



The Galt Mile News

"An Official Publication of the Galt Mile Community Association"

May 2005

Condo Killer...Continued

the business of organizing the employees of Condominium Associations. The union provides members to show up at his press conferences and has contributed to his campaign. A quick visit to their web site reveals that companies managing condominiums are obstacles to their objectives. If a Condominium Association hires a management company, the union is functionally precluded from the opportunity to "organize" that condominium. Local 11 has been waging a heated campaign against these management companies and, not surprisingly, is a staunch supporter of Mr. Robaina's legislation.

Accompanying these expensive and irresponsible "holdovers" from Mr. Robaina's original HB 1229 are additional provisions that endanger an Association's ability to function. Of these "surprise" additions, the most egregious is a loophole that would spell disaster if enacted. One of the requirements of condo ownership that affects everyone is the obligation to pay assessments on time. When someone doesn't pay their fair share, the burden falls on everyone else to make up the shortfall. This bill creates a loophole for deadbeats. It requires an association to give 30 days' notice prior to initiating a court action or levying a fine. Incredibly, as long the scofflaw sends a written response within that time, he can continue shirking the debt, thereby forcing his neighbors to pay his obligation. Under HB 1229, action to collect the delinquent funds can only be initiated if no response is provided AND if the violation continues or is repeated. As long as a response is provided, the violation can be repeated with impunity. If a condominium can't collect the resources needed to pay its bills, it either goes without necessary services or must increase the financial obligation of every other owner that pays on time. Simply put, this provision provides deadbeats with a license to steal.

Another new addition to the bill arms abusive owners with an unremitting right to harass their Association. To accommodate an owner's right to information about pertinent Association issues, the law provides that an Association's Board must give a "substantive response" to any member's legitimate inquiry within 30 days. While Democratic institutions rely on their governed constituencies to exercise rights in the spirit for which they were created, occasionally they become vehicles for abuse. By deliberately sending an unrelenting stream of capricious inquiries requiring legal opinions, an unscrupulous owner can tie up Association administrative resources while maliciously skyrocketing legal expenses. After receiving a plethora of inquiries that have little or no relevance to Association business, a reasonable assumption can be made that the intent is not the acquisition of pertinent information but simply harassment. Current law provides a fair and effective solution. It states that, "The association may through its board of administration adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquiries, one of which may be that the association is only obligated to respond to one written inquiry per unit in any given 30-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable." The enigmatic removal of this option in HB 1229 serves no purpose other than to encourage the abuse of board volunteers and the waste of Association funds.

HB 1229 states, "the terms of all members of the board shall expire at the annual meeting" at which point they "may stand for re-election." Thousands of Associations have bylaws that mandate two-year terms for Board members. In the case of newly elected volunteers, it gives them the opportunity to gain valuable experience. Instituting two-year terms relieves the problem of having to convince five to nine reluctant people to run every year. Two-year terms also cut the expense and anxiety of Board elections in half. The sponsor of this bill is serving a two-year term in the legislature. The sponsors of HB 1229 are continually trying to either punish or limit the terms for condo board volunteers. Ironically, three of the bill's six co-sponsors are also sponsors of a bill designed to extend their own term limits in the Florida House from eight to twelve years. This disconnect between their beliefs and their behavior might lead one to surmise that they believe term limits to be a good idea - for everybody else. This is another arbitrary regulation that serves

no purpose, interferes with Association operations and casually overturns the wishes of the homeowners as expressed in their bylaws.

Dangerous Precedent

While the bill's adverse consequences provide reason enough for its defeat, they aren't the primary cause of the overwhelming opposition it faces from condo owners. This new trend of hyper-regulating the behavior of homeowners and legislating by anecdote flies in the face of the Bush Administration's contention that society benefits from less government. Aside from sporadic anecdotal contentions of abuse in highly charged media-driven forums, there is no evidence that the problems whimsically addressed in the bill are broad based or require legislative action. Since the input forums created by these legislators were designed to solicit indictments instead of balanced information, their stated conclusions concerning Association "problems" are, as expected, hopelessly skewed. Inasmuch, the blizzard of irresponsible legislation cynically mischaracterized as "empowering to condo owners" chronically fails to balance the interests of the individual homeowner with those of the community association as a whole. By creating the illusion that the random imposition of disruptive and punitive regulations on an entire class of homeowners can magically cure their handful of anecdotal abuses, certain legislators hope to realize an undeserved Election Day benefit.

Homeowners categorically reject the prospect of government controls replacing self-governance within the confines of their homes. Condominium owners carefully evaluate the compromises they face when first deciding upon condominium ownership. The proven popularity of the condominium lifestyle, despite the flaws that affect every democratic institution, speaks to the success of the present system. These bills seek to dismantle that system and replace it with another government bureaucracy - one that controls how you live in your own home. Although a currently fashionable political platform, these ever-increasing reactive regulations are creating dangerous precedents. Does anyone actually believe that the government can better settle squabbles among neighbors than they can amongst themselves?

As usual, the success or failure of this legislative "dog and pony show" is ultimately in the hands of its prospective victims, the homeowners. When considering legislation governing how people can live in their own homes, every regulation should not only have an excellent rationale, it should effectively cure a real problem. Since the provisions in this bill are derived solely of anecdotal evidence, they do neither. The "one-size-fits-all" regulations contained in this bill are diseases masquerading as "cures". As long as homeowners don't convey their opinions to their elected representatives, other's committed to self-serving agendas can perpetuate the myth that they are speaking on your behalf. They rely on the silent majority of homeowners to remain so. The lawmakers behind this irresponsible legislation have no intention of stopping here. Having found a fertile political landscape, they expect to make this attack on the rights of homeowners an annual event - each step bringing us closer to the "joys" of public housing. Government, as a rule, is a notoriously poor landlord. You have two choices. Either you can call-mail-fax-email your State representatives to tell them that you oppose HB 1229's expensive and harmful consequences or you can pay for them.

