



# GALT MILE NEWS

SEPTEMBER 2009

THE OFFICIAL NEWSLETTER OF THE GMCA

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# SUNSET BLUE

## ENERGIZES GALT OCEAN SHOPPES-NEIGHBORHOOD

By Eric Berkowitz

The Sunset Blue Block Party is redefining the old-fashioned neighborhood wing-ding – it virtually explodes with cool blues, box-banging bands and packaged fun on the run. On Sundays between 6 p.m. and 10 p.m., NE 33rd Street undergoes a dimensional severance from the surrounding world as the whole block fills with stalls, tents, tables, hippies, retirees, philosophers, hot bodies, pedestrian artists and people marching around in ever-diminishing circles while attempting to communicate telepathically with their pets. Live music, food, drinks and booths from local bars, restaurants and businesses energize the entire Galt Ocean Shoppes neighborhood. The party area is just north of Oakland Park Boulevard, east of the Intra-coastal and west of A1A. Sunset Blue is a FREE community event conceived by the Galt Ocean Shoppes Improvement Association, Inc.

For years, Galt Mile community activists tried to stimulate interest in this little commercial corner of our neighborhood. Thousands of planning hours were devoted to shaping the Galt Ocean Village Shoppes area into a beguiling destination site alluring to tourists as well as locals. Given its proximity to the beach, a stable nearby residential base, unfettered access and egress, both merchants and residents have long nurtured that belief that the area boasted many of the characteristics and qualities required to compete with Las Olas, Worth Avenue and other popular South Florida destination sites. The late Dr. Alex Leeds, a local civic force of nature, teamed with Larry Blacke, Ralph Hamaker, Bob Rozema, the Galt Mile Community Association, economic development officials, and assorted local merchants to ultimately attract the Beach Community Center and Il Lugano in an effort to anchor the community's metamorphic commercial

component. Over the years, District 1 City Commissioners have historically supported measures aimed at an area reincarnation, including John Aurelius, Gloria Katz, Christine Teel and most recently Bruce Roberts.

Unfortunately, the disconcerting annual merchant turnover clouded the neighborhood's prospects by fueling a reputation for instability. Ironically, it was that predisposition for change and the entropic commercial rotation that ultimately produced the community's current merchant menu. The fortuitous blend of current vendors has created a synergism of sorts. Every Sunday through September 20, 2009, NE 33rd Street morphs into an incredible BLOCK PARTY! Jazz Bars and restaurants like Blue Jean Blues, the Dive Bar and Fish Tales anchor the event. The block becomes a magnet for clothing stalls, soap vendors, food stalls and a wide variety of ambitious opportunists merchandising an eclectic assortment of goods and services. Cold beer, t-shirts and pizza are always within arms distance - along with

a laudable lineup of noteworthy musical icons.

The casual concerts are fantastic. Some of the best music in South Florida radiates from NE 33rd Street every Sunday evening. Emanating from an outdoor stage erected for the event, the sounds engage partygoers as they stroll from booth to shop to bar to eatery. Sunset Blue is clearly the coolest - and most successful - buzz to hit the Galt Mile in years. In July, headliners such as Charlie (#1 Top Seller on Masterbeat.com and #9 on Billboard - unbelievable voice), the Joey Gilmore Band (At the International Blues Challenge in Memphis, they outscored all bands worldwide while showcasing his amazing talent at the blues industry event - nailing recognition as the best unsigned band on the planet), Mr. Nice Guy (MNG is one of the area's most popular classic rock groups), Billy Vasquez (unworldly Blues guitarist), Troy Anderson and The Wonderful World Band (killer headliners at O'Hara's on Las Olas).

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**Sunset Blue**

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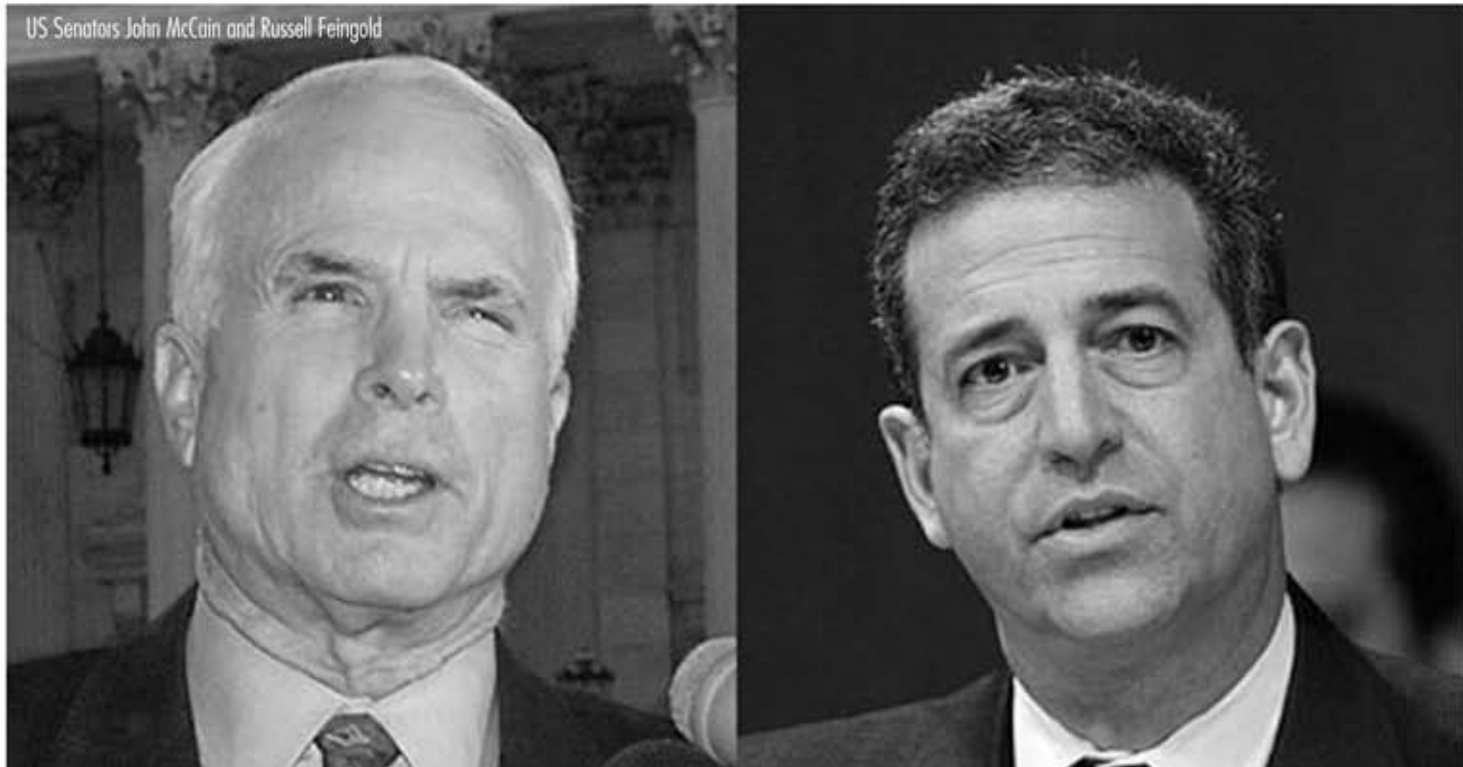
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Logos: The Dive Bar, 33 Street Wine Bar, and a logo for the Galt Ocean Shoppes area.

