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RIP
CURRENT
TAKES A
FRIEND



A rip current is a river of sea water moving from the shore to the open ocean. It forms when onshore winds or large swell waves push water over a sandbar toward the shoreline and hold it there. The excess water, trapped between the sandbar and the shore, collects until it bursts through the sandbar. The water then returns to the open sea, usually in a narrow band or current. This action, ripping through the sandbar and moving back out to sea in a narrow current, gave rise to the term "rip current".

Rip currents occur around the world at "surf" beaches, including the Atlantic and Pacific coasts, the Great Lakes, and the Gulf of Mexico. Erroneously called undertows and rip tides, these currents can last from a few minutes to a few hours. Some more permanent rip currents, associated with groins or jetties, may last for days. Near the beach, rip currents are narrow (30-60 feet wide) with increasing width as they extend up to 1000 feet offshore. The velocity of the water can be as high as 5 MPH, which is faster than any Olympic swimmer.

Rip currents can be readily seen from the shore. If the current has recently formed, you will see murky water (as compared to the surrounding water) due to "sediment mixing" as a channel is opened in the sandbar. However, if the rip current has lasted a long time, the color of the water will appear darker (compared to the surrounding water color) due to the channel carved by the flowing water. Also, you can spot a rip current by looking for objects or foam moving steadily seaward. Wave heights are also lower and choppy in rip currents. Polarized sunglasses, by cutting the glare, can aid in locating rip currents. When swimming at a public beach, they can be easily seen by the local beach patrol from their elevated towers. Watch for their posted flags or signs warning you of the danger. When frequenting a private beach, a small amount of knowledge can save your life.

Attempting to swim directly back to shore against the current, which can be as strong as 5 MPH, will result in exhaustion and in some cases, drowning. Since 1989, an average of 19 persons died each year owing to rip currents in Florida. On average, rip currents caused more Florida deaths than hurricanes, tropical storms, tornadoes, severe thunderstorms and lightning combined. Many victims are tourists who are unfamiliar with the dangers of the ocean. All victims were unaware of the few simple facts that could have saved their lives.

Since rip currents are shallow water processes and NOT undertows, you can be pulled away from the shore but NOT pulled under the water. The most common mistake drowning victims make is to panic and try to swim directly toward the shore.

Continued on page 9

Construction...Continued

the original defects. Therefore, the contractor has incentive to play games with settlement offers as a way to burden or harass the association in an effort to "motivate" a more favorable settlement arrangement. Alternatively, the contractor may offer to settle by paying a designated sum of money. An association must accept or reject any settlement offer within 45 days. However, the contractor is not obligated to provide any cost estimates or details about whether the sum of money offered is sufficient to remedy the defects. There may not be enough time in which the association can properly obtain bids for all required remedies and, therefore, in some instances may have to accept or reject a settlement offer without really knowing the sufficiency or adequacy of the offer.

Incredibly, these restrictions only apply to Associations and the people living in Associations, not to anyone else!

The House Bill, HB 1899, after being filed in the House Judiciary Committee (Chaired by Representative Jeffrey D. "Jeff" Kottkamp), was added to the House Calendar on April 12th. On April 19th, the bill was placed on the Special Order Calendar. Two days later, April 21st, Representative Jeff

Kottkamp (R-Cape Coral) offered several amendments on the House Floor that made HB 1899 much more equitable towards associations and association residents. Representative Kottkamp responded quickly to the blizzard of objections and concerns from Condo owners once the legislation's inherent inequities became clear. Dozens of such emails were sent by Galt Mile residents! The bill was improved somewhat as a result. Despite Representative Jeffrey D. "Jeff" Kottkamp's attempts to marginally improve the various provisions, the legislation is still a passport for abuse by unscrupulous contractors.

On April 23rd, House Bill 1899 passed a vote in the House by 116 YEAS vs. 0 NAYS. On April 26th, the Senate Bill 3046 was placed on the Special Order Calendar. On the same date, the House Bill 1899 was substituted for the Senate Bill 3046 and sent to the Senate for a Second Reading. The Third Reading in the Senate took place on April 27th, after which the full Senate passed the bill by a vote of 39 YEAS vs. 0 NAYS. The bill's ultimate enactment resides in the hands of the Governor. To examine the bill's text and review other legislation passed during the current session that affects Galt Mile residents; go to the Galt Mile Community Association web site at www.galtmile.com.

The Galt Mile News

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



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Tallahassee...Continued

Association system in the State of Florida and place 1.1 million condo owners at risk is a severe response to an embarrassment that they brought on themselves. Enlisting the aid of their friends in the legislature to accomplish payback is an abject abuse of their position and the power that accompanies it. The retributive legislation deserved to go down in flames.