The Galt Mile Community Association follows legislation that affects our community on the Galt Mile web site (www.galtmile.com). The progress of this and other relevant bills are available, along with the contact information needed to impact the process. Unfortunately, by the time this article is published in the Galt Mile News, the legislative session will have concluded. For legislation to become law, it requires the Governor's signature. If HB 1229's damaging provisions still haven't been corrected, please contact Governor Bush with your concerns at The Capitol, Tallahassee, Florida 32399 - or telephone 850-448-7146 (email address is jeb.bush@myflorida.com). •

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On Wednesday, March 30th at 6:00 AM, 21 Galt Mile residents met at Fort Lauderdale International Airport to board a flight to Tallahassee. Altogether, over 100 condominium owners from Broward and Palm Beach Counties prepared to join another

200 homeowners from all over Florida in the State Capitol. Rose Guttman, Terry Cook and Bob Krevy from the Ocean Club Condominium looked around the ATA counter for familiar faces. Marty and Shelly Glazer from Southpoint and Galleon resident Vini Persiani patiently waited

Article by Eric Berkowitz



**CONDO OWNERS
INVADE
TALLAHASSEE**

on line as Dott Nicholson-Brown, Louise Collins, Fern McBride and Eric Peter Berkowitz from Regency Tower entered Terminal 3. Regency Tower resident Howard Hirschman shared a taxi to the airport with Ocean Summit residents Dr. Jim Comis, Russell Bailey, and Martha Bruno. Lorraine Alfano from L'Hermitage snapped pictures of the Galt Mile contingent as they waited to clear security. The Galt Ocean Club's Pio Ieraci discussed the premise for our pre-dawn gathering with residents and board volunteers from Galt Towers, the Riviera, Coral Ridge Towers and other Galt Mile Associations. Along with condo owners from Miramar, Plantation, Margate, Delray and Boca, they all anxiously anticipated participating in the impending Community Association Day event in the State Capitol.

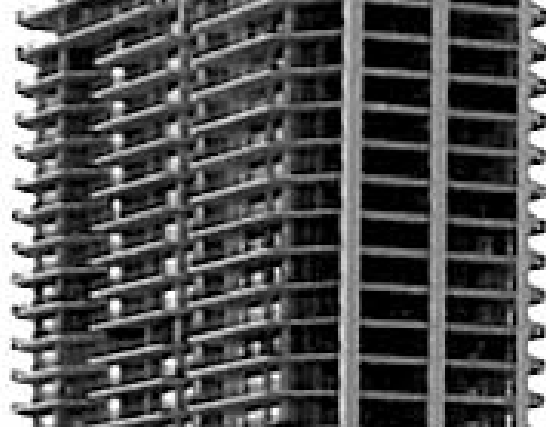
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Condo Killer...Continued

homeowners with a lowering of their living standards (and unit values), they had the right to prevent or restrain further abuse by voting to adjust their leasing policies. Last year, Mr. Robaina's legislation eliminated that right - only for condominium owners. In HB 1229, he seeks to eliminate that right for owners of cooperative units as well. Condominium owners currently have other rights enjoyed by all homeowners. They can set policies for parking and pets that meet the needs and wishes of the unit owners. Mr. Robaina has promised additional legislation that will also negate these rights, replacing them with "one-size-fits-all" regulations usually reserved for public housing. HB 1229 also demands that Associations pay for an expensive audit every two years. Because of the cost, audits are usually ordered for some specific purpose. If, for instance, there were cause to doubt the integrity of a budget or a conflict interpreting the budget, people might agree that an audit may clarify the confusion. Smaller Associations will have to postpone necessary repairs or improvements because they have to pay for audits that nobody wants, needs or will ever use.

The Truth Emerges on Community Association Day

On March 30th, hundreds of homeowners from all parts of Florida converged on the Capitol with a mission. They wanted to disabuse legislators of the spurious claims made by the bill's sponsors that their legislative efforts were on behalf of condo owners. Despite the sustained masquerade conducted by a political coalition assembled to misdirect legislators and the media, the objection to HB 1229 by hundreds of visiting homeowners upset the sponsor's plan to slip the bill through committee review. The Condominium Advisory Council voted on March 31st (the following day) to NOT support Representative Robaina's HB 1229 in its original form!



Mr. Robaina and the "Cybers" had another problem. An Analysis of HB 1229 performed by the House of Representatives Staff confirmed several serious consequences of the legislation. It pointed out the significant cost of the bill to both homeowners and the State. Since the "per home" cost increase created by the bill's demand for full reserves depends upon each condo's documents, they were unable to ascertain the full fiscal impact to homeowners. Similarly, the "per home" fee of the new parking requirements will depend upon the number of spaces each Association may be liable to create. Mandatory audits can range from a few thousand to tens of thousands of dollars depending on the size and complexity of an Association's budget. While the estimated costs of these provisions are variable, the Staff Analysis more accurately assessed the expense of training 162,500 board members at almost \$18 million annually. They also focused on the expense of imbuing the Division of Florida Land Sales, Condominiums, and Mobile Homes with special police powers over the 1.1 million condo owners living in 18,500 condominiums and the millions more residents in 14,000 Homeowner Associations. By changing the Division's responsibility from regulating "the creation, sale, and operation of condominiums by developers and associations" to investigating "violations of the statute and rules by individual owners," the expected cost of the bill could exceed \$50 million and require a police resource that would dwarf the State Police.

The House Staff Analysis also explains HB 1229's blatant contradiction of existing law as, "(1) Section 720.302(2), F.S., provides, in part: The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state

government to regulate the affairs of homeowners' associations. This bill arguably creates a 'bureau or other agency... to regulate the affairs of homeowners' associations.'" This objection is consistent with the findings of the Governor's Task Force on Homeowner Associations, which voted against a proposal to expand the regulation of HOAs by the Florida Department of Business and Professional Regulation.

Bait and Switch – The Secret "Strike All"

After a bill is filed in the legislature, it is scheduled for review by an assortment of legislative committees to examine its inherent advantages and disadvantages. HB 1229 was referred to the Civil Justice Committee, the State Administration Appropriations Committee and the Justice Council for review. Because the hidden consequences of his bill were revealed by the House Staff Analysis, Mr. Robaina cancelled the bill's consideration by the Civil Justice Committee on March 23rd. After the CA Day event, he developed a clandestine plan to navigate the obstacles created when the truth about the bill's consequences became public. On April 11th at 4:18 PM, he added his bill to the Civil Justice Committee agenda for April 13th. Public notice wasn't posted until the morning of April 12th, the day before it was scheduled to be heard. This last-minute agenda addition would preclude any condo owner who wasn't from the Tallahassee area from testifying against the bill at the hearing. Members of the Committee expressed concern about the legislation, in part from the 1000+ emails they received from homeowners protesting the bill.