# FLORIDA COURT FIXES 1ST AMENDMENT FOUL-UP

By Eric Berkowitz

US Senators John McCain and Russell Feingold



Concerned by the growing perception that legislative seats were essentially commodities with price tags, in 2002 U.S. Senators Russell Feingold (D-WI) and John McCain (R-AZ) collaborated across the aisle to sponsor the Bipartisan Campaign Reform Act of 2002 (BCRA, McCain-Feingold Act, Pub.L. 107-155, 116 Stat. 81, enacted March 27, 2002). Effective as of November 6, 2002, this United States federal law amended the Federal Election Campaign Act of 1971, which regulates the financing of political campaigns. The Act was designed to address two issues.

By prohibiting national political party committees from raising or spending any funds not subject to federal limits, the Act was anticipated to stigmatize the increased role of soft money in campaign financing, even for state and local races or issue discussion. Not surprisingly, a wide variety of unaccountable interest groups and PACs subsequently filled the finance vacuum created by the Act's soft money deterrent.

Seeking to stem the proliferation of issue advocacy ads, it defined any broadcast ads that name a federal candidate within 30 days of a primary or caucus, or 60 days of a general election, as "electioneering communications". The Act prohibited

payment for such ads either by corporations or by unincorporated entities using corporate or union funds. In debating the bill, Congress perfunctorily approved an amendment sponsored by the late Senator Paul Wellstone, (D-MN), that reconstituted the Act's definition of "corporations" to include nonprofits. The prohibition against sponsoring ads therefore applies to non-profit issue advocacy organizations such as Right to Life, Save the Whales, Planned Parenthood, the American Heart Association or the Children's Defense Fund. The law draws no distinction between General Motors and the ACLU.

From its outset, provisions of the legislation were challenged as unconstitutional by political parties and public interest "watch-dog" organizations. Aware of its inherent First Amendment baggage, when President George Bush signed the bill into law, he expressed "reservations about the constitutionality of the broad ban on issue advertising" and suggested that the courts would clean up the legislation down the road.

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While the event is currently authorized through September 20th, locals would like to see it continue through the winter months. Longtime area residents view this event as an opportunity to finally stabilize this historically erratic commercial neighborhood, prospectively attracting more customers and a more substantial class of local enterprise. The increased traffic could help fill the storefronts left intermittently vacant since Hurricane Wilma devastated the area. In addition to providing local residents with an improved shopping experience, a thriving commercial area would enhance local development and help stabilize property values throughout the entire community. Not sure? Try pricing a unit on or near Las Olas Boulevard. For more information about the Sunset Blue Block Party, check out the web site at: [www.destination33rd.com/EventSB0.aspx](http://www.destination33rd.com/EventSB0.aspx) or go to the Galt Mile Community Association web site ([www.galt-mile.com](http://www.galt-mile.com)) and click on the "Sunset Blue - New Hope for Galt Shoppes" headline in the center column or the Sunset Blue entry on the right home page sidebar. •

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One conflict took the form of complaints filed with the Federal Election Commission (FEC) concerning the raising and spending of soft money by so-called "527 organizations" — organizations claiming tax-exemption as "political organizations" under Section 527 of the Internal Revenue Code (26 U.S.C. § 527), but not registering as "political committees" under the Federal Election Campaign Act, which deploys a different legal standard. High profile 527 organizations on both sides of the aisle such as the pro-John Kerry "Media Fund" and the anti-John Kerry "Swift Boat Veterans for Truth" drew the ire of traditional political organizations that couldn't exploit the loophole.

When the law was first tested in the Supreme Court by a group of the Act's opponents led by Kentucky Senator Mitch McConnell (McConnell v. Federal Election Commission), the court surprisingly upheld the constitutionality of most of the Act's provisions by a 5 – 4 decision. In agreeing that the law's prohibitions applied to almost anything that can influence voters from political satire to balanced, non-partisan education the court faced a First Amendment Pandora's Box upon examining how its far reaching hammer chilled free speech. Since "educating voters influences them" and the prohibitions also extended to constitutional watchdogs, the ACLU had to stop running ads challenging President Bush on civil liberties issues respondent to the war on terror. When Wisconsin Right to Life (WRTL) later asked the Supreme Court to exempt grassroots lobbying campaigns from the law's "electioneering" rules (Federal Election Commission v. Wisconsin Right to Life, Inc.), the court distinguished between "express advocacy ads" and WRTL's "issue ads" that didn't specifically advocate any particular candidate. Exclaiming "Enough is enough," Chief Justice John Roberts acknowledged the slippery slope facing the court, which found that the FEC lacked a compelling interest to further interfere with the First Amendment and handed WRTL a favorable 5 – 4 decision.

The vast majority of advocacy organizations and citizens' groups are organized as nonprofit corporations. Complying with electioneering communications laws imposes large costs on nonprofits, diverting scarce resources from their core objectives. In addition to facing an expensive regulatory burden, most organizations will be forced to compromise donor privacy if they speak about politics, thereby risking financial support. While few nonprofits have an explicitly political mission, many at least occasionally communicate with the public about policy issues. These groups unexpectedly find themselves subject to regulation when the issues they care about inadvertently become part of an election campaign. As soon as the central issue around which any group was created enters any political arena, they become legally enjoined from even educating the public about their core issue.

Under McCain-Feingold, the Federal Election Commission banned the airing on cable TV of a film entitled "Hillary: The Movie", produced by the nonprofit Citizens United. If the group ran TV ads for the film, they would be required to "name names" of the film's backers by disclosing detailed personal information about donors to the government. When Citizens United challenged the decision, a U.S. District Court upheld the FEC's ruling. Following contentions that the film was nonpartisan and fact-based, the Supreme Court docketed the case on August 18, 2008 and heard oral arguments on March 24, 2009.

Instead of handing down an expected early summer decision, on June 29th, the Court charged the parties to address whether the previous cases supportive of bans on corporate-funded political speech, including nonprofit corporations such as Citizens United, should be overturned. The parties were first charged with submitting briefs on the larger issues, after which they would reargue the case on September 9, 2009. The Court also wanted to consider whether *McConnell v. FEC*, the hallmark case upholding the "electioneering communications" ban in *McCain-Feingold*, should likewise be overturned, thereby striking down the ban altogether.

