retirement properties. Thousands more flamed their toxic mortgages and became tenants. Not surprisingly, the historical conflicts that belabor landlord-tenant relationships have commensurately skyrocketed.

The Playing Field

In Florida associations, the landlord-tenant playing field is far from level. Tenants who've exhausted legal venues for addressing their landlords' defaulted responsibilities have an armory of weapons at their disposal, especially if they are no longer constrained by the possibility of retrieving a security deposit. In addition to withholding rent payments, they can unleash intolerable behavior on their neighbors and ignore association rules with impunity; largely because association documents hold owner-landlords responsible for their tenants' actions.

Until now, landlords could only address critical tenant breaches by pursuing an expensive, dilatory eviction process perforated by endless "consumer friendly" loopholes. It is not uncommon for inexperienced landlords or property managers to become impatient and take matters into their own hands. Those who are either naïve or arrogant enough to attempt a "vigilante-style" eviction will instead provide their delinquent tenant with free living quarters and a sizable bag of spending money.

In addition to bringing legal actions to recover documented monetary losses (such as the cost of temporary housing, the value of food that spoiled when electricity was cut to the refrigerator, or the cost of an electric heater when the gas was shut off), tenants subjected to lock-outs, intimidation, utility cutoffs and unauthorized seizures can sue for penalties, such as several months' rent. Without too much difficulty, the tenant will collect and still remain in the premises.

Landlords who try to short-circuit the eviction process also equip delinquent tenants with a host of additional legal charges, including trespass, assault, battery, slander or libel, intentional infliction of emotional distress, and wrongful eviction. The fact that the tenant didn't pay rent, violated association rules, left the property a mess, verbally abused employees and neighbors, or otherwise radiated outrageous behavior will not be a valid defense. The cost of damages and legal fees will far exceed the sum total of lost rental income.

When the housing market crashed, common interest communities were suddenly burdened with thousands of non-contributing units in various stages of foreclosure. To survive, near bankrupt associations were forced to lease this frozen inventory until the toxic units could be recycled into the market and sold. Thousands of associations became landlords overnight. Thousands more functionally became landlords when a successful 2011 association bill enabled condos and co-ops to intercept rental payments from tenanted units of delinquent owners.

The Legislation

The unprecedented numbers of Associations and unit owners drawn

into the rental market has altered the 2013 legislative landscape enough to pave the way for House Bill 77 (HB 77). Entitled "Landlords and Tenants", this controversial bill was filed by Representative Elizabeth W. Porter (R-Lake City) and mirrored in Senate Bill 490 (SB 490) by Senator Kelli Stargel (R-Lakeland). On April 26, HB 77 was substituted for SB 490 in the Senate and approved by a vote of 27 YEAs vs. 10 NAYs. Following a full House vote of 92 YEAs vs. 25 NAYs on the last day of the session, it was enrolled and forwarded to the Governor on May 2, 2013.

While the legislation augments rights and protections for both landlords and tenants, several provisions that equip landlords with fast track eviction protocols provoked opposition by consumer watchdogs. Changes made by HB 77 to the Florida Residential Landlord & Tenant Act are as follows:

- One of HB 77's most controversial provisions allows a landlord to evict tenants who pay partial rent but fail to turn over the full amount owed. Under current law, landlords who knowingly accept partial rent from tenants waive the right to terminate the rental agreement or to bring a civil action, consequently eliminating any incentive for a delinquent tenant to pay the balance due. The provision would enable delinquent tenants to negotiate good faith payouts with cooperative landlords, without crimping the landlord's remedy if the tenant's commitment proves disingenuous.
- Of particular interest to associations, the bill also allows a landlord to evict a tenant who breaks rules twice in one year. If a tenant's "curable noncompliance" is not corrected within 7 days from the date that written notice is delivered, the landlord can terminate the rental agreement. If such noncompliance recurs within 12 months after notice, newly amended s. 83.56(2)(b), F.S., clarifies that an eviction action may commence without delivering a subsequent notice. Examples of curable violations are parking in the wrong parking space, failing to keep the premises clean and sanitary or having an unauthorized pet.
- While the right to attorney's fees may not be waived in a lease agreement, attorney's fees may not be awarded for personal injury actions based on a breach of duty by landlord and/or tenant.
- The landlord must give written notice in the lease agreement - or within 30 days after receipt of advance rent or a security deposit, give written notice to the tenant - of the name and address of the depository where advance rent or a security deposit is being held. This notice must also state if the tenant is entitled to interest on the deposit. The landlord is not required to give new or additional notice if the name or ownership structure of the depository is subsequently changed.
- Instead of simply providing the tenant with a copy of subsection (3) of s. 83.49, F.S., leases entered into after January 1, 2014 must contain newly provided statutory disclosure language.
- When the advance rental period commences, the landlord or the landlord's agent may disburse advance rents from the deposit account without notice to the tenant.

Continued on page 5

- A tenant who fails to make a timely objection to a landlord's claim against a security deposit does not waive any rights to seek damages in a separate action.
- At the beginning of the tenancy, a landlord must ensure that screens are in a reasonable condition and thereafter repair damage to screens once annually until the agreement is terminated.
- Reciprocal notice is required by the landlord and tenant of their intent to not renew the lease at the end of the term.
- A landlord must be given an opportunity to cure a deficiency in a notice or in a pleading before dismissal of an action for possession based upon nonpayment of rent.
- Following a judgment in favor of the landlord, the 24-hour notice period within which the sheriff must put the landlord in possession of the premises is not stayed by weekends and holidays.
- Landlords are prohibited from retaliating against a tenant who, pursuant to a lawful demand, "paid rent to a condominium, cooperative, or homeowners' association in order to pay the landlord's obligation to the association" or "has exercised his or her rights under local, state, or federal fair housing laws."