On April 13th, Mr. Robaina revealed a secret Committee Substitute to the Civil Justice Committee for consideration. To mute the recent criticism, he offered a "Strike-All"

amendment that removed references to regulating Homeowner Associations, the \$18 million "training" extravaganza and the 1-year term limit the bill mandated for condo board volunteers. After hearing from Mr. Robaina that his new version "cured" their concerns and those of homeowners, they passed his last-minute Committee Substitute unanimously. However, the public wasn't informed that the new "Substitute" also contained a litany of additional anti-condo provisions - so much for "Government in the Sunshine!"

The bill retains the provision requiring the collection of full reserves by every Association, eliminating the right of homeowners to either waive funding the reserves or opt for partially funding reserves by a majority vote. It still demands that an Association must provide parking spaces for disabled guests that disabled residents aren't allowed to use. It persists in mandating expensive audits every two years, whether or not they are needed or wanted by the homeowners. The bill removes the right of people that own coops to decide for themselves the policies that affect the leasing of their units.

Curiously, after conceding that it was inappropriate to place Homeowner Associations under the regulatory jurisdiction of the Division of Florida Land Sales, Condominiums, and Mobile Homes, they insisted that it is appropriate for the Division to regulate Community Association Managers. The legislation focuses, in large part, on the licensing of companies that manage Associations. Mr. Robaina has a relationship with SEIU - local 11 in Miami, a union in

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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.



PUBLISHER

YELLOWDOG
P R E S S : L L C

Allison Weingard Muss
954-292-6553
galtnews@yahoo.com

Art Director: Gio Castiglione
Distribution: Michael Loomis
Ad Sales: Allison W. Muss
Editor: Eric Peter Berkowitz

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MAY/JUNE 2005



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15	16 Commissioner Teel: Pre-Agenda Meeting Beach Community Center Info.: 954-828-5033	17 Fort Lauderdale City Commission Meeting City Hall 6 p.m.	18 Ft. Lauderdale's City Auction 220 S.W. 14th Ave. Info.: 954-828-5960	19 Galt Mile Community Association Meeting Nick's Italian Restaurant 11 a.m.	20 Marlins v TB Dolphins Stadium 7:35 p.m. Tix: florida.marlins.mlb.com Smokey Joe's Cafe Through 5/21 Broward Center Info.: 954-462-0222	21 America's Boating Course (See article) Mercedes-Benz Classic tennis event Office Depot Center Tix: ticketmaster.com
22 Marlins v TB Dolphins Stadium 1:05 p.m. Tix: florida.marlins.mlb.com	23 Marlins v PHI Dolphins Stadium 7:05 p.m. (Through 5/25) Tix: florida.marlins.mlb.com	24	25	26	27	28
29	30 Memorial Day	31	1	2	3	4
5 Sunday Jazz Brunch Riverwalk, Downtown FL 11 a.m. to 2 p.m. Info.: 954-828-5985	6 Commissioner Teel: Pre-Agenda Meeting Beach Community Center Info.: 954-828-5033	7 Marlins v Sea Dolphins Stadium Through 6/9 Tix: florida.marlins.mlb.com Stomp Through 6/12 Broward Center Info.: 954-462-0222	8	9	10 Marlins v TEX Dolphins Stadium 7:35 p.m. Tix: florida.marlins.mlb.com	11 Reef Sweep & Beach Cleanup Ft. Lauderdale Beaches 9 a.m. to noon Info.: 954-467-1366

A l o o k a h e a d

- June 17 - July 22 Bank of America Starlight Musicals Holiday Park, Friday evenings only from 7 - 10 p.m.
- June 24 - 26 Dora's Pirate Adventure Broward Center, Tix.: 954-462-0222.
- June 29 - July 2 Rumpelstiltskin Broward Center, Tix.: 954-462-0222.
- June 8 - October 30 Going, Going, Gone? Mid-Century Modern Architecture in South Florida MOA, Info.: 954-525-5500.

Tallahassee...Continued


Organized with the help of the Community Association Leadership Lobby (CALL), Community Association Day promised to be an enlightening albeit exigent experience. Far from a pleasurable trek through the halls of State government, over 300 homeowners journeyed to the Capitol because their way of life is once again being threatened. Residents took time off from their jobs and various commitments to join hundreds of other condominium owners from around the state. Together with homeowners from Naples, Jacksonville, Orlando, the Sun, Space and Gold Coasts, Pensacola, Miami, St. Petersburg and many other areas, they converged on Tallahassee by bus, automobile and plane to communicate their concerns and those of their neighbors to their political representatives.

The group expected to accomplish multiple objectives. They intended to clarify to their elected officials that claims made by a self-serving political coalition about "condo problems" were creative distortions. The legislative "answers" proposed by this coalition were designed to destabilize Association operations, skyrocket maintenance expense, dismantle the condominium system throughout the state and replace self-governance with government controls. They also went to demonstrate their universal opposition to the recent profusion of skewed legislation by this anti-association lobby and their minions in the Statehouse. They arrived "en masse" to make clear that the purveyors of the "Condo Killer" bills spoke only for themselves, not the "silent majority" of homeowners throughout Florida. Their message was that they were capable of governing their own homes.

Upon arriving at the Capitol, the various condo owners sought to visit their respective elected officials. At 10 AM, Galt Mile residents met with Statehouse Representative Elynn Bogdanoff to discuss two bills currently filed in the legislature, HB 1229 in the House and SB 2632 in the Senate. Fortunately, our Representative was already familiar with the dangers inherent in the legislation. She described HB 1229's attempt to mandate onerous reserve requirements, unnecessary costly audits and obstacles designed to deter board participation by homeowners as clearly harmful to her constituents. She opined that every representative with substantial condominium constituencies would share her concerns about the bills. Fort Lauderdale City Commissioners Christine Teel and Carleton Moore joined the group to help underscore their concerns.