The Institute for Justice, which filed an amicus brief on behalf of Citizens United, argued that if the government could ban corporate-funded films about candidates, it could also ban promoting books and movies. In order to afford the Government an opportunity to clarify whether that hypothesis was credible, Justice Samuel Alito asked the government whether the ban on corporate funding of advertisements would logically apply to a book that called for the election or defeat of a politician. The government confirmed that it would. In a Twilight Zone moment, the government agreed that it is not actually banning advertisements, movies or books, but simply precluding anyone from paying for them.

Seemingly excited by the prospect of turning the First Amendment into sugar-water, certain State legislators around the country viewed the court's original decision as a green light to further restrict politically inconvenient speech. Since 2003, 15 states have passed substantially more constitutionally egregious adaptations of the federal template, affecting every civic organization that even mentions the name of a candidate or discusses an issue. Although largely unknown to Florida citizens, the nation's most restrictive rendition was passed in Tallahassee.

Under Florida's "electioneering communications" law, any group of people that simply mentioned a candidate's name or a ballot issue in a public newsletter or on a website had to register with the government, listing all banks, safe-deposit boxes, or other depositories wherein their funds are located and disclosing personal information about donors, even those who never intended their contribution for political speech. This included homeowners associations, neighborhood associations, condominium associations, taxpayers groups, civic clubs, health-related support organizations from cancer survivors to cerebral palsy victims, senior groups, or nonprofit organizations of any stripe. Groups that failed to comply faced fines and possible jail time for their speech. Individuals were also subject to burdensome reporting requirements if they spent just \$100 of their own money to speak, post to their web site or print a newsletter.

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These regulations also require groups to report all of their donations and/or expenditures, maintain a registered office and a registered agent, appoint a campaign treasurer, designate a campaign depository, and take other steps consumptive of time and money. No advocacy is required to violate the law. The mere mention of generic issues like controlled development, foreclosures, public safety, beach renourishment, or ballot issues such as property taxes, school choice, same-sex marriage or land conservation could trigger prosecution. While taxing political speech by ordinary citizens' and issue-based groups, the law specifically exempts newspapers, radio stations, television stations, or other recognized media organizations. Not surprisingly, it didn't seem to bother Florida lawmakers that this poorly drafted provision metttled the law's constitutional footing by treating even deep-pocketed corporations inconsistently. Since General Motors and Disney are exempt because they own television networks, they can speak freely, while General Motors and Pfizer get the horn.

Last October, the Institute for Justice filed a First Amendment challenge to Florida's law on behalf of the Broward Coalition of Condominiums, Homeowners Associations and Community Organizations, the University of Florida College Libertarians and the National Taxpayers Union, as well as the leaders of each organization. The law made it impossible for them to

discuss candidates and issues with their members and the public. After reviewing the statute's chilling impact on free speech, U.S. District Judge Stephan Mickle issued a preliminary injunction just prior to last November's election, preventing Florida from enforcing the law. Explaining his action, Mickle said, "No court has ever upheld such a sweeping regulation of political speech."

After hearing arguments in Gainesville, where the Act sought to punish University of Florida student groups for political education, Mickle issued an opinion on May 26, 2009, finally striking down Florida's controversial "electioneering communications" law. Ruling the law unconstitutional, Mickle wrote, "While it is true that the legislature has the power to regulate elections, it does not have the power to regulate purely political discussions about elections." By failing to appeal Mickle's federal court ruling within 30 days, Florida Secretary of State Kurt Browning waived the State's opportunity for judicial reconsideration. "This ruling, consistent with the preliminary injunction entered last October, enjoins the Division of Elections and the Florida Elections Commission from enforcing all laws relating to 'electioneering communications' in Chapter 106," said Elections spokesperson Jennifer Krell Davis.

Except for speech promulgated for the express purpose of creating mayhem, the courts have mostly defended the First Amendment from popular prohibitions against unpopular speech. As proclaimed by Daniel Webster, if he would have to sacrifice all his rights save one, it would be the right to speak, because through it, he could recover all the others. The enigmatic interpretations of McCain-Feingold as supported by McConnell v. FEC and subsequent decisions - along with the Florida Legislature's statutory mutation - fatally eroded the very right for which the First Amendment was originally conceived and implemented to protect - political speech. The Florida version functionally circumscribed what is arguably the most important of all civil rights in a democracy... the right of citizens to criticize their government.

"This is a tremendous victory for the First Amendment right to speak about politics without the government getting in the way," said Institute for Justice Senior Attorney Bert Gall upon hearing Mickle's ruling. "Florida's law put everyday political speech under the thumb of campaign finance bureaucrats. But with today's ruling, all Floridians — not just political insiders — can now discuss important political issues without fear of being punished or forced to submit to onerous regulations."

The reason offered by Secretary of State Browning for reversing his original intention to appeal Mickle's ruling frames the controversy surrounding any electioneering communications law. Browning let the deadline pass "in order to provide the legislature additional flexibility in addressing the court's concerns with the law." While there remains a need to confine the ill effects of aggregated wealth on politics and promote campaign finance transparency, if the enabling legislation consequently silences ordinary political expression, the impending constitutional collision will rightfully send lawmakers back to the drawing board. •



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# VICE MAYOR BRUCE ROBERTS'S NEWSLETTER

*Our District 1 City Commissioner and Vice Mayor Bruce G. Roberts is no longer an unknown political quantity. After squeaking by incumbent Christine Teel in the March 10th election runoff, residents nursed nagging concerns over his motives for leaving his iconic niche as the City's top cop and chasing down a seat on the municipality's governing body. During those first few months, Roberts had to dispel rumors questioning whether he would drain the City treasury to fuel the police pension and/or take vengeance on the City Manager for past grievances during an economic environment wherein his fiscal skills were considered critically necessary. Additionally, locals wondered if he could make the transition from municipal bureaucrat to public representative.*

*After weathering months of glass-eye looks from constituents, the former City Police Chief has proven to be an unrelenting, no-nonsense work-a-holic. Instead of simply denying the rumors, he shifted into high gear, attacking neighborhood problems while working with the Mayor and the City Manager to grind out a remarkable budget. In his opening act, Roberts not only filled former Commissioner Christine Teel's shoes, he wore them out.*