The Controversy

In her capacity as an investment property manager, court records confirm that bill sponsor Senator Kelli Stargel regularly evicts tenants from properties in her portfolio. Although lawmakers are barred from sponsoring legislation that provides them - or their friends or family members - with a financial benefit, they enjoy wide latitude in assessing their bills' personal impact, rendering this ethical prohibition an unenforceable bad joke.

Asserting that the legislation is intended to clarify the rights of both tenants and landlords and will not significantly change how they interact, Stargel commented "I think it's just much more clear and concise what's expected of both parties." When asked how she rationalized advancing her business interests through this bill, Stargel actually said "It's not a conflict of interest because the bill does not just apply to me but to all landlords and tenants." Lions and tigers and bears, oh my!!!

While supported by trade organizations like the Florida Apartment Association, an umbrella federation that lobbies on behalf of 11 independent local associations whose members manage MDU (multiple dwelling unit) housing, the bill had to slug its way through staunch opposition from tenant groups and consumer advocates.

In a letter that accompanied a May 10, 2013 press release, Executive Director Bill Newton of the Florida Consumer Action Network (FCAN) asked Governor Scott to veto HB 77. Expanding on Newton's post-session opposition to the measure, spokesperson Alice Vickers characterized the bill as the "largest erosion in protections for residential tenants that Florida has seen in many years." An FCAN lobbyist and staff attorney for Florida Legal Services, Vickers added "Though there was no doubt before, it is abundantly clear that Florida is a landlord state."

Deadbeats and Tenant Terrorists

On the other hand, the bill cures two dilemmas that have long plagued association rentals. In most associations, screening procedures for tenants are far less stringent than for prospective owners. For owner-landlords, the tenant screening process - if any - is often limited to a few minutes of casual banter on the telephone. Absent a credible background check, it's not unusual for a tenant to be approved despite a history of bilking landlords and/or violating community rules.

Continued on page 6

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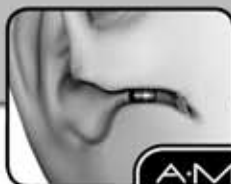
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Rights...Continued

In units leased directly from the association, tenants who stiff the landlord force their neighbors to subsidize their living expenses to stave off a budgetary shortfall. If the legislation survives the Governor's veto pen, since it enables the association to effectively evict deadbeats; tenants who plan to sponge off the association budget by arbitrarily withholding rent could be expeditiously replaced.

The second problem addressed by the bill affects properties leased from the association or its unit owners. While most people who rent association apartments become good neighbors and comply with association protocols, some do not. Every association has a few tenants who repeatedly abuse neighbors and building staffers while violating association rules. Whether driven by some innate belligerent sociopathy or the belief that their owner-landlord would be scapegoated for any rules broken during their lease terms (as provided for in the vast majority of association governing documents), the bill provides that tenant terrorists who break the rules twice in 12 months can be dumped by the landlord.

Notwithstanding any ideological controversy, since the legislation provides effective remedies to several longstanding association dilemmas, many association advocates have quietly supported the new bill. Whether or not the bill survives a gubernatorial veto, it is critically important for governing boards to work closely with the association attorney when developing screening criteria, drafting lease agreements or implementing statutory enforcement options. If an association's actions fail to comply with Florida law, instead of being successfully ousted, sociopathic and deadbeat tenants could become permanent line items in the association's annual budget.*



THE GALT MILE NEWS

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OMNIBUS ASSOCIATION BILL APPROVED BY LEGISLATURE

Laundry List of New Laws Takes Effect on July 1, 2013

On April 26, 2013, the Omnibus Association Bill - House Bill 73 sponsored by George Moraitis - cleared its final legislative hurdle and was ordered enrolled in preparation for a trip to the Governor's desk. As it evolved in the Statehouse, the Bill's text was replaced by Committee Substitutes at each of its three committee stops—the House Civil Justice Subcommittee in February, the House Business & Professional Regulation Subcommittee on March 7, and the House Judiciary Committee on March 14. When a Bill is heavily amended in Committee, a sponsor may draft a Committee Substitute to restructure the legislation by sorting the new provisions into organized categories. With a full head of steam from a boatload of political support, on April 17, the Bill sailed through a Full House vote with virtually no opposition (117 YEAs vs. 0 NAYs, 1 YEA vote after Roll Call and 2 missed votes).

A companion bill in the other house, Senate Bill 436 filed by Senator Thad Altman (R - Melbourne), closely mirrored the roadmap taken by HB 73. After the Senate Committee on Regulated Industries passed a Committee Substitute on February 21, the Senate Judiciary Committee added their thumbs up to another Committee Substitute on March 12. When a third Committee Substitute was approved by the Senate Appropriations Committee on April 18, the bill zipped through every Senate Committee without a single negative vote. On April 25, the bill was replaced by its House counterpart, HB 73, which was approved by the Full Senate on April 26 (38 YEAs and 0 NAYs, 2 missed votes).

In the three months during which the bills negotiated vetting committees, bill sections were altered, added or deleted to elicit committee approval. Association attorneys from the Community Advocacy Network (CAN) and the Community Association Leadership Lobby (CALL) continuously met with committee members to help tailor proposed amendments. As statewide association advocates for Condos, Coops and HOAs offered prospective input, Moraitis concentrated on bulking up historical deficits in association law, such as the long neglected rights of Cooperative owners.