Later in the morning, Galt Mile residents met with Senator Jeffrey Atwater to discuss the bills' consequences. Bob Krevy of Ocean Club gave Senator Atwater documentation taken from the Galt Mile web site (sourced from the House and Senate web sites) to illustrate the group's trepidations. As described in the House of Representatives Staff Analysis of HB 1229, "The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. This bill arguably creates a

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Flytrap...Continued

SB 2632 is patently absurd. While protecting homeowners from whimsical foreclosures is laudable, no one understands Senator Siplin's motivation for allowing Association members the self-destructive right to steal thousands of dollars from each other. Siplin has repeatedly stated, "There are a lot of condos not only in South Florida but throughout the state. This will bring relief to the whole state." In a clear effort to mischaracterize his bill as legislative altruism, he neglects to explain that his bill doesn't expunge the debt; it functionally transfers it to the other owners! The "relief" that the Senator provides to the delinquent becomes everyone else's burden. The tenets of this bill were part of Representative Julio Robaina's "Condo Killer" legislation that was defeated last year. Not surprisingly, Robaina and Siplin have agreed to work together this year to get it approved. In a meeting with condo owners on Community Association Day (March 30th), Senator Jeffrey Atwater stated, "A bill designed to protect deadbeats to the detriment of everyone else is clearly unworkable." The voice of reason! •

Tallahassee...Continued

'bureau or other agency... to regulate the affairs of homeowners' associations.'" In addition to the faulty premise upon which the bill was constructed, the Senator recognized the devastating consequences ignored by the legislation and the suspicious disconnect between the bill's actual language and its stated objectives.


Senator Atwater has had some direct experience with the group behind this bill. He also has a unique insight into the needs of Associations and the real problems facing their members. Senator Atwater sponsored SB 2984, a progressive Homeowner Association bill that passed last year in response to the findings of Governor Bush's Homeowners Association Task Force. Last year, a few of Mr. Robaina's "Cybers" joined some pickets provided by SEIU to demonstrate outside the Senator's Palm Beach office. Financed by Local 11 in Miami, a union trying to organize condominium employees, the demonstrators demanded that the Senator include regulations in his legislation that were overwhelmingly voted down by the Governor's Task Force. He naturally refused to accept provisions designed to hurt the same people that his bill was created to help. The Senator also exhorted that the tremendous cost being placed on Association members by Representative Julio Robaina's HB 1229 would further "deter many legislators from supporting the bill."

Senator Atwater then focused on Senator Gary Siplin's SB 2632, a bill seeking to severely limit or eliminate an association's right to lien or foreclose when members ignore their financial responsibility. Acknowledging that these were the only tools available to Associations to deter delinquencies, he confirmed that the bill's effect was tantamount to eliminating an Association's ability to collect the funds required to operate. The subsequent financial "train wreck" would destroy thousands of Associations across the State, hurting millions of homeowners.

Galt Ocean Club resident Pio Ieraci informed the Senator about an article written by a well known banking official that illustrated another danger. In standard mortgage application procedures, the lender sends an inquiry to the condo about its solvency and the number of "unpaid" assessments carried by the Association. If the balance sheet demonstrates that their mortgage loan will be insufficiently collateralized due to the Association's inability to collect its required resources, the mortgage is refused. Mr. Ieraci repeated the banker's contention that, "passage of this bill will undermine the current basis for lenders to provide mortgages for condo ownership." Regency Tower resident Eric Berkowitz added that, "when individual owners don't pay their obligations, the condo still must pay its bills. The resulting shortfall must then be paid by the delinquent's neighbors, thereby forcing an "unfunded mandate" on every other homeowner in the Association." Senator Atwater responded, "A bill designed to protect deadbeats to the detriment of everyone else is clearly unworkable."

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expense of foreclosing on the lien, the delinquent is permitted to continue living off his neighbors - forever. Legal fees for lien foreclosures often surpass the value of the delinquencies - sometimes exceeding the value of the unit. The right to foreclose offers no remedy if the irretrievable cost of foreclosure exceeds the value of the unit. If the other owners decide to spring for the legal fees anyway, a manipulative deadbeat need only limit his debt to \$2,499.99 to stave off foreclosure. He can continually owe that amount without risk of being subjected to enforcement actions. Associations will have to pay tens of thousands of dollars to stop each deadbeat from deliberately stealing from the other residents. Even when the delinquent wearies of this caprice and hits the road, the 180-day notification requirement will place the Association squarely at the end of the lien line. The mortgage holder and every debtor listed in a bankruptcy proceeding will take precedence over the Association's standing.

The bottom line: No Association can ever be made "whole". This bill goes way beyond preventing foreclosures. It deliberately and irrationally punishes Associations. The other members must either pay the delinquent's debt or pay irretrievable legal expenses to enforce collection. The bill doesn't protect the unfortunate victims of irresponsible foreclosures by applying reasonable guidelines. It prevents an Association from collecting assessments... any assessments. As such, it victimizes every owner except the delinquent. All a scofflaw has to do to escape their debt is to NOT PAY IT! In effect, the first \$2,500 assessed by an Association would be a plea to make a voluntary contribution, payable at the member's discretion. Incomprehensibly, the bill further punishes the residents who

pay their assessments on time by forcing them to pay the cost of collecting from those who don't! It is impossible to cite another example of a lienholder that cannot collect attorney's fees when enforcing its lien.

Siplin is also playing a constitutional shell game. His bill states, "The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien." By eliminating an Association's right to foreclose and their right to act to collect money damages in amounts less than \$2,500, Senator Siplin is removing every remedy available to an Association to collect a debt. The Constitution demands that every right have a viable remedy. By definition, a right without a remedy is, in fact, not a right. By removing the Association's only collection remedy, the Senator is depriving the Association of its right to collect a debt.

A well-known banker illustrated a more insidious effect of the legislation. The mortgage application process includes an inquiry to the condo about its outstanding receivables. If an Association's balance sheet demonstrates substantial uncollected and/or uncollectible funds, the lender will classify the collateral as insufficient to secure their investment. The mortgage will be declined. The banker predicts that the bill would portend the end of the condo mortgage market. Only purchasers flush with cash could participate. Given the likelihood for abuse by this bill, the impending fiscal "train wreck" would exclude condominiums from mainstream financing.