Representative Robaino is a persistent man. As the legislative session closed, he shopped the bare skeleton of his snake-bit legislation around, slipping the remaining language into bills that rightfully had the support of condo owners. He surreptitiously plunked the few surviving provisions into SB 1184, a bill that developed into a "catch-all" for several condo-related issues. It contained liability protection for Associations that installed Automated External Defibrillators and carried the positive language from Senator Geller's SB 1938, easing an Association's ability to "opt out" of a multi-million dollar full sprinkler retrofit. Gone were his threats to jail condo Board members that he didn't like. Gone was the disenfranchisement of millions of condo owners. Gone was the section that protected deadbeats from ever having to pay their assessments. SB 1184 was passed by the Senate on April 26th by a vote of 22 YEAS vs. 10 NAYS. It was passed by the House on April 30th by a vote of 94 YEAS vs. 8 NAYS, after which it was ordered enrolled by the Senate.

Legislators on both sides of these issues are great proponents of insurance. Most of the surviving provisions affecting condominium owners that were vested into SB 1184 were also placed into Senator Jeffrey Atwater's SB 2984. Robaino's "Condo Killer" remnants, Geller's "Opt Out" easements, protection from civil liability for Associations installing defibrillators and several other condo-related provisions were defiled into Atwater's answer to Jeb Bush's Homeowners Task Force. Senate Bill 2984 was passed in the Senate on April 27th by a 24 YEAS vs. 12 NAYS margin and three days later (April 30th) in the House by a vote of 102 YEAS vs. 13 NAYS.

Several highly questionable provisions remained. Robaino included the employment opportunity for wayward attorneys, the Ombudsman. The final incarnation of this office became a 2-way forum for Associations to settle internal problems. It is no longer a State-sponsored prosecutor available to anyone looking to sue his neighbor as in the original bill. It is now equally available to unit owners, board members, committee members and Associations. The "martial law" style powers were deleted. The Ombudsman is now a mediator. Robaino also managed to insert the confusing grandfathering of exemptions to thwart the will of a condo's majority. This provision will create several classes of condo owner within an Association, with differing rights dependent on when they purchased their unit. The uncontroversial "Question & Answer" disclosure document that requires submission when a unit is sold was included as well.

The "Cybers" aren't happy. They blame legislators considered to be "tools of the system" and a cabal of condominium attorneys for hypnotizing condo owners into rejecting their what

Continued on page 17

Construction...Continued

In another testament to mediocrity, the bills also neglect to address the liability attendant to "destructive testing" when used by the contractor to determine liability for the defective construction. The legislation doesn't provide for the repair of damage caused by or during the "destructive testing" when performed by the contractor. This right afforded to the contractor can substantially increase an individual's or an Association's overall exposure in several ways. The contractor might refuse to return the "tested areas" (holes made in walls, plumbing structures removed, floors stripped, etc.) to their "pre-tested" state. Secondly, since the opportunity to perform destructive tests allows the contractor to hire a subcontractor to do the testing and possibly contract a laboratory to diagnose test results, if the subcontractors or laboratories aren't paid, they retain recourse to lien the unit and the Association. There are no requirements for a contractor to provide insurance or payment and performance bonds before engaging in destructive testing on individual units or common areas. In fact, there isn't even a requirement for the contractor to be qualified to do testing or remedial work occasioned thereby.

The contractor's right of access to individual units can create opportunities for harassment in an attempt to pressure the association to not sue for the defective work. The contractor has the right to put all its subcontractors and sub-subcontractors on notice, as well as the architect and engineer. In that event, each of those entities will also have the right to inspect individual units and the common areas and perform their own destructive testing. Should the contractor demand that "destructive testing" be performed in every individual unit and any of individual units are unavailable for inspection and testing (i.e. the owners are out of town) then the association would be barred from suing for any construction defects until each of the units have been opened and access permitted to all parties involved. As such, it is likely that an Association would arrange for access to each of the units, requiring the commitment of at least one employee's services for the entire testing period to provide this access. In the case where the contractor puts two subcontractors, an architect, and an engineer on notice for the "defect" in a 200-unit building, the Association can be made to arrange for a thousand destructive tests to be made, up to 5 in each unit!