*Upon hitting the streets, Galt Mile residents can't help noticing that the block's landscaping has been cleaned up and filled out, ending nearly three years of neglect. Much of the horticultural rehabilitation responsible for the newly pruned and braced trees, neatly groomed sidewalk beds and aggregate repairs was catalyzed by Commissioner Roberts. When the Commodore's José "Chepo" Vega was charged by the Galt Mile Community Association Advisory Board with spearheading the landscaping upgrades, he worked with former Commissioner Christine Teel to define the project's scope. Following his election victory, Roberts jumped in, successfully securing the municipal resources required to actualize project objectives. While working with Chepo, the neighborhood association and Parks personnel to clean up the block, Roberts also planted long-missing traffic signage along the beachside corridor and helped end the Mardi Gras of streetside newspaper boxes by enforcing the codes governing their appearance and placement requirements. During a recent Galt Ocean Drive walk-through with GMCA President Pioreraci, Chepo and several Parks Department officials, dozens of strolling Galt Mile pedestrians thanked the Vice Mayor for helping to deliver such palpable results so quickly.*

*Roberts met with neighborhood association officials to begin laying the groundwork for the creation of a Galt Mile Master Plan. He has also participated in a public meeting solicitous of residents' input to better define their vision for the neighborhood. The Vice Mayor is closely monitoring a Florida Department of Transportation (FDOT) project to resurface that segment of State Road A1A that passes through the Galt Mile community. Although his primary concern centers on securing a functional result that's aesthetically compatible with the surrounding neighborhood, he is particularly interested in FDOT's mandated requirement to allocate roughly 5% of the project's funding for landscape and hardscape features. If approached properly, these resources could be used to fund some attractive neighborhood portals along the Ocean Highway, divesting it of the offensive similarity it currently bears to a third world strip mall.*

*Roberts' full plate of District 1 responsibilities has been matched by citywide demands. In addition to their ongoing municipal housekeeping responsibilities, Roberts and his Commission peers were faced with the City's most difficult fiscal challenge since the 2003 Budget Boondoggle. Directed primarily by Mayor Jack Seiler and Roberts, the City Commission sought to develop a budget strategy that balanced the municipality's servicing needs with those of besieged taxpayers trying to survive the economic maelstrom. To avoid the debilitating conflicts evident in the County and most of our neighboring cities and towns, they created budget guidelines for City Manager George Gretsas, requiring that they be incorporated into the FY 2009/2010 City Budget.*

*In the Vice Mayor's August Newsletter, he reviews those guidelines. The new budget will increase neither property taxes nor Fire Assessment Fees. Vital services will be unaffected as will the morale of City Employees previously concerned about job security. Despite Mayor Seiler's admonition that residents would "feel these cuts," most residents will be hard pressed to notice any budget-based effects, save higher water and sewer fees and slightly overgrown bushes in some parks. City Manager George Gretsas performed some masterful fiscal gymnastics to offset two-thirds of the resource shortfall precipitated by the 10.5% decrease in Broward County taxable property valuations. He addressed the final third - about \$10 million - with funds from the City's well endowed reserve. By insuring that the new budget's reserves continue to substantially exceed national standards, Gretsas adhered to a Commission Guideline admonishing maintenance of adequate reserves.*

*The Vice Mayor's years in law enforcement understandably prompt the additional focus he gives public safety. Roberts expresses well-deserved satisfaction over the City having achieved a Police Department vacancy rate of 1% (5 out of 498 FLPD job slots). He is equally delighted by the prospect of filling the remaining openings by tapping federal recovery grant monies. The \$3.2 million he expects from the Community Oriented Policing Services (COPS) Hiring Recovery Program (CHRP) administered by the U.S. Department of Justice will finance 12 additional police officer positions for 3 years - affording the City Commission additional flexibility to expand the force if necessary.*

*Roberts has converted an army of believers from the main body of skeptics he faced subsequent to the election. Since the treasury remains unlooted and the Vice Mayor has publicly affirmed that the City Manager has been doing a good job, little remains to further fuel their original suspicions. Having personally witnessed his revived enforcement of the City's agreement to maintain the Galt Mile in a "Disney-like manner", his moderating influence on Police and Fire relations and his contributions to the new draft budget, Roberts' District 1 constituency has coalesced around the belief that on March 10th - they lucked out! In finally aligning the mandate he will need to meet upcoming challenges, the Vice Mayor once again let his actions do the heavy lifting. Read on...*

Continued on page 11



Vice Mayor  
Bruce Roberts



**FROM THE DESK OF VICE MAYOR BRUCE G. ROBERTS**

It is that time of year when your City Commission, with your input, reviews and approves a new budget. The five priorities of your City Commission are:

1. **No Property Tax Increase** Taxpayers will see an average savings of \$162.78 with homestead exemption and \$276.24 without homestead exemption on the City portion of their tax bills. The budget proposes no increase to the current operating millage rate of 4.1193, the City's lowest tax rate in 23 years—among the lowest of Florida's 20 largest cities and among the lowest in Broward County.
2. **No Increase in the Fire Assessment Fee** The proposed budget does not increase the fire assessment rate.
3. **Maintenance of Adequate Reserve Funds** The City's reserve funds remain strong and provide a critical component to keep the City's bond rating among the best of Florida's largest cities. Best accounting practices recommend that reserve funds range within 5% - 15% of general fund, and our own ordinance mandates a 7% reserve fund. This budget contains a reserve of more than 18%.
4. **No Reductions in Vital City Services** The proposed budget places a priority on public safety - allocating resources to combat crime, increase proactive code enforcement measures, improve aesthetics, reduce nuisances, address homeless issues and implement green initiatives. No reductions have been made that adversely impact the safety of our citizens. Of the 498 positions in the police department, only 5 positions remain vacant at this time.
5. **No Layoffs** The national unemployment rate has risen to a 26-year high and the local unemployment rate has nearly doubled in less than a year. While many government budgets propose adding to the unemployment lines, the proposed budget for the City of Fort Lauderdale secures the livelihood of hardworking City staff while maintaining the City's bottom line. By focusing on how we can do more with less, there will be no adverse impact on key City programs and essential services. Nevertheless, 128 vacant positions were eliminated.

The public hearings for the review of budgets are usually conducted at the regular City Commission meetings, however, the first public hearing has been rescheduled for September 9th at 7:00 P.M. in the City Hall Commission Chambers. The second hearing is tentatively set for September 23rd. The budget hearings are open to the public, and the public is encouraged to attend and participate. Prior to the September 9th meeting, there will be a Budget Workshop on September 2 at 7:00 P.M. at City Hall. Again, this is open to the public. Information about the City's proposed fiscal year 2009/2010 budget may be viewed at [www.fortlauderdale.gov/documents/budget.htm](http://www.fortlauderdale.gov/documents/budget.htm).

As you know, public safety is one of my main priorities. We now have only 5 vacant Police Officer positions out of 498. We have also been awarded a \$3.2 million federal grant that will enable the Police Department to hire 12 additional police officers and fund those positions for 3 years. The grant is part of the U.S. Department of Justice Community Oriented Policing Services (COPS) Hiring Recovery Program (CHRP), an initiative funded by the President Obama's American Recovery and Reinvestment Act of 2009.