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Flytrap...Continued

Foreclosure should always be the means of last resort to collect a debt. Since people's homes are often their most significant asset, the prospect of losing one's home over a trivial debt borders on tragedy. Foreclosures and liens are tools to enforce the payment of a debt. In the case of Common Interest Developments such as Condominium Associations, they are the only legal tools available. If you fail to make your car payments, it gets repossessed. Miss a few FP&L bills and the refrigerator becomes a storage chest. If you stiff Bellsouth, your telephone becomes "static art". Ordinarily, if you don't pay for services, the services stop... except in Condominiums. To level the risk of depending on many "roommates", Associations are afforded the right to lien or foreclose on "roommates" that don't kick in their fair share of the common expenses. When condo owners don't pay their fair share, the burden falls to all the other owners.

The vast majority of condo owners pay their assessments on time. Of the few who pay late, most pay after the first notice. The extreme minority that remains delinquent falls into two categories - those homeowners undergoing some financial crisis and those that simply refuse to pay. In either case, the resulting shortfall is billed to the delinquent's neighbors. Some can afford the unexpected expense and some cannot. Condo finance is a zero sum game, when some pay less, others must pay more. The effective result of unpaid assessments is the appropriation of other people's money without asking their permission - commonly known as stealing. The Association must pay its bills and employees whether or not the individual owners pay theirs. To minimize this unfortunate aspect of common interest ownership, owners protect one another by agreeing to place liens and/or foreclose when assessments aren't paid. This is their only remedy.

SB 2632's language is self-explanatory, "A lien foreclosure action or an action to recover a money judgment brought as a result of unpaid condominium association assessments may only be brought in those instances in which the amount in question equals or exceeds \$2,500. The association is not entitled to recover attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. No foreclosure judgment may be entered until at least 180 days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments."

No action is permitted for amounts under \$2,500. Those amounts can be appropriated with impunity. Thousands of Florida Associations charge maintenance assessments of \$30 to \$100. The delinquent's neighbors will have to "carry" the deadbeat for years before they are permitted to enact a recovery. In the case of an Association with a \$30 monthly assessment, for instance, the other owners will have to pay the scofflaw's bills for almost seven years without any prospect of relief. After the seven years, they must pay for another six months after notice is given. Once the seven and a half years pass, they must pay for an attorney to foreclose on the lien. They are not permitted to recover the attorney's fees. If the members can't afford to finance the legal

Continued on page 12

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Tallahassee...Continued

As part of the outreach effort, the homeowners filtered through the Capitol seeking to alert legislators to their concerns. A group of condo owners from River Reach Condominium in Fort Lauderdale sought Representative Robaina to confront the legislator with their objections to his "counterproductive" bills. River Reach is also the home of Condominium Ombudsman Virgil Rizzo. Prior to his appointment as the State's top Condo mediator, he engineered a lawsuit against his Board for "mishandling condominium investments". The Association members rallied around their Board and countered with a libel suit. After Rizzo's appointment, a large contingent of River Reach owners met with reporters to question the wisdom of instating such a disruptive influence as the State's top "dialogue facilitator". Upon finding Robaina, they took the opportunity to inquire about this suspicious appointment as well as questioning him about contradictions posed by HB 1229.

Lessons by Legislators

During the afternoon, all 300 residents wearing white tee shirts displaying "Community Association Day" in red letters met in the House chamber to hear several House members explain how the institution operates. Representative Leslie Waters of St. Petersburg, currently the Speaker pro tempore of the Florida House of Representatives, explained that the Speaker pro tempore does "whatever the Speaker wants." Pointing out the portraits of past Speakers that encircle the chamber, she predicted that, "the day will soon come that a woman will occupy the Speaker's post."

Representative Dudley Goodlette of Naples followed Ms. Waters. Representative Goodlette addressed last year's "Condo Killer" bills. He recounted the demise of the ill-fated legislation as the session drew to a close. Ultimately, he voted for a bill that was heavily favorable to condo owners, despite containing some controversial remnants of the original Condo Killer language. When a Margate condo owner asked why he voted for the bill, he explained that, "bills often contain positive and negative aspects. Any responsible legislator will carefully weigh the advantages and disadvantages before deciding whether or not it is deserving of support." He expanded, "If every legislator voted against every bill that contained something that they didn't agree with, nothing would ever get passed."

Continued on page 13



Senator Robaina



Senator Bogdanoff



Senator Alwater

HISTORY OF A CONDO KILLER BILL - 2005

Eric Berkowitz

A bill filed on February 28th in the Florida House of Representatives is part of an ongoing assault on the rights of Condominium owners in Florida. A 2005 version of the infamous "Condo Killer" legislation that was eviscerated in House and Senate committees last year, HB 1229 is a confusing blend of disjointed regulations that seem devoid of purpose, fraught with contradictions, disabling in their effect on Associations and extremely expensive. Miami Representative Julio Robaina, whose "Condo Killer" bills elicited statewide opposition from angry condo owners last year, has fulfilled his promise to "return with a complete rewrite." Strangely, his rewrite does not prevent or correct any of the "inequities" he claims as the grounds for his bill. The bill represents additional support for the notion that Tallahassee, not resident homeowners, should govern Condominiums, Cooperatives and Homeowner Associations.

Many of the bill's provisions are virtually incomprehensible. His original bill states that "Residents with disabilities shall not park in

a disabled guest parking space unless their assigned parking space is in use illegally." Parking regulations and spot assignments are ordinarily constrained by an Association's size, premises layout, space positions and space availability. Notwithstanding these factors, the bill demands that Associations provide parking spaces for guests with disabilities. In a cynical twist, disabled residents are specifically precluded from parking in these spaces! The bill also states, "Reserves shall maintain a minimum level of at least 10 percent of the yearly operating budget." Reserves are determined by the replacement cost of critical building maintenance needs such as painting, replacing the roof, resurfacing the parking deck, etc. over the projected lifespan of these building components. The annual cost of reserves has absolutely no "percentage" relationship to an Association's annual budget. Condominium Association members currently have the right to waive full reserve assessments or opt for partial reserve assessments through a vote of the homeowners. The legislation negates this right - only for condominium owners.