The contractor has the right to request the association provide it with a copy of the expert report required by law detailing all aspects of the association's claim (strengths as well as weaknesses). This is protected work product the association should not be required to disclose, but under this bill they would have no choice. There is no corresponding requirement for the contractor to reciprocate with a disclosure of expert reports of their own. Under the bill, the contractor would only have to give any "available" evidence, but nothing requires the contractor to obtain such a report. In that event, the association (required by law to have a report) would have to give the contractor

Continued on page 17

CITY COMMISSION FACES NEW FIRE-RESCUE FEES

Eric Berkowitz

It was inevitable. An acquaintance that has visited us with increasing regularity of late has scheduled another appearance. By now, you'll probably recognize the envelope containing the announcement. It starts with "Notice To Property Owner" and at the bottom of the page is the admonition that "****THIS IS NOT A BILL****". Under the title is the familiar "Notice of Hearing to Impose and Provide for Collection of Fire-Rescue Non-Ad Valorem Assessments". That's right...it's the legally mandated warning that the bill for Fire-Rescue services is on the way (Section 197.3632 of the Florida Statutes).

Conceived in 1999 as a \$36 fee to residential property owners, the assessment was created when the "ponzi-like" budget juggling that Fort Lauderdale was engaged in started to yield noticeable shortfalls. In keeping with the current anti-tax political propriety, our municipality's fiscal management sought any alternative to a Property tax increase. Instead, the "fee" was bumped up to \$42 per property owner. As per the existing format, revenues from "next year's" ever-increasing tax base (owing to new development) would be penciled in to offset "this year's" deficits. This use of tomorrow's revenues to address yesterday's debts only works as long as the economy expands. When the economy hit the skids, so did Fort Lauderdale's budget. City officials endured incredibly difficult fiscal contortions simply to avoid telling the electorate that they would have to pay for City services. The Fort Lauderdale equivalent of President Bush's (the FIRST one) exhortation of "no new taxes" restrained officials from delivering the bad news and using the dreaded "T" word. On September 3, 2003, the hearing prerequisite to a startling 50% Fire-Rescue increase was held at the City Commission Chambers at City Hall. At the sobering December, 2003 City budget meeting wherein Acting City Manager Alan Silva spelled out the sacrifices that were in store for the stunned electorate, it was admitted that the new \$63 fee only paid for half the Fire-Rescue tab. The other shoe just dropped!

A whopping 89% increase (\$119) for residential property owners will completely fund our tenuous Fire-Rescue service. The tab for small businesses housed in 20,000 to 29,999 square foot properties would jump from \$2,092 to \$3,975. Larger concerns that occupy 100,000 square feet or more will see their bills increase from \$10,459 to \$19,872. When the budget

bubble broke, Alan Silva warned that we were going to have to start living within our means. When you're broke, you learn to live on a cash basis. Because Fire-Rescue was still underfunded, residents had to face cost increases or service cutbacks. On Tuesday, May 3rd, the City Commission took the first steps to putting our Fire-Rescue Department on a solid financial footing.

A Commission majority gave the green light to Acting City Manager Silva to design the budget around the anticipated \$119 Fire-Rescue assessment. The increase will not contain the customary exemptions for non-profit organizations, tax exempt properties and government buildings. All users will be payers.

The projected assessment is consistent with the recently instituted fee increases for fire inspections, sanitation, ambulance transport, water and sewer, parking meters, parking and traffic fines, stormwater, and alarm response. Commissioners, still leery of the political blowback from a Property Tax adjustment, feel that fee increases are more palatable than raising taxes. The public has had a taste of how service cutbacks affect their lives. Engine 13 on the Barrier Island has undergone intermittent service lapses adjunctive to the budget crunch. While the medical transport at Station 13 hasn't as yet missed a shift, it is in line to do so. While Fire Chief Otis Latin has explained that Fort Lauderdale enjoys a "floating" system for medical transport, with units from the mainland able to cover emergencies on the Barrier Island, the bridge-borne isolation owing to the Intracoastal poses a real danger to Island dwellers during a medical emergency. City officials have been swamped with local objections to this gap in our medical transport safety net. Residents have clearly indicated that they would rather fund the Fire-Rescue shortfall than risk the absence of a medical transport when needed.

Commissioner Carleton Moore, while acknowledging the need to pay our way, addressed an inequity that is inherent in the fees vs. taxes controversy. Fees always hit the least solvent of us the hardest. While fees are the same for everyone, property taxes are assessed according to the value of a property, placing a lesser burden on those less financially grounded. Referring to user fees as a regressive tax, Moore asserted, "Come on, you know who that's going to hurt the most" after the Tuesday commission meeting.