Since a majority of association bills are drafted solely for Condominiums, homeowners in Cooperatives and HOAs are often deprived of comparable statutory protections for election formats, official records maintenance and access, board membership and powers, unit or parcel owner rights, financial and budgetary accountability, and a litany of other inequities. Since another of the 2013 session's bill's, House Bill 7119 by Representative Mike LaRosa (R - Saint Cloud), is largely devoted to leveling the playing field for members of Homeowner Associations (HOAs), Moraitis focused on extending many new and existing condominium protocols to Cooperative Associations.

In addition to retaining critical provisions that earmarked the original bill, nearly half the enrolled bill text is new, shaped on the fly. As a result, the final version contains changes that were never explored in earlier bill reviews. Of the bill's 16 sections, the 3 devoted to HOAs are omitted from this final review, since GMCA membership is limited to condominiums and cooperatives. Unless splashed by a gubernatorial veto, the following changes in association law will begin impacting Galt Mile unit owners on July 1, 2013:

Section 1 – Elevator Retrofits (F.S. 399.02 – Condominiums & Cooperatives)

- The bill still eliminates the 2015 compliance deadline for retrofitting association elevators with Phase II Firefighter Service. Instead, an association can wait until it modernizes its elevators, at which point the installation costs become negligible.

Section 2 – Association Rights and Responsibilities (F.S. 718.111) - Condominiums

Four of the five amendments passed in the House Civil Justice Subcommittee are clustered into this newly created Section 2, causing

each of the original bill's subsequent section numbers to be advanced by one.

- **Land/Lease Purchase** – It enables a condominium association to purchase land or a recreation lease using approval methodologies applicable to the acquisition of leaseholds set forth in Section 718.114, F.S.

- **Repairs Charged to Owner** – If repairs that are the responsibility of the unit owner are performed by the association, the cost can be charged to the unit owner and collected as an assessment pursuant to Section 718.116, F.S.

- **Records Access Alternative** – It allows a condominium owner (or an authorized representative) to use a smartphone, tablet or other portable device to scan or take photographs of official association records without incurring a charge - in lieu of the association copying the requested records.

- **Association Directory** – It enables a condominium association to print and distribute a social directory containing the name; address (Unit Number) and telephone number of each unit owner unless the owner submits a written request to exclude his or her phone number.

- **Budgetary Thresholds** – It increases the revenue thresholds that determine the type of financial statement needed to satisfy an association's Financial Reporting requirements. Associations with fewer than 50 units (regardless of annual revenues) or with total annual revenues of less than \$150,000 shall prepare a report of cash receipts and expenditures; associations with total annual revenues of \$150,000 or more but less than \$300,000 shall prepare compiled financial statements; associations with total annual revenues of at least \$300,000 but less than \$500,000 shall prepare reviewed financial statements; associations with total annual revenues of \$500,000 or more shall prepare audited financial statements.

Section 3 (formerly Section 2) – Bylaw Glitch Repairs and Clarifications (F.S. 718.112 – Condominiums)

- **Board Member Terms** – Two-year board terms provided for in the Articles of Incorporation or Bylaws needn't be approved by a majority of the total voting interests nor must they be staggered.

- **Board Eligibility** – This newly added provision requires that owners be eligible board candidates at the deadline for submitting a notice of intent to run in order to be listed on the ballot. Owners who are delinquent in the payment of any monetary obligation due to the association are not eligible board candidates and may not be listed on the ballot.

Continued on page 10

SUN

MON

TUE

WED

9

Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

10

11

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

12

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

16

Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

17

Commissioner Bruce Roberts:
Pre-Agenda Meeting
Beach Community Center, 6 p.m.

18

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

19

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

23

Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

24

25

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26

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30

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3

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Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

7

Urban Gourmet Market
1201 E. Las Olas Blvd.
9 a.m. to 4 p.m.
Info.: 954-462-4166

8

Beyonce
BB&T Center, 8 p.m.
Tix.: 954-835-7000

9

BINGO
Galt Towers Social Room
(4250 Galt Ocean Drive)
7:30 p.m.
Info.: Cyndi Songer: 954-563-7268

10

BINGO
Regency South Party Room
7 p.m.
Info.: Bob Pearlman: 954-547-4063

Sunday Jazz Brunch
Riverwalk, Downtown FL
11 a.m. to 2 p.m.
Info.: 954-828-5985

JUNE 15: Saturday Night Alive, A1A from Bubba Gumps north to the Ritz Carlton Hotel, 7 to 11 p.m., Info.: 954-564-8300

JUNE 15-16: Gun and Knife Show, War Memorial Auditorium, Info.: 954-828-5380

JUNE 20: Art Walk Las Olas, Las Olas Blvd from Museum of Art to SE 16th Ave., 5 to 9 p.m., Info.: 954-258-8382

JUNE 20-23: Swim Fort Lauderdale International Classic, Fort Lauderdale Aquatic Complex, 8 a.m. to 2 p.m., Info.: 954-828-4580

JULY 4: LBTS July 4th Beach Blast, El Prado Park, Parade: 10 a.m., Beach Blast: 12:30 - 3 p.m., Fireworks: 9 - 9:30 p.m., Info.: 954-772-3336

JULY 4: Old Fashioned Fourth & Collectible Car Show, Flamingo Gardens, Parade: 9:30 a.m. - 4:30 p.m., Info.: 954-473-2955

JULY 6: North Beach Art Walk, A1A, 32nd and 33rd Streets, 7:30 - 11:30 p.m., Info.: 954-473-2955

JULY 6-7: West Palm Beach Antiques Festival, South Florida Fairgrounds WPB, Info.: 941-697-7475

JULY 13-14: Int'l Mango Festival: Mangoes of Mexico, Fairchild Tropical Gardens, 9:30 a.m. to 4:30 p.m., Info.: www.fairchild.org

JUNE/JULY

THU

FRI

SAT

13

BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr)
7 p.m.
\$5/person for 3 boards

One Direction
BB&T Center, 7:30 p.m.
Info.: 800-745-3000

20

BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

GMCA Advisory Board Meeting
Nick's Italian Restaurant, 11 a.m.