The legislation suffers from several enigmatic contradictions. Last year, the legislation's supporters frantically accused the Division of Florida Land Sales, Condominiums, and Mobile Homes of gross inefficiency bordering on criminal neglect. Their demand that another entity be created to perform the functions of the Division - the Ombudsman - was based upon the premise that the

Continued on page 17

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Il Lugano...Continued

The 14-story Il Lugano Condominium Hotel, a \$70 million waterfront property, offers 24 residential units and 105 condominium residential hotel suites. Resort style amenities include complimentary breakfasts on the waterfront, a 24-hour attended reception area, concierge, maid service, valet parking, business and conference facilities, on-site sundry shop, a state-of-the-art fitness center, an oversized 60' lap pool, and deep-sea fishing excursions departing from Il Lugano's dock on the intracoastal. For the buyer who prefers to come-and-go via water, twelve 50' boat slip are also being offered for sale, available to purchasers of Il Lugano's private residences. Il Lugano's condominium hotel units will offer spacious suites with 9-foot ceilings, individual washer/dryers and high-end design kitchens with European style cabinetry, granite countertops, glass ceramic cooktops, full refrigerators, Kohler faucets, dishwashers, microwaves, and food waste disposals. Units sport large glass-balconied living rooms, marble baths, cable TV, wireless and high speed internet access. Of course, theatre size full-service meeting facilities are conveniently available directly across the street at the Fort Lauderdale Beach Community Center. Less than a 5-minute stroll (two-minute ride) to the world-class Galt Mile beach, it should easily monopolize local business travel and attract other high-end leisure visitors. "The intent is to provide residents and guests with a neighborhood experience. A shuttle to the beach will run all day, and water taxis to downtown Fort Lauderdale will leave from our dock. It's exceptional in terms of location and convenience," states developer Couf. Construction is scheduled for completion in the summer of 2006. The concept invites residents to partner with the existing development team through the purchase of condominium units. On nights when the suite is not occupied by the purchaser, it can revert to abetting the hotel's room inventory, returning substantial investment income to the owner. Owing to the development team's strong track record, the project's high-end design, and positive market factors that include a trend toward condominium hotel residence accommodations

and Fort Lauderdale's robust real estate environment, assorted business professionals and corporations have already gobbled up more than 50% of units.

The floor plans are flexible and can be connected to satisfy a need for larger accommodations. Prices allow for a wide range of participation, starting at \$275,000 for residential hotel suites, \$785,000 for private condominium residences. The Sales Center is located at 3432 N Ocean Boulevard (A1A) in Fort Lauderdale. From I-95 exit Oakland Park Blvd., east to A1A. At A1A make a left (north) to 34th Street. The Sales Center is on the right (east side) just north of 34th Street and is open Monday through Saturday from 10am to 5pm, and Sundays from 11 am to 5 pm. •



Il Villagio



Santa Maria



The Atlantic

Tallahassee...Continued

Despite the last-minute inclusion of a few controversial provisions, the final versions of SB 1184 and SB 2984 clearly helped condo owners. They protected associations that installed defibrillators from civil liability. They also made it easier for condos wishing to "opt out" of retrofitting their premises with an expensive sprinkler system. When HB 1229 was brought up, Mr. Goodlette respectfully declined to comment on the bill before discussing it with the bill's sponsors, adhering to "appropriate legislative protocol". Goodlette also offered valuable insight into how constituents should contact their representatives about their concerns. He strongly advocates using email for this purpose, stating that most legislators check their email often and respond more quickly to emails than to telephone calls. He gives weight to emails that contain personal perspectives of issues. However, when he receives a plethora of identical emails, he simply deletes them! Goodlette has repeatedly proven himself as a valuable ally of condo owners.

Other legislators and state officials that enlightened the group were Senator Bill Posey, Representative Frank Farkas, CFO Tom Gallagher's assistant Lisa Miller (introduced by Peter Dunbar, author of the "Condominium Concept" in its 9th Edition) and Advisory Council on Condominiums Chair Joe Adams. Earlier, Senator Walter "Skip" Campbell urged support of SB 2062, a bill that really does help condo owners. The disastrous hurricane season illustrated serious deficiencies in the Condominium Act. Some condominiums that sustained severe damage from the storms were unable to effectively respond to the catastrophe. The Associations' boards weren't equipped with sufficient authority to protect the premises or effect the emergency repairs required to restore the premises to a safe condition. The "notice" required by law prior to a board meeting would be waived, allowing for an emergency meeting to respond to a declared catastrophe. During the hurricanes, hundreds of balcony doors, windows and hurricane shutters were blown off the buildings along the Galt Mile. The bill would permit entry into the affected units to secure them and/or effect repairs to prevent further damage. The bill would also permit the board to implement a disaster plan prior to, during, or after a catastrophic event, including shutting down elevators, electricity, water, sewer, security systems, or air conditioners. In addition to adequately enlarging board powers and flexibility in the event of a catastrophe, Campbell's bill would extend the time by which a Condominium Association that has "opted out" of a full sprinkler retrofit must install sprinklers into common areas of a high rise condominium from the current 2014 to 2020. Representative Frank Farkas is sponsoring a companion bill in the House of Representatives, HB 1593, to provide this important relief.

The Messengers Return

Upon returning to Fort Lauderdale, the travelers shared a sense of accomplishment, having expended their time, effort and resources to promote their beliefs. Every resident fought to protect their home and those of their friends and neighbors. While the exigencies of a sixteen-hour ordeal precluded many of our residents from participating in the event, those that went earned the uncontested support, respect and admiration of

Continued on page 15

FORECLOSURE FLYTRAP

Senator Gary Siplin filed Senate Bill SB 2632 on March 8, 2005. The bill purports to protect people from losing their home over an insignificant debt. Unfortunately, that fails to describe the effects of the bill. It is a license to steal. It allows homeowners to legally take up to \$2,499 out of their neighbor's pockets - indefinitely.