**EVENTS**

- FREE Sunday Jazz Brunch - held the First Sunday of every month at Riverwalk from 11 am to 2 pm. (Broward Center for the Performing Arts to DDA Plaza.)
- Sunset Blue Series: FREE Jazz and Blues music on Sunday evenings during September at the 3300 Block of NE 33rd - sponsored by North Beach Shops and Restaurants.

“We have been awarded a \$3.2 million Federal grant that will enable the police department to hire 12 additional police officers and fund these positions for 3 years.”

# Courts Break Back of Shadow Rentals

By Eric Berkowitz

Condo Associations across the State are suffering from plugged cash flow stemming from an epidemic of unit owner defaults. While "too-good-to-be-true" mortgages attracted home buyers representing every segment of the society, an inordinately large number of toxic mortgage defaults inure to speculators, amateur as well as professional. As the recessionary black hole widened, unit owners were confronted with special assessments for the express purpose of making up their association's collection shortfalls.

During the 2009 regular legislative session, Tallahassee experienced the immense thumbprint wielded by the banking lobby. By delaying assumption of title, banks forestall assessment obligations to the association for foreclosed units, forcing the other unit owners to pay the bank's share. Although thousands of associations pleaded for legislative relief from the banking industry's dilatory foreclosure strategy, House and Senate leaders warned lawmakers that any bill threatening banks with additional costs will suffer an inauspicious death on the calendar. Following the announcement, several fast-moving, popular bills became MIAs.

Senator Mike Fasano, a Republican from New Port Richey, filed Senate Bill 880, extending lender liability to the lesser of 12 months of past due fees and special assessments or 20 percent of the mortgage amount if payment to the association is made within 30 days of taking title. The cap would vanish after the 30-day deadline. Senator Jeremy Ring, a Parkland Democrat, filed Senate Bill 998, requiring lenders to take title on investor-owned units within 12 months of filing foreclosure, with no penalty for that year of engineered delay. As the session progressed, at least a dozen other bills providing similar relief options were folded into the major filings best positioned for passage.

In a monument to contradiction, after first exclaiming that he hadn't seen any evidence of bank delays in taking title, general counsel J. Thomas Cardwell of the Florida Bankers Association wagged the dog, enumerating several reasons for the "nonexistent" delays. Cardwell said "Lenders are only trying to help keep homeowners in their properties," asserting that the foreclosure foot-dragging is simply the industry's way of actualizing altruistic foreclosure moratoriums. He also blamed homeowners for mounted time-consuming defenses that bogged down the court system with capricious filings.

Contending that the relief bills were squelched to benefit Condominium owners, Cardwell stated "These bills could severely damage the ability to obtain financing on condos, and because of that, would do much more damage to condos and condo associations than they would do good." Mid-way through the session, after the bills had clearly gained sufficient support and momentum for passage, bank lobbyists handed legislative leaders a non-negotiable ultimatum. The industry threatened to hike interest rates on Florida condo loans or stop writing condo mortgages altogether if changes were made to the current law. Overnight – and despite its penalty-free construction – Ring's bill withered and died. Since lenders were unprepared to risk losing any amount incremental to losses already incurred through foreclosure, Fasano's bill also bit the dust.

Although the banking lobby has thus far successfully thwarted legislation forcing banks to expeditiously execute foreclosures and assume their statutory assessment obligations, the courts have recently provided associations with some sorely needed relief. When the Real Estate slot machine stopped paying off, and units lost any marketing semblance to hotcakes, overextended investors desperately sought alternatives to a speculative implosion. Hundreds of thousands of units were stuffed into the rental market. Some were placed there by investors hoping to weather the recession until Real Estate values moderated. The rental market also became an interim repository for units mired in "short sale" delays, wherein banks often stretch closings from six months to a year – or longer.

The resulting patchwork quilt of unit rentals has fostered a virtual underground economy with \$millions changing hands every month. Speculators who have stopped paying their mortgages and association fees often continue to pocket rental income while awaiting either the bank axe or a buyer. Unfortunately, the association is legally an impotent frustrated witness to these black market-style transactions. Understandably angry unit owners are forced to subsidize units in various stages of foreclosure while watching their delinquent neighbors continue to collect rent. Depending on the number of non-contributing units in each association, the impact on members ranges from moderate fiscal strain to utter devastation. Many of the local associations en route to insolvency from ballooning foreclosure rates could be salvaged by recapturing the cash fueling these non-contributing rental agreements.





Chapter 718 of the Florida Statutes – The Condominium Act – provides for a modicum of relief, affording associations the right to apply for a court-appointed independent custodian empowered to collect rent directly from the tenants and disburse the condo fees as required. Section 718.116(6)(c), Florida Statutes provides, in relevant part, as follows: "If the unit owner remains in possession of the unit after a foreclosure judgment has been entered, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit. If the unit is rented or leased during the pendency of the foreclosure action, the association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party which does not prevail in the foreclosure action."

Until recently, two drawbacks deterred the law's implementation. The process entails legal fees and court costs prerequisite to a resolution, further burdening the delinquent's neighbors. If the association is plagued with many foreclosures, the cumulative legal costs could be prohibitive. Additionally, many of these short-term rental agreements stand to expire either during or shortly after the court proceedings yield a receiver.

Threatened with increasing monthly deficits, The Oaks at Miami Gardens Condominium Association in Opa-locka retained the North Bay Village-based Association Law Group to seek a blanket receivership in a last ditch attempt to salvage the community's fiscal viability. On March 23, 2009, lead attorney David C. Arnold filed an "Emergency Petition for Appointment of Receiver" in the Circuit Court of the Eleventh Judicial Circuit in Miami-Dade County. In a decision based on Arnold's innovative interpretation of the statute as applicable to any number of units, Miami circuit court judge Ellen Leesfield approved one of the first requests for a blanket receivership, allowing a single, master receiver to collect rents for all association units in foreclosure. In approving Seth Heller of Heller & Company Inc. to act as "receiver for all the units", the March 24th ruling enabled the association to access that shadow rental economy via a single court proceeding instead of filing separate actions for each delinquent unit.

According to Association Manager Javier Lopez, The Oaks was running a 75% monthly shortfall, collecting only \$3,000 of the \$11,000 required to keep the wolf from the door. Only 22 of the 61 units were current in paying their assessments. "Trash hauler Choice Environmental noticed the association for their last pickup date. The water and electricity were in final default." Having failed to correct violations uncovered during the annual statutory fire prevention and County health inspections, imposition of access restrictions by both the Fire and Health Departments were imminent.