27

BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

4

BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

July 4th Family Celebration & Fireworks
Show
Fort Lauderdale Beach, 9 p.m.
Info.: 954-396-3622

11

BINGO
Southpoint's North Lounge
(3400 Galt Ocean Dr), 7 p.m.
\$5/person for 3 boards

14

Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

Starlight Musicals
Jeff Prine Group (Blues)
Holiday Park
7 to 10 p.m.
Info.: 954-828-5363

21

Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

First Day of Summer

Starlight Musicals
Across the Universe (Beatles)
Holiday Park
7 to 10 p.m.
Info.: 954-828-5363

28

Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

Starlight Musicals
The Edge Band (Modern Hits)
Holiday Park
7 to 10 p.m.
Info.: 954-828-5363

5

Jazz on the Square
El Mar Drive & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-776-5092

Starlight Musicals
Valerie Tyson Band
(Motown/Rhythm & Blues)
Holiday Park
7 to 10 p.m.
Info.: 954-828-5363

12

Starlight Musicals
Shadow Creek (Country)
Holiday Park
7 to 10 p.m.
Info.: 954-828-5363

15

Music-By-The-Sea
A1A & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

The Fort Lauderdale Bus Loop
300 SW 2nd Street
6 to 11 p.m.
Info.: 954-260-6194

22

Music-By-The-Sea
A1A & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

29

Music-By-The-Sea
A1A & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

6

Music-By-The-Sea
A1A & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

Landscapes & Still Life Exhibit
Broward Art Guild
6:30 to 9 p.m.
Info.: 954-537-3370

13

Music-By-The-Sea
A1A & Commercial Blvd
6:30 to 10:30 p.m.
Info.: 954-771-2900

2nd Annual Boca Burger Battle
Sanborn Square Park
6:30 to 10 p.m.
Info.: 561-338-7594

UPCOMING EVENTS IN OUR AREA

July 19

Starlight Musical
Brass Evolution (Show Band), 7 to 10 p.m.
Info.: 954-828-5363

July 26

Starlight Musical
Jimmy Stowe & the Stowaways (Tropical Rock), 7 to 10 p.m.
Info.: 954-828-5363

July 31 - August 4

Cirque du Soleil: Quidam
BBT Center
Info. and Tix.: www.thebbtcenter.com

August 2

Starlight Musical
The Weedline (Classic Rock), 7 to 10 p.m.
Info.: 954-828-5363



**FOR A COMPLETE
LISTING OF EVENTS,
GO TO THE
CALENDAR AT
WWW.GALTMILE.COM**

Sea Turtle Walks (June 10, 11, 12, 17, 18, 25, 26 and July 1, 2, 3, 8, 9, 10, 15, 16): Museum of Discovery and Science, 9 p.m., Reservations: 954-713-0930

First Saturday of Every Month: Beach Cleanup, Commercial Blvd. & the Beach LBTS (Meet at Pavilion), 9 to 9:30 a.m., Info.: 954-776-1000

Second Saturday of Every Month: Beach Sweep, 9 a.m. to 12 p.m., Info.: 954-474-1835

Sundays: Tour-the River Ghost Tour, Stranahan House & Water Taxi, 7:30 p.m., Tix.: 954-524-4736

Tuesday-Saturday: Gentle Yoga (All Levels), North patio behind Tiki Bar (Ocean Manor Resort 4040 Galt Ocean Dr.), 9:30 a.m., Info.: 754-779-7519

Sunday/Thursdays: Beginner Pilates, North patio behind Tiki Bar, Sun: 9:30 a.m.,/ Thurs. 10 a.m., Info.: 754-779-7519

Saturdays: Saturday Night Under the South Florida Stars, Fox Astronomical Observatory at Markham Park, Sunset to Midnight, Info.: 954-384-0442

- **Meeting Notice** – By inadvertently fumbling the phrases “in lieu of” and “in addition to”, 2011’s Omnibus Association Bill (HB 1195) mandated associations to broadcast notices 4 times every hour notwithstanding notices also physically posted on association property. The bill fixes this “notice overkill” glitch, requiring only one of these two acceptable notice formats.

- **Timeshare Elections** – Associations governing timeshare condominiums are exempt from statutory condominium election procedures.

- **Board Member Certification Records** – The association Secretary must keep board members’ written certifications or educational certificates for the duration of their uninterrupted tenure or five (5) years (whichever is longer).

- **Election challenge** – Election challenges must commence within 60 days after the election results are announced.

- **Recall Petition** – Allows an owner representative to file a petition challenging a board’s failure to duly notice and hold the required board meeting to certify a recall or failure to file the required arbitration petition after being served with a written recall agreement. The petition must be filed within 60 days after the expiration of the applicable 5 full business day period following adjournment of the annual meeting. The DBPR arbitrator is limited to determining if the recall petition was properly served on the board and the facial validity of the written agreement or ballots.

- **Board Member Recall Challenge** – Allows a board member to challenge the validity of the recall by filing a petition within 60 days after the recall is deemed certified.

- **Recall Filing Deadlines** – Prohibits the filing of a recall petition if there are 60 or fewer days until the member being recalled is up for reelection; or 60 or fewer days have passed since the board member being recalled has been elected.

Section 4 (formerly Section 3) – Hurricane Protection (F.S. 718.113 – Condominiums)

- **Hurricane Protection** – This provision adds “impact glass, code-compliant windows or doors and other types of code-compliant hurricane protection” to the storm mitigations that a board can install or require if approved in the Declaration of Condominium or by a majority of the voting interests.