A similar bill was defeated in California. Governor Schwarzenegger explained his reason for vetoing the legislation, "This bill makes sweeping changes to the laws that govern Common Interest Developments (CID) and the foreclosure process for failure to pay delinquent homeowners assessments. While the intent of this legislation is laudable and intended to protect homeowners from being foreclosed upon for small sums of delinquent assessments, this bill is overly broad and could negatively impact all homeowners living in CIDs. This bill could unfairly result in increased assessments for other homeowners who pay their assessments in a timely manner and may delay the transfer of real property in CIDs due to the lien procedures set forth in the bill." That's putting it mildly.

Continued on page 9

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Il Lugano...Continued

future stability. Couf's unique prescription for the community was a condominium hotel residence catering to both business travelers and vacationers. The condominium hotel residence concept, which is becoming increasingly popular with both the business and leisure markets, combines the amenities of home with the management and convenience of a major hotel brand.

Barely heard-of just a decade ago, condominium hotels have recently become a hot concept in the hotel industry, with new construction now outpacing more traditional hotel accommodations. As this new phenomenon addresses a long-ignored need for flexibility in the hospitality industry, every major hotel chain is committing substantial resources to participate in this niche. To explain the formula components of his project, Couf summarized, "By having a world-class hotel management team, which emphasizes high quality and guest satisfaction, a prime waterfront location and the appeals of 'The Village', the hotel will attract residents and guests who want to visit and live in this desirable location."

With the "vehicle" ascertained, Couf enlisted the services of a prominent Florida design legacy, Revuelta Vega Leon. An architectural group with a rich history in the South Florida area, Revuelta Vega Leon P.A. has been involved with several multi-million dollar projects located within historic districts such as South Beach (the 17 story Il Villaggio Condominiums) and the Brickell area in Miami (the 51 story Santa Maria Condominium, the 40 story Bristol Tower Condominium). In Fort Lauderdale, they designed La Rive at 525 Bayshore Drive and Alhambra Place at 209 N Birch Road.

Couf also secured the talents of Lynn Wilson Associates International, a world renowned 5 Star Interior Design firm based in Miami (116 Alhambra Circle) with affiliated offices in Paris, Los Angeles and Costa Rica. Her design credits include Queen Elizabeth's Windlesham Moore Estate in Ascot, England, the Al-Bustan and Princeton Hotels for His Royal Highness Sheikh Hamden Maktoum in the United Arab Emirates and Taj Mahal in India. Prestigious local references include the Biltmore and Boca Raton Hotels, the Grove Isle Hotel & Club in Coconut Grove and the Fontainebleau Hilton in Miami Beach. Along with Il Lugano, they count the Regent South Beach at 1458 Ocean Drive in Miami Beach and the Atlantic on Fort Lauderdale beach among the condominium hotels in their portfolio.

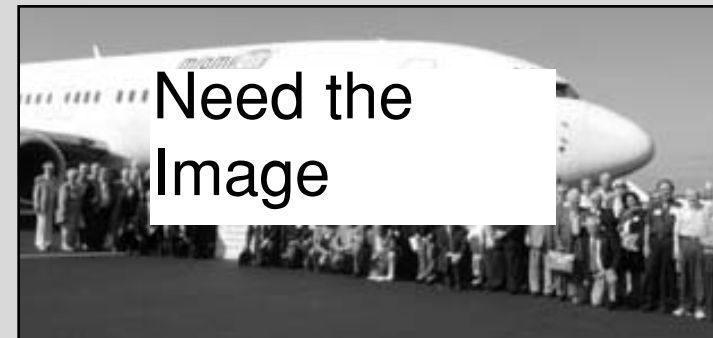
Local merchants, having seen the city put "its wallet where its mouth is" in the Beach Community Center, followed the city's lead. Upscale restaurants and shops also put resources into renovation and expansion. The Florida Department of Transportation (FDOT), while recently upgrading the entire southeast traffic access to the "Village", adorned adjacent streets with paved crosswalks, new landscaping and new traffic signals. When Couf revealed his plan, community redevelopment slipped into high gear. The prospect of a high-end condominium hotel across from the Community Center elicited a tidal wave of local support. It whizzed through Planning and Zoning despite an anti-development political environment. The Galt Ocean Shoppes neighborhood - "The Village" - a target destination for shoppers, strollers and tourists, was being prepared to provide serious competition to Las Olas Boulevard.

Continued on page 8

Tallahassee ...Continued

Our Voices were Heard

The travelers were also rewarded with responses from their legislators that were overwhelmingly positive. Senators and Representatives universally expressed gratitude to their visitors from "back home" for providing them with guidance as to how they should apply their votes. After declaring their appreciation, Representative Bogdanoff and Senator Atwater requested that the visitors continue to provide them with similar guidance as the session progresses. In addition to discussing their reservations about the current destructive bills, the condo owners emphasized their opposition to the recent blizzard of irresponsible legislation based solely on anecdotal assertions. Reacting to the unequivocal objections raised by the visiting homeowners, the Condominium Advisory Council voted on March 31st (the following day) to NOT support Representative Robaina's HB 1229 in its current form! This is a step in the right direction. Apparently, the voices of condo owners are finally being heard!•



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Article By Eric Berkowitz



IL LUGANO: A Community Anchor

The Village at Galt Ocean Mile is a wide-paved, landscaped neighborhood filled with cafés and upscale boutiques. For years, the commercial district located between A1A and the intracoastal just north of Oakland Park Boulevard, evolved through multiple incarnations. Trendy restaurants opened and closed overnight. Curio shops, nail salons, thrift shops, popular night clubs and nostalgia-style antique merchants seemed to ride a revolving treadmill of intermittent success. Galt Mile residents responded to the community motto, "Patronize Galt Merchants!" Unfortunately, one couldn't know whether a particular merchant would still be there for a second visit. Despite the area's ever-changing composition, the eclectic combination of shops attracted visitors from all over the city. The Galt Mile Community Association attempted to find a formula that would bring stability to the neighborhood's ephemeral identity. The area desperately needed some substantial enterprises to serve as anchors for the artsy establishments. Enter: The City's Beach Community Center. The Center is a fantastic magnet for locals interested in classes and workshops in Taikwondo, computers, health, art and dozens of other disciplines. It serves as a meeting place for civic and neighborhood organizations. It's also a terrific facility for business conventions and meetings. Unfortunately, the closest "appropriate" quarters for business travelers or visiting politicians are on Federal Highway or about 2 miles north on A1A. The community was still missing a critical piece of its "master plan" puzzle - a top-notch short and extended stay condominium/hotel. That piece is no longer missing.