Attorney Ben Solomon of the Association Law Group explained "Once the order came down, we made demand on all of the tenants in units under foreclosure by the association to pay the rent directly to a receiver, and that money comes directly into the association as an immediate income stream." Illustrating the tactic's palliative impact, Solomon said "After the receivership was ordered, they doubled their income to over \$6,000 within 30 days. By the second month, they were getting back more than \$11,000."

If provided for in its Condominium Documents, an association can collect rent directly from tenants without court participation, saving the attendant expense. Associations aspiring to subsequently add the provision by a vote by all the members are likely to encounter an obstacle. Since the problem is often a consequence of the association's large number of investor-owned units, enlightened self-interest would prompt those speculators to vote against passage. Associations can also execute a three-party understanding, wherein the owner, renter and association agree

that rental payments from the tenant go directly to the association, which addresses the delinquency and passes any balance to the owner.

Unfortunately, if unit owners and their tenants refuse participation in these or similar strategies and continue to exclude the association, despite mandates in the authorizing documents, the association can do little in response. Alternatively, a blanket receivership program can be enforced by the court, giving it teeth. Evasive unit owners who refuse to pay allocated shares of maintenance while collecting rent during the foreclosure process are compelled by court order to pay past due and current maintenance assessments and, in some cases, 12 months of accelerated maintenance assessments.

Since the March ruling, circuit courts in Miami-Dade and Broward counties have authorized 20 similar receiverships. A challenge to the ruling was filed on June 29, 2009, in the 3rd District Court of Appeals by a Village at Dadeland unit owner – Robert J. Wolfarth – who protested the appointment of a receiver on the grounds that he was not given proper notice. Motions filed by the Village at Dadeland Condominium Association allege that despite collecting rent on 17 units, Wolfarth stiffed the association for assessment fees, prompting the Village at Dadeland to file foreclosure proceedings. Attacking the Circuit Court's interpretation of the statute that resulted in a blanket receivership, Wolfarth's attorney (Sergio A. Pagliery of Shook, Hardy & Bacon L.L.P.) held that separate petitions for receiver should have been filed for each of their client's delinquent units. On July 23rd, the Court unanimously denied Wolfarth's petition for a Writ of Prohibition. By upholding the original ruling, the Court paved the way for wider utilization of master receiverships by associations suffering from nonpaying landlords with paying tenants. The legal validation finally allows associations to penetrate the furtive rental environment and relieve the incremental fiscal burden it places on the general membership.

While this is clearly a no-brainer for communities predominated by investor-owners, it is also being productively implemented by associations with a more traditional membership composition. For those few Galt Mile associations with two or three delinquent member-landlords, the resulting deficit might be considered manageable. However, those with a half dozen or more leased units in various stages of foreclosure would increase monthly income by several thousand dollars via a blanket receiver. Once a master receivership is set up for a particular association, explains attorney David Arnold, "any unit that goes into foreclosure that has a renter in it is automatically included under the umbrella...on behalf of the association." He neglected to mention that the Receiver is only empowered to collect funds for tenanted units against which a foreclosure was filed by the Association, not a bank or other lien holder. It is important to note that "receivers" appointed at the request of an association for the collection of rent in tenanted units under foreclosure are not to be confused with State-mandated receivers whose appointments are triggered by association insolvency. •



Non-contributing units in The Oaks at Miami Gardens Condo Association.

**"The Oaks was running a 75% monthly shortfall, collecting only \$3,000 of the \$11,000 required to keep the wolf from the door. Only 22 of the 61 units were current in paying their assessments."**

OCTOBER/SEPT

SUN	MON	TUE	WED
<p><b>13</b> Bruce Springsteen and the E Street Band BankAtlantic Center Tix.: www.bankatlanticcenter.com</p> <p>Sunset Blue Block Party 33rd St., 6 to 10 p.m.</p> <p>Urban Gourmet Market 1201 E. Las Olas Blvd., 9 a.m. to 4 p.m. Info.: 954-462-4166</p>	<p><b>14</b></p> <p>Commissioner Bruce Roberts: Pre-Agenda Meeting Cardinal Gibbons High School, Media Room 6 p.m. Info.: 954-828-5033</p>	<p><b>15</b></p> <p>Fort Lauderdale City Commission Meeting City Hall 6 p.m.</p>	<p><b>16</b></p>
<p><b>20</b> Hollywood Beach Latin Festival Bch Theatre &amp; Tyler St., Hollywood 10 a.m. to 7 p.m. Info.: 954-534-3500</p> <p>Sunset Blue Block Party 33rd St., 6 to 10 p.m.</p> <p>Urban Gourmet Market 1201 E. Las Olas Blvd., 9 a.m. to 4 p.m. Info.: 954-462-4166</p>	<p><b>21</b></p>	<p><b>22</b></p> <p>Broward City Budget Hearing #2 Broward Gov't Center, Room 422 5:01 p.m. Info.: 954-357-7350</p>	<p><b>23</b></p>
<p><b>27</b> Erev Yom Kippur</p> <p>Bring Your Dog Day Fairchild Tropical Garden 9:30 to 4:30 Info.: 305-667-1651</p> <p>Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p>	<p><b>28</b></p>	<p><b>29</b></p>	<p><b>30</b></p>
<p><b>4</b> Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p> <p><b>Sunday Jazz Brunch</b> Riverwalk, Downtown FL 11 a.m. to 2 p.m. Info.: 954-828-5985</p>	<p><b>5</b></p> <p>Commissioner Bruce Roberts: Pre-Agenda Meeting Cardinal Gibbons High School, Media Room 6 p.m. Info.: 954-828-5033</p>	<p><b>6</b></p> <p>Fiddler on the Roof (Through 10/18) Broward Center Info.: 954-462-0222</p> <p>Fort Lauderdale City Commission Meeting City Hall 6 p.m.</p>	<p><b>7</b></p> <p>Classics on Las Olas 600 - 1100 East Las Olas Blvd. 6 to 9 p.m. Info.: 954-377-5477</p>
<p><b>11</b></p> <p>Urban Gourmet Market 1201 E. Las Olas Blvd. 9 a.m. to 4 p.m. Info.: 954-462-4166</p>	<p><b>12</b></p>	<p><b>13</b></p>	<p><b>14</b></p> <p>LBTS Fish Fry Anglin's Fishing Pier on Commercial Blvd. 5 to 8 p.m. Info.: 954-776-1000</p>





# ONE SOURCE FOR COMMUNITY HAPPENINGS

THU

FRI

SAT

**17** Disney on Ice  
(Through 9/20)  
BankAtlantic Center  
Tix.: 954-835-7000

G.M.C.A. Advisory Board Meeting  
Nick's Italian Restaurant  
11 a.m.