Section 5 (formerly Section 4) - Existing Hurricane Protection (F.S. 718.115 – Condominiums)

- **Hurricane Protection Costs** – It provides that a unit owner who installs code-compliant hurricane protections must be credited with a pro-rata share of the assessed installation cost of such protections subsequently approved by the association.

Section 6 (formerly Section 5) – Suspension of Rights (F.S. 718.303 – Condominiums)

- **Suspension of Rights Exceptions** – When common area and facilities use rights are suspended for unit owners (and/or a unit owner’s tenant, guest or invitee) due to violations of the association’s governing documents (the declaration, bylaws or reasonable rules and regulations of the association) pursuant to Section 718.303(3)(a), F.S., the suspensions don’t include access to limited common elements that uniquely service that unit (i.e. balconies), common elements needed to access the unit (i.e. entry and egress), utility services provided to the unit, parking spaces or elevators.

Section 7 (formerly Section 6) – Phase Condominiums (F.S. 718.403 – Condominiums)

- **Phase Condominiums** – Clarifies how phases in condominiums and condominiums created within condominium parcels are to be handled by developers.

The Real Property Probate and Trust Law (RPPTL) Section of the Florida Bar drafted this amendment to Section 718.403(1), F.S., a provision which relates to the development of condominium phases. While all phases must be added within seven (7) years of submitting the original declaration for the initial phase, Section

718.110(1)(a)(b)(c)(d), F.S., provides that during the last three (3) years the owners may vote to amend the deadline by indicating the size of any time extension albeit not to exceed a total period of 10 years after the date of recording the original declaration of condominium.

Section 8 (formerly Section 7) – Condominiums within Condominiums (F.S. 718.406 – Condominiums)

- **Condominiums within Condominiums** – Frequently referred to as “hotel condominiums” or “condos in a condo”, although Florida Statutes provide for a single commercial structure comprised of a master or “primary” condominium and one or more sub-condominiums or “secondary” condominiums, various legal and operational aspects of these entities were neglected when originally enacted.

The bill creates Section 718.406, F.S., providing guidance in authorizing owners of the primary condominium to exercise rights on behalf of subdivided unit owners, establishes the relationship between the board representing the primary condominium and its counterpart for the secondary condominiums, provides for the collection of assessments by the primary and secondary associations, provides that the owners of secondary units are subject to the provisions of both the primary and secondary condominium declarations, provides when owner and mortgagee consents are required to create a secondary condominium, establishes that the primary association can dictate specifications for hurricane or other building protections and establishes insurance requirements and obligations of the associations managing and operating both primary and secondary condominiums pursuant to Section 718.111(11), F.S., of the Condominium Act.

Section 9 (formerly Section 8) – Condominium Ombudsman Staff Employment (F.S. 718.5011 – Condominiums)

- **Condominium Ombudsman Staff Employment** – Amending Section 718.5011, F.S., it removes a prohibition against “actively engaging in any other business or profession” for full-time Condominium Ombudsman staffers, as long as a secondary position does not directly or indirectly relate to or conflict with their responsibilities in the Condominium Ombudsman’s office.

Section 10 (formerly Section 9) – Official Records (F.S. 719.104 – Cooperatives)

As the legislation evolved, a plethora of new rights and protections were added to Section 719.104, F.S., mirroring counterparts in the Condominium Act

- **Records Maintenance** – Requires that cooperative association official records be maintained for at least 7 years within 45 miles of the cooperative property or within the county in which the cooperative is located.

- **Electronic Records** – Permits a cooperative association to optionally make its official records available for inspection electronically via the Internet or by allowing the records to be viewed in an electronic format on a computer screen and printed upon request.

- **Deny, Deface, Destroy Official Records** – It provides for recovery of reasonable attorney’s fees from a person in control of official cooperative records who directly or indirectly denies access to those records, despite a compliant request by an association member. Personally subjects an individual to civil penalties for knowingly or intentionally defacing or destroying accounting records or failing to create or maintain accounting records that are required to be created or maintained, if done with the intent of causing harm to the association or one or more of its members.

- **Records Access Alternative** – Allows a cooperative member (or an authorized representative) to use a smartphone, tablet or other portable device to scan or take photographs of official association records without incurring a charge - in lieu of the association copying the requested records.

- **Privacy Safeguards** – Provides cooperative owners with the same personal privacy safeguards that currently protect members of condo

and homeowner associations when the association responds to a records request, including any record protected by the lawyer-client privilege as provided in Section 90.502 F.S., electronic security measures used by the association to safeguard data (including passwords) as well as "the software and operating system used by the association which allows manipulation of data."

- **Personnel Records** – It prohibits member access to the personnel records of association or management company employees (including but not limited to, disciplinary, payroll, health, and insurance records). Since they aren't considered "personnel records," written employment agreements with an association employee or management company will remain accessible to unit owners, as will budgetary or financial records indicating the compensation paid to an association employee.

- **Personal Information** – A records request would exclude any member's Social Security Number, Driver License Number, credit card numbers, e-mail addresses, telephone numbers, Fax numbers, emergency contact information and any address other than the addresses required for the association's notice obligations. In short, the only personal identifying information that will be made available is the owner's name, unit designation, mailing address and property address and any address, e-mail address, or fax number provided to the association to fulfill the association's notice requirements.

- **Association Directory** – It enables a cooperative association to print and distribute a directory containing the name, cooperative address (Unit Number) and telephone number of each unit owner unless the owner submits a written request to exclude his or her phone number.