Developer Robert M. Couf spent the past few years diagnosing the Galt Mile's "community planning" dilemma. Chairman of Fort Lauderdale-based Cartage, Inc, Couf has extensive experience with resort projects - both in the United States and the Caribbean - having built master-planned residential communities and mixed-used commercial properties. Realizing that a standard hotel would only address part of the neighborhood's needs, he investigated cutting edge alternatives with the ingredients necessary to guarantee the area's

Continued on page 6

Condo Killers...Continued

Division was so inept and corrupt that they couldn't be trusted to fulfill their mandate. As a result, taxpayers now pay for two governmental bureaucracies with identical responsibilities. In HB 1229, these same legislators insist that Homeowner Associations and Community Association Managers be brought under the jurisdiction of the same Division that one year ago they characterized as unable to administer condominiums. Is it possible that the legislators' "change of heart" inures to some remarkable improvement that the Division underwent during the past year, earning the respect of their detractors of a year ago?

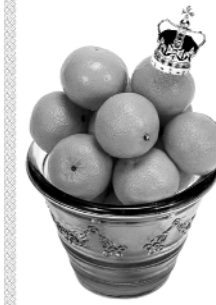
Actually, the opposite occurred, the bill's sponsors engineered an investigation into the Division's operational shortcomings, contending that they failed to meet their responsibilities. Adding 14,000 Homeowner Associations to the Division's 18,500 Condominium Associations would effectively double their jurisdictional authority. In a monument to schizophrenia, the sponsoring legislators are simultaneously effectively recommending that the Division's responsibilities be both reduced and increased!

This contradiction is further clouded by another provision in the legislation. By mandating an overnight doubling of their responsibilities, the legislation's sponsors have exhibited a renewed confidence in the Division's capabilities. Since they created the Ombudsman to duplicate the duties supposedly "neglected" by the Division, their rekindled trust in the Division's prowess contradicts the need to continue subsidizing two offices with identical responsibilities. However, the bill increases the Ombudsman's powers to include the monitoring and reviewing of procedures and disputes concerning all types of community associations. They are, in fact, expanding the powers, duties and cost in tax dollars of both entities.

In addition to expanding the Division's jurisdiction to include homeowners associations and Community Association Managers, it accords the Division significant new police powers. The Division was originally developed to aid in the seamless transfer of condominium operations from a developer to the homeowners who purchased units. The Division's responsibility was to insure that the developer turned over control of the new Association to these new owners. To prevent an unscrupulous developer from "packing a board" with "shill" representatives, thereby retaining control over the Association's operations, regulations governing the behavior of elected board members were included in the Division's authority. In HB 1229, the Division is mandated extraordinary police powers over individual condominium owners. It seeks to imbue the Division with unprecedented authority over anyone purchasing a condominium. This changes the Division's purpose from an agency designed to protect the rights of new condominium owners to a bureau empowered to police and prosecute every condominium owner. The original bill states, "Any condominium owner found to be in violation of this chapter shall be notified by the department by certified mail, return receipt requested, at which time the condominium owner will have 30 days in which to respond in writing." Never before has any State agency been used as a punitive organ against a class of homeowner.

Until last year, homeowners living in condominiums had the right to set policies governing the leasing of units within the Association. People renting their homes rarely exhibit the same level of commitment to maintaining the premises as owners. When a disproportionate number of transient "neighbors" threaten last year, homeowners living in condominiums had the right to set policies governing the leasing of units within the Association. People renting their homes rarely exhibit the same level of commitment to maintaining the premises as owners. When a disproportionate number of transient "neighbors" threaten

Continued on page 18



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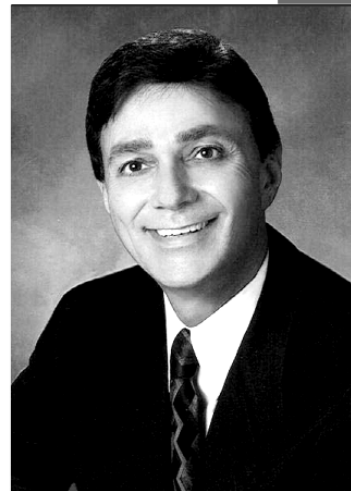
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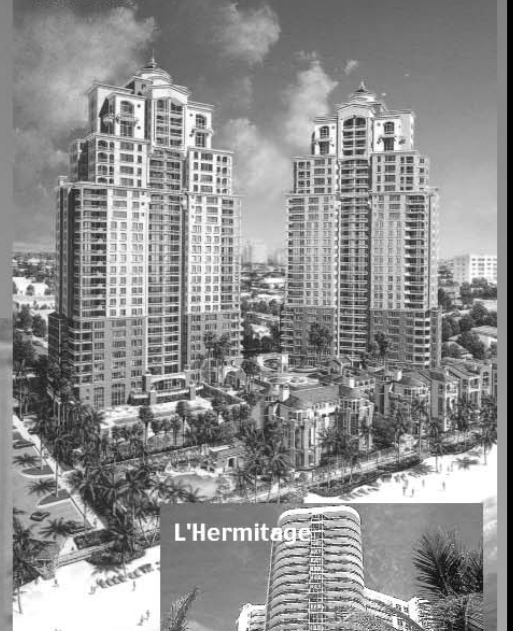
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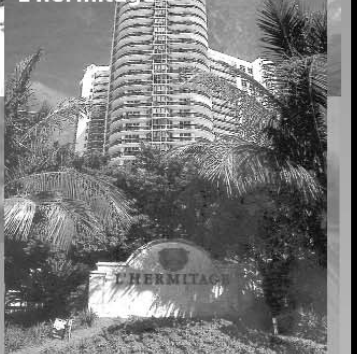
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