**18** Jazz on the Square  
The Village Grille  
Commercial Blvd. & A1A  
7 p.m.  
Info.: 954-776-5092

Erev Rosh Hashana

**19** Gun and Knife Show  
(Through 9/20)  
War Memorial  
Info.: 954-572-2126

Aroid Show & Sale  
(Through 9/20)  
Fairchild Tropical Garden  
9:30 to 4:30

**\$5 OFF COUPON:**  
[www.fairchild.org](http://www.fairchild.org)

**24** FLUFF Poster Unveiling Party  
Courtyard Marriott, Ft Lauderdale Beach  
6 to 8 p.m.  
Info.: [www.FLUFF.com](http://www.FLUFF.com)

**25** Jazz on the Square  
The Village Grille  
Commercial Blvd. & A1A  
7 p.m.  
Info.: 954-776-5092

Mutts and Martinis Yappy Hour  
Briny Irish Pub  
5:30 to 8 p.m.  
Tix.: [www.brinyirishpub.com](http://www.brinyirishpub.com)

**26** Ft. Lauderdale Antiques Faire  
(Through 9/27)  
War Memorial  
Info.: 954-563-6747

**1** Metallica  
BankAtlantic Center  
Tix.: [www.bankatlanticcenter.com](http://www.bankatlanticcenter.com)

**2** Jazz on the Square  
The Village Grille  
Commercial Blvd. & A1A  
7 p.m.  
Info.: 954-776-5092

Erev Sukkot

**3** Sesame Street Live!  
Elmo's Green Thumb  
(Through 10/4)  
Broward Center  
Info.: 954-462-0222

Downtown Delray Beach Craft Festival  
(Through 10/4)  
200 NE 2nd Ave (Pineapple Grove), Delray  
10 a.m. to 5 p.m.  
Info.: 954-472-3755

**8** Jazz on the Square  
The Village Grille  
Commercial Blvd. & A1A  
7 p.m.

**9** Jazz on the Square  
The Village Grille  
Commercial Blvd. & A1A  
7 p.m.

**10** Making Strides Walk-A-Thon  
Huizenga Plaza (Bubier Park)  
8 a.m.  
Info.: 1.800.227.2345

**15** G.M.C.A. Advisory Board Meeting  
Nick's Italian Restaurant  
11 a.m.

**16** Jazz on the Square  
The Village Grille  
Commercial Blvd. & A1A  
7 p.m.

**17** Cat Show  
(Through 10/18)  
War Memorial  
Info.: 954-572-2126

**¡VIVA BROWARD!**  
(Through 10/18)  
Pompano Citi Centre  
Info.: 954527-0627

## UPCOMING EVENTS IN OUR AREA

October 24 - 25  
22nd Annual Las Olas Art Fair  
Las Olas Blvd., 10 a.m. to 5 p.m.  
Info.: 954-472-3755

October 24 - 25  
Buckler's 19th Annual Craft Fair  
South Florida Fairgrounds, West Palm Beach  
Info.: 386-860-0092

October 29  
Glackens as Illustrator Lecture With Jorge Santis,  
Curator And Head Of Collection Research  
Museum of Art, 6 p.m.  
Reservations: 954-525-5500, ext. 20320

October 29 - November 2  
Fort Lauderdale Int'l Boat Show  
Info.: 954-764-7642

October 31 - November 2  
11th Annual Lauderdale-by-the-Sea Craft Festival  
A1A and Commercial Blvd, 10 a.m. to 5 p.m.  
Info.: 954-472-3755

November 2  
Ft. Lauderdale Fall Home Design & Remodeling Show  
Broward County Convention Center  
Info.: 888-353-3976

November 14 - February 7, 2010  
American Chronicles: Norman Rockwell  
Museum of Art  
Info.: [www.moafnsu.org](http://www.moafnsu.org)





# BROWARD VICE MAYOR KEN KEECHL'S CORNER

*At a meeting on December 18, 2009, Broward County Vice Mayor and District 4 Commissioner Ken Keechl reviewed several county concerns with the Galt Mile Community Association Advisory Board. Immediately following a discussion about frustrating beach renourishment delays, our Vice Mayor segued to a worrisome description of the County Courthouse. "The 50-year old structure is falling apart. Pipes are bursting on a regular basis, the elevators continuously break down and the building is rife with mold."*

*Keechl's heightened angst was prompted by a November 30th water main break that sent gallons of pressurized water shooting into Clerk of Courts Howard Forman's office, flooding the first and second floors of the Broward County Judicial Complex in downtown Fort Lauderdale. Following his November 2006 election upset, Keechl enumerated a comprehensive list of objectives and commitments that directly impact every District 4 constituent – and most county residents. Among his promises was a commitment to tag and follow tax dollars. Since courthouses don't come cheap, the Vice Mayor informed the Advisory Board that the County Commission was faced with a costly replacement or rehabilitation of the deteriorating structure.*

*In his January 2009 Newsletter, Keechl summarized the issue for his entire District 4 constituency, explaining that the sizable expense warranted an authoritative study of the Commission's alternatives. He supported Broward Mayor Stacy Ritter's resolution to create and charge a committee with fully vetting the issue. Once formed and populated, Ritter's "Courthouse Task Force Advisory Committee" officially became the "Broward County Courthouse Task Force" and convened meetings on January 23, February 27, April 3, and June 30, 2009.*

*After the Task Force completed their comprehensive review in June, Vice Mayor Keechl issued the first of a two-part summary of the Task Force's findings in his June Newsletter. Running down the alternatives considered by the Task Force, Keechl explained that they considered renovation of the existing structures, adapting some reasonably proximal commercial space and decentralizing functionality to satellite courthouses. Ultimately, they recommended building a new scaled-down \$328 million courthouse on the site currently occupied by the judicial garage. Revealing a previously veiled flair for the dramatic, The Vice Mayor piqued public curiosity by promising to reveal a financing resolution with no tax impact for Broward residents in his next Newsletter.*

*In his August Newsletter, the Vice Mayor describes two financing alternatives currently being debated by the Broward Commission. The first option, raising funds through the sale of voter-approved General Obligation Bonds that are serviced with property taxes, would increase the tax burden on property owners. Having emerged from the County Budget Wars sporting an intimidating reputation as a bare-knuckled juggernaut of tax restraint, Keechl admonished "It should come as no surprise that I strenuously object to this proposal."*

*He prefers paying for the project with a Chinese menu of existing resources and revenues raised by selling Certificates of Participation Bonds (COP). After the existing resources are applied to the \$328 million project outlay, the balance of \$133 million must be addressed by one of the two debt instruments. The COPs are serviced by general revenues, not property taxes. Here's the magic - revenues no longer needed to service expiring, previously issued bonds residual to older library and parks projects would be redirected to service the new COP bonds. POOF! No tax bite! Not sure? ... READ ON!*

## "Broward County Courthouse Task Force Recommendations, Part 2"

By Broward County Commissioner and Vice Mayor, Ken Keechl

In my last newsletter, "Broward County Courthouse Task Force Recommendations, Part 1", I discussed the continuing problems plaguing our Broward County courthouse in downtown Fort Lauderdale. (www.Broward.org/Keechl.) As a result of bursting pipes, increasing mold, broken elevators, security issues, and a chronic shortage of courtrooms and parking, our local judicial system is in turmoil. In fact, the County has recently been sued by several court employees alleging that the courthouse is dangerous and unfit for occupancy. Each of your nine County Commissioners has previously expressed a view that this problem needs to be addressed now. Unfortunately, we don't agree on how to pay for the new courthouse. In this month's newsletter, I would like to address this issue and tell you my view.