Section 11 (formerly Section 10) – Lender/Mortgagee Consent Requirements (F.S. 719.1055 – Cooperatives)

- **Lender/Mortgagee Consent Requirements** – The bill creates Section 719.1055(7), F.S., duplicating a 2007 provision adopted in the Condominium Act. After July 1, 2013, cooperative association documents would be relieved of requiring a lender's consent for amendments that don't affect the lender's rights or interests. For mortgages entered into prior to this date, the bill proposes clear protocols for boards to obtain lender consent and provides that any lender who fails to respond to an association's request for approval within 60 days after the date mailed shall be deemed to have consented to the amendment.

Section 12 (formerly Section 11 – Bylaw Glitch Repairs and Clarifications (F.S. 719.106 – Cooperatives)

- **Closed Meetings** – Provides that board or committee meetings held for the purpose of discussing personnel matters do not have to be open to the members.

- **Election Challenges** – Provides that cooperative election challenges must commence within 60 days after the announced election results.

- **Board Member Certifications** – Provides certification requirements (submission within 90 days of the election of written certification of having read the association's bylaws, articles of incorporation, proprietary lease, and current written policies or submission of an educational certificate) for cooperative board directors which match those currently required of condominium directors. The association Secretary must keep board members' certification records for the duration of their uninterrupted tenure or five (5) years (whichever is longer).

- **Recall Petition** – Allows an owner representative to file a petition pursuant to s. 719.1255 challenging a board's failure to duly notice and hold the required board meeting to certify the recall or failure to file the required arbitration petition after being served with a written recall agreement. The petition must be filed within 60 days after the expiration of the applicable 5 full business day period after adjournment of the annual meeting. The DBPR arbitrator is limited to determining if the recall petition was properly served on the board and the facial validity of the written agreement or ballots.

- **Board Member Recall Challenge** – Allows a board member to challenge the validity of the recall by filing a petition within 60 days after the recall is deemed certified.

- **Recall Filing Deadlines** – Prohibits the filing of a recall petition if there are 60 or fewer days until the member being recalled is up for reelection; or 60 or fewer days have passed since the board member being recalled has been elected.

Section 13 (formerly Section 12) – Suspension of Rights (F.S. 719.303 – Cooperatives)

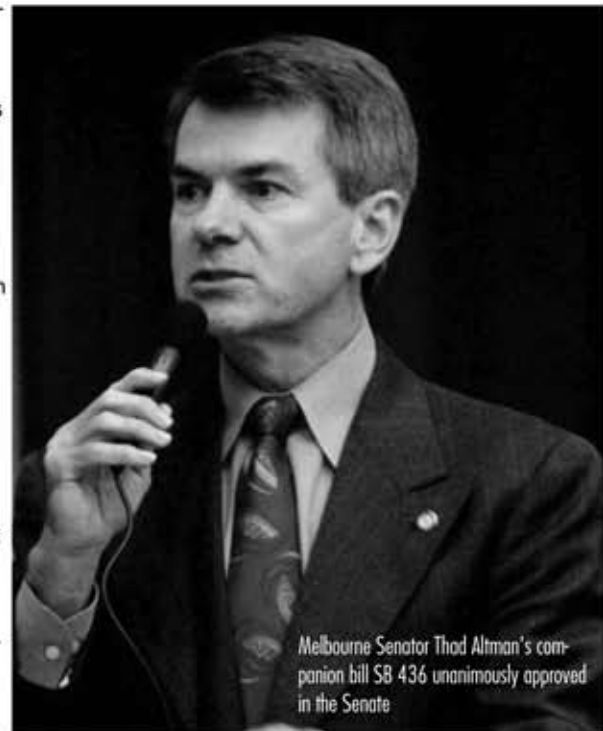
- **Suspension of Rights Exceptions** – When common area and facilities use rights are suspended for unit owners (and/or a unit owner's tenant, guest or invitee) who fail to comply with any provision of the Cooperative documents or reasonable rules of the association pursuant to Section 719.303(3)(a), F.S., the suspensions don't apply to limited common elements that uniquely service that unit (i.e. balconies), common elements needed to access the unit (i.e. entry and egress), utility services provided to the unit, parking spaces or elevators.

- **Board Member Training** – The Division shall provide educational programs for cooperative directors and the training may include, at the Division's discretion, webinars as well as live training and seminars in various locations throughout Florida. The Division shall also approve private sector programs and make such list of approved educators and classes available to cooperative directors.

Section 18 (formerly Section 16) – Effective Date (Condominiums & Cooperatives) – If enacted into law, the provisions in HB 73 will become effective July 1, 2013. •



Community Association Advocate Donna Berger and District 93 Statehouse Representative George Moraitis Collaborate on House Bill 73



Melbourne Senator Thad Altman's companion bill SB 436 unanimously approved in the Senate

VICE MAYOR BRUCE ROBERTS



In his May 2013 Newsletter, Vice Mayor Roberts applauds a National Softball Association of the Deaf (NSAD) decision to hold their 2014 tournament in Mills Pond Park, promotes a program that adds trees to the City canopy by utilizing online services, extolls a new Sun Trolley service that caters to tourists on a layover, discloses the financial fruits of adding a fraud-busting Fort Lauderdale Detective to the Broward County Property Appraiser's Office, portrays the Broward B-cycle Program as an environmental success story and offers a list of important upcoming events.

Broward to Fund Emergency 911 Dispatch
Roberts opens his updates with kudos for a County decision to assume responsibility for funding a unified Emergency 911 Service, ending an extended war of nerves between Broward County and its 31 municipalities. A decade after 80% of Broward's voters mandated a countywide consolidation of emergency dispatch services in 2002, public officials from the county and its municipalities finally acknowledged that doing so would shave precious minutes from the response time to emergencies wherein the difference between life and death is often measured in seconds. It would also eliminate the delays and dropped calls that result from interstation transfers, enhance responder safety, evolve a uniform set of performance metrics, enable all Broward residents to equally benefit from ever-improving technology and guarantee county-wide closest unit response.

The plan seeks to replace 11 flimsy "Public Safety Access points" (i.e. local dispatch centers or PSAPs) with three "category-5 hardened", demographically centralized "flee to" sites in Pembroke Pines, Sunrise and Coconut Creek; each fitted with sufficient communication capabilities, multiple power sources and data back-ups to either share the load or unilaterally manage the entire county. A 2010 Feasibility Analysis anticipates annual savings of roughly \$7.7 million from a 20% reduction in telecommunications personnel, the elimination of administrative and support redundancies and the reduced cost of maintaining 3 integrated dispatch sites instead of 11.

As cities and towns were incorporated throughout Broward County, the Broward Sheriff's Office sought to

bolster its shrinking jurisdiction by marketing a Chinese Menu of Public Safety services, including emergency dispatch for municipal Police and/or Fire-Rescue Departments. Since the cost of delivering these services would be picked up by all Broward taxpayers, the Sheriff also elected to quietly barter services with various jurisdictions, like a 1991 arrangement with Hallandale Beach to provide dispatch services in exchange for certain radio frequencies.

These disparate pricing formulas and sub-rosa cross subsidies ultimately yielded 8 self-funded municipal 911 programs. Of the 23 Cities that contract with the Broward Sheriff's Office (BSO) for police dispatch services, 17 also use BSO for fire dispatch. Some cities are being invoiced for these services; others receive them "on the cuff." As a result, Homeowners in some jurisdictions are double-taxed to provide others with a free ride. For instance, while taxpayers in Fort Lauderdale and Pembroke Pines fund their contracted dispatch services in their city taxes, their county taxes are used to absorb the cost of BSO dispatch services for cities like Pompano, Lauderdale and Davie.

When these sleazy funding practices and pricing policies came to light, Fort Lauderdale, Plantation and Pembroke Pines - whose taxpayers pay for their own services while incrementally subsidizing services for neighboring cities - insisted that the County pick up the tab for their dispatch services as well. Led by Fort Lauderdale, municipalities seeking an equitable funding policy threatened to abandon any County plan and commenced legal actions preliminary to full blown litigation with the County.

It worked. Since the program costs and projected tax burden had already been defined in the 2010 feasibility study, the conflict solely inured to whether the tax should be levied by the County, the cities or some combination. During February and March County Commission meetings, the County Board entertained a 60% - 40% shared funding formula with county municipalities. At the May 7 County Commission meeting, Commissioner Sue Gunzburger said "I'm not willing to risk people's lives in another year," and dropped her opposition to a dispatch program wholly funded by the county, enabling a subsequent 5 - 4 vote for the County to fully underwrite a \$42.6 million consolidated project. Under a County plan to increase the millage rate by .17 mills, the projected \$20.3 million incremental contribution by Broward taxpayers will add \$21 to the tax bill for a homesteaded property with an average taxable value of \$121,000.

County Commissioners LaMarca, Ritter, Ryan and Mayor Jacobs, who opposed the plan, complained that participating municipalities refused to pledge that the savings would be passed through to taxpayers. Instead, officials from various participating municipalities indicated that funding overages would help plug projected deficits in their respective municipal budgets.

Coral Springs and Plantation have notified the county of their intention to decline participation in the new program and rely on their independent dispatch infrastructure. Since Plantation's Fire Department heavily impacts who will occupy City Council seats, if County Administrator Bertha Henry protects jobs in Plantation's Fire fiefdom and convincingly deifies Plantation Fire Chief E. Laney Stearns, Plantation Mayor Diane Veltri Bendekovic may relent and participate.

Vesting the County with sole responsibility for funding the project provides participating municipalities with two benefits. In addition to transferring millage pressure - and its attendant political headaches - from municipal budgets to the County budget, the protocol will insulate municipal taxpayers from decades of BSO-engineered patronage abuses, including surreptitious subsidies for noncontributing municipalities. As an added benefit, City and County officials won't have to explain that our tax dollars were being used by both sides to slug out the issue in court. For the Vice Mayor's update, Read on...

FROM VICE MAYOR BRUCE G. ROBERTS MAY 2013

Update on Consolidated Communications Implementation (County-wide 911): It appears as if we have finally implemented this invaluable public safety communications system. A crucial vote took place at the May 7th Broward County Commission meeting approving this system by a 5-4 vote. The County Commission decided to fund the first year by reallocating \$18.7 million from the Broward Sheriff's Office budget to pay for part of the countywide system and increase homeowner's property taxes to raise \$20.3 million. The remaining \$4 million will be paid for through one-time general fund revenues. The direct impact for Fort Lauderdale is an annual savings of approximately \$8 million and, in the long term, a more effective and sustainable system. Only two cities - Coral Springs and Plantation - have opted out of the consolidated emergency system.

(Continued on page 13)

National Softball Association of the Deaf National Tournament (Mills Pond Park):

The National Softball Association of the Deaf (NSAD) national softball tournament has once again selected Mills Pond Park as their site for 2014. The tournament, which was last held at Mills Pond in 2009, is made up of a minimum of 18 teams in men's, women's and coed divisions. The tournament will be held in August, exact dates to be determined. NSAD was incorporated to promote and protect the mutual interests of all members of NSAD, and to provide a social outlet for deaf softball participants and their friends. NSAD was established to develop participation in the sport of softball under regional and national organizations active in athletic competition and in recreational events by deaf persons as well as promote and maintain the mutual interest of deaf people in the United States of America in creditable and sportsmanlike participation in athletic competition and recreational events in the softball sport. The City is excited to once again host this unique tournament.