Last December the Broward County Commission established a Broward County Courthouse Task Force ("Task Force"). After studying many possible alternatives, in the end the Task Force recommended that a new scaled-down courthouse should be constructed on the site of the current judicial garage. By building on County-owned land, the overall cost of the project would decrease. In the past (and before I was elected), the County Commission had suggested building a new courthouse at a cost of approximately \$510 million; the Task Force's new scaled down courthouse would cost approximately \$328 million. Similarly, previous County Commissions envisioned a new courthouse comprising nearly 900,000 square feet; the Task Force's new scaled down courthouse would comprise approximately 675,000 square feet. The Task Force also recommended additional parking to meet existing and future courthouse needs.

There are two options being debated on how to pay for the new Courthouse.

The first option, which I don't support, is to allow the residents of Broward County to vote in 2010 on whether we should issue General Obligation Bonds (GOB) to pay for the courthouse. Although the intricate financial details of this proposal are beyond the scope of this article, suffice it to say that, if adopted, the tax burden on property owners would increase. As I wrote earlier this year in my newsletter, "Broward County's Courthouse Problem: More Taxes Aren't The Solution", I will never support a proposal that has the effect of raising the property tax burden on you and your families. So it should come as no surprise that I strenuously object to this proposal.

The second option, which I do support, is to pay for the new Courthouse from existing revenue and Certificates of Participation Bonds (COP). Broward County has set aside \$120,000,000.00 for a new jail and future courthouse capital projects. We should use that money now. Moreover, during the last session, the Florida Legislature increased the Courthouse Facilities Fee from the existing \$15 fee to a \$30 fee. This potential revenue (as much as \$4,000,000.00 annually) can be utilized as well. Lastly, the County can issue COP bonds. The debt service on these bonds would be satisfied from payments no longer needed on expiring, previously issued bonds! The end result: a new Courthouse and no increased tax burden on the residents of Broward County.

Continued on page 18

*Courthouse Task Force*





*Gary Lewis*

## **FULL SERVICE**

- Precision Cutting & Styling • Coloring & Color Correction • Highlights • Extensions
- Updos • Conditioning Treatments
- Roller Setting • Mens Hair Replacement
- Womens Hair Replacement • Virtual Reality Hair • Wigs & Wig Fitting • Manicures
- Pedicures • Waxing • Hair Care Products
- Fun Gifts • Jewelry

# **Encore ! Salon**

*Coming Soon to  
3535 Galt Ocean Dr.*

**AWARD-WINNING HAIR SALON FEATURING A COMPLETE WIG BOUTIQUE**

*Encore Salon Owner and Wigmaster Gary Lewis has devoted himself to helping oncology patients who require chemotherapy and women suffering from hair loss by providing a complete wig boutique. This private safe haven features hundreds of wigs in every color and style, synthetic and human hair, machine made, and hand tied, hairpieces for men and women, add-on hairpieces, clip-in extensions, and of course, Great Lengths extensions.*

**APPOINTMENTS & QUESTIONS**

**866-41-SALON**

**[encorebeautysalon.com](http://encorebeautysalon.com)**

Keechl...Continued

In closing I would like to add one final thought. When I campaigned for the honor of being your County Commissioner, I promised that I would address the needs of Broward County that had been ignored for so long by past Broward County Commissions. And I promised you that I would do so without increasing your property tax burden. This solution to our Courthouse problem fulfills both those promises.

My best to you and your families.  
 Broward County Commissioner and Vice Mayor Ken Keechl  
 954 357 7004  
[www.broward.org/kkeechl](http://www.broward.org/kkeechl)

Project	Cost (millions)
New Courthouse	\$270
Demo/Landscape/Connect to East Wing	\$8
Parking	
Phase I (1,000 spaces)	\$25
Phase II (500 spaces)	\$13
North Regional Parking	\$8
Remodel Midrise to relocate PD	\$4
<b>TOTAL</b>	<b>\$328</b>

Court Agency	Original Space Program (sq. ft.)	Recommended (sq. ft.)
Courtrooms & Judicial Offices	372,500	338,500
State Attorney	164,300	108,900
Clerk of Court	127,000	127,000
Public Defender	81,400	0
Guardian Ad Litem	18,400	12,000
Court Administration	55,000	21,900
Lobby, Mechanical & Other	74,400	66,700
<b>Total</b>	<b>893,000</b>	<b>675,000<sup>TM</sup></b>



Broward County Courthouse

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September 2009

## Did You Know...

Whatever you need in shipping, postal, document and business services, you'll find it conveniently around the corner at The UPS Store.

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Brochures to business cards. Handouts to handbooks. Postcards to presentations and more—don't you worry about a thing. Let The UPS Store deliver a polished, professional image for your business.

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## Packaging, Shipping and Receiving Services

Full-service packaging, UPS Air and Ground, international shipments, freight shipments and package receiving.

**Packaging**—Let us do the packaging so you know your items will arrive intact.

**Shipping**—No one delivers more packages on time than UPS. And we automatically track your package.

**Freight**—We can ship large or odd-size items and make custom boxes too.

## Moving Supplies and Packaging Materials

Boxes, cushioning, packaging peanuts, packing tape. The UPS Store has everything you need to smoothly move your home or business:

- Moving boxes in a variety of sizes
- Packing tape and packaging peanuts
- Custom-made boxes for irregularly shaped items

And we can help you estimate the supplies you'll need for your move.

## Mailbox and Postal Services

Business trips. Vacations. Busy lifestyles. Sometimes you're not home to receive your mail. With our flexible mail holding and forwarding\* services, you won't have to worry about getting your mail while you're away.

Simply call, e-mail or stop by, and let us know what to forward and when. You can even choose how fast you want your mail and packages to arrive. And how you'd like them sent: via UPS Next Day Air,<sup>®</sup> UPS 2nd Day Air,<sup>®</sup> UPS Ground or the U.S. Postal Service.

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