Save a Tree, Plant a Tree: Build a Canopy. Go Paper-free! This program is an innovative program that merges environmental protection and resource savings by offering free trees to Ft. Lauderdale customers who switch to a paper-free utility billing process. It promotes and encourages sustainability through paper-free services that save energy and natural resources; it increases the City's tree canopy to cool shade and beautifies homes, neighborhoods, paths, parks and roads; it is a fiscally responsible alternative that helps "green" Ft. Lauderdale while reducing expenses. All you need to do is sign up for automatic Bill Payment and/or E-billing, and then pick up your free tree – or two trees if you sign up for both services. Types of trees available are Live Oak, Pigeon Plum, and Jamaica Caper. Please go to the attached link for tree pickup schedule (<http://fortlauderdale.gov/saveatree/index.htm>) or call 954.828.5150.

Sun Trolley Provides Convenient Mobility For Ft. Lauderdale Tourists: March marked the 39th consecutive month of increased tourism in Fort Lauderdale. Ft. Lauderdale's Wave n' Ride Sun Trolley system serves as the transportation component for the Ft. Lauderdale excursion package, which began mid-January. The Sun Trolley has seen a huge increase in airport passenger ridership over the past months topping 200 passengers daily. Your Commissioner recognized an opportunity to provide a free shuttle service for tourists who have cruise ship layovers at Ft. Lauderdale Hollywood International Airport. Patricia Zeiler, the Sun Trolley's Executive Director, developed a plan that partnered with "Bags to Go" which allows tourists to leave their bags safely at the airport, while they explore Ft. Lauderdale. The Sun Trolley runs to and from the airport regularly Saturday and Sunday between 9 a.m. and 5 p.m. The airport trollies pick passengers up and drop them off at the Ft. Lauderdale Historical Society on SW 2nd Street leaving them in walking distance to Las Olas Boulevard, Las Olas Riverfront, Himarshee Street and the Riverwalk. Of course, these visitors are also advised on how to take advantage of the trollies' other seven routes, connecting Downtown, the Convention Center, the Beach, the Galleria Shopping Center and the Galt Mile. Passengers simply flag the driver anywhere along the route to board. Once aboard, the fare is 50¢ for one trip or \$2 for all day, hop-on-hop-off service. The Sun Trolley Tracker, a new mobile app for Android and iPhone users, provides real time location of all trollies. To download printable route maps, the mobile app or to learn more visit www.suntrolley.com or call (954) 761-3543. In addition to the excursion route, this community bus service now has a ridership of 400,000 on all routes.

Cooperative Effort with Broward County Property Appraiser's Office Update

(Homestead Fraud): In March 2012, Ft. Lauderdale Police Department Detective Anthony Windes was assigned to work with the BC Property Appraiser's Office for the purpose of investigating tax fraud matters relating to properties located in the City. Since the start of the program, Detective Windes' work has resulted in the collection of over \$1,600,000 in back taxes, of which approximately \$336,000 was returned to the City. Additionally, approximately \$28,875,000

in value has been restored to the tax roll. Next year that will generate \$118,945 in new revenue for the City (based upon a tax rate of 4.1193 mills and 2012 value). This program would not be possible except for the cooperation of BC Property Appraiser Lori Parrish and her office!

Update on the Broward B-Cycle Sharing Program (2012 Annual Report):

This healthy and environmentally positive program, which was launched in December 2011, now has stations in Ft. Lauderdale, Hollywood, Pompano Beach, Hallandale, Dania Beach and Lauderdale-by-the Sea. The City is responsible for a total of 11,239 check-outs in the first year of operation, representing 47% of the total usage for Broward County. Of the 11 City stations, the most utilized stations continue to be Sebastian Lot, Willingham Park and Earl Lifshey Park. In the first quarter of 2013, B-cycle launched two new stations in the City. Station 12 is located at Sunrise Boulevard and SR A1A, and Station 13 is located on SE 17th Street at the Convention Center. Broward B-cycle continues its dynamic marketing approach via print and social media, and has also participated in various community City-sponsored events. Some interesting statistics: 24,190 total trips; 15,573 casual users; 421 annual members; 90,626 miles biked; 3.4 million calories burned; 984 pounds of fat burned and 570 Facebook followers!

Important Upcoming Dates to Put on Your Calendar:

- August 26: Joint Commission and Budget Advisory Board Workshops – Last of the Quarterly Meeting Dates – 7 p.m., 8th Floor Conference Room.
- Starlight Musicals (June 14 - August 25): 7-10 p.m. – Football Field/Holiday Park – please go to <http://www.fortlauderdale.gov/events/index.htm> for the 2013 Entertainment Schedule.
- May 20, June 3 & 17, July 1: Upcoming Pre-agenda Meetings
- May 21, June 4 & 18: Upcoming Commission Meetings
- May 25: Great American Beach Party
- May 27: City Hall is closed to observe Memorial Day
- June 24 & 25: Budget Advisory Board Budget Workshops (10 a.m.-4 p.m., 8th Floor Conference Room, City Hall)
- July 2: Last Commission Meeting before summer recess.
- August 19: First Pre-Agenda Meeting AFTER Summer Recess
- August 20: First Commission Meeting AFTER Summer Recess
- September 3 & 17 Commission Meetings: Public Hearings on the budget

Office Contact: Robbi Uptegrove – 954-828-5033; email: ruptegrove@fortlauderdale.gov

In addition to hosting two pre-agenda meetings twice a month, I am also available to attend your HOA meetings to update your neighborhood on what is going on in the City as well as answer any questions/concerns you may have. Please contact Robbi to schedule. •

The Sun Trolley has seen a huge increase in airport passenger ridership over the past months topping 200 passengers daily.

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