Tagging historically exempt non-profit, tax exempt and govern-

Continued on page 8





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Tallahassee...Continued

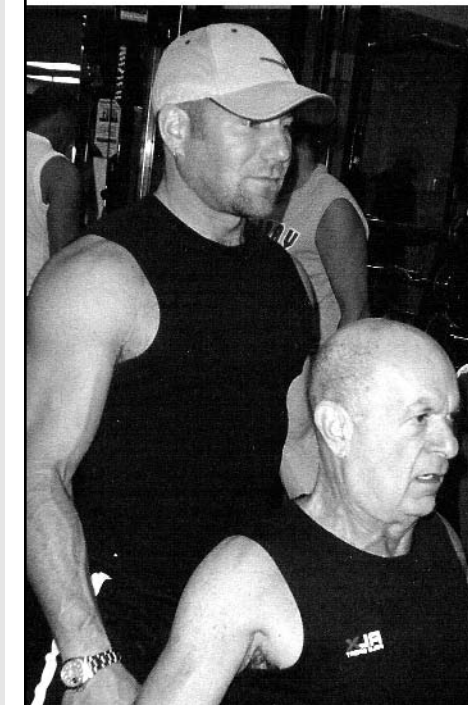
Against this background, certain Statehouse Representatives decided to take advantage of this fervor to further self-serving agendas. Bills sponsored by the construction industry, SB 3046 - HB 1899, attempted to make the correction of construction defects almost impossible, only for condo owners. In the spirit of legislation mislabeled "clean air act" that allows the mass pumping of carcinogens into the atmosphere, a group of legislators led by Representative Julio Robaino (R-Miami) created a particularly destructive bill that they claimed would "empower condominium owners and reduce tensions within Associations." Prior to producing the bill, they enlisted the aid of a small group of disgruntled condo owners (about 100) called the "Cyber-Citizens for Justice" to "plead" for the legislative "reforms" that they intended to ram through. They unabashedly choreographed a series of surprise public hearings in which any "non-cyber" was roundly shouted down. While they invited the Cybers and the press, they neglected to publicize the "public hearings" to the general public until the last minute. They used the orchestrated results to substantiate legislation that would transfer control of condominiums from the owners to Tallahassee. Once the actual provisions were revealed, HB 1223 became known as the Condo Killer bill. Its enactment would have confiscated the right of self-determination from every condominium owner in Florida, turning their homes and investments into a perversion of "public housing". It would have made it impossible for an Association to govern itself.

The Representatives mistakenly assumed that no one would actually read their legislation. By duping some hungry media types into recording their heroic attempt to "rescue" embattled condo owners from the medieval tortures of their respective Condo Boards, the small group of "Cybers" and their cohorts in the Statehouse anticipated a legislative blitzkrieg. By the time condo owners would be aware of the damage done to their rights, it would be too late. Fortunately, it didn't happen that way.

Thousands of angry condo owners across the state bitterly complained to their Senators, Representatives and the Governor. Galt Mile Community Association President Robert Rozema, in response to hundreds of correspondences from angry constituents, sent a "Community Position Letter" to the Governor and legislative representatives enumerating the dangers that the legislation's enactment would present. The sponsor of the companion bill in the Senate (SB 2498), Senator Evelyn Long, withdrew her sponsorship when she read the contradictory and unconstitutional mass abrogation of rights in the bill. In an attempt to dismiss the tidal wave of objections to his pet bill, Representative Robaino stated that "the owners were misled by their condo

Continued on page 10

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13	14 Commissioner Christine Teel: Pre-Agenda Meeting Beach Community Center 7 p.m. Info.: 954-828-5033	15 Through 6/17 Marlins vs. CWS Pro Player 7:05 p.m. Tix.: ticketmaster.com	16	17 Galt Mile Community Association Meeting Nick's Italian Restaurant 11 a.m.	18	19
20 Father's Day Stonewall Street Festival 11 a.m. Downtown Wilton Manors Info.: 954-564-8707	21 First Day of Summer	22 Through 6/24 Marlins vs. Atlanta Pro Player 7:05 p.m. Tix.: ticketmaster.com	23	24	25 Bank of America Starlight Musicals Holiday Park 7 - 10 p.m. Info.: 954-828-5363	26
27	28	29	30	1	2 Bank of America Starlight Musicals Holiday Park 7 - 10 p.m. Info.: 954-828-5363	3
4 Independence Day SunTrust Sunday Jazz Brunch Riverwalk, Downtown FL 11 a.m. to 2 p.m. Info.: 954-828-5985	5 Commissioner Christine Teel: Pre-Agenda Meeting Beach Community Center 7 p.m. Info.: 954-828-5033	6	7 Fort Lauderdale City Commission Meeting City Hall 6 p.m.	8	9 Bank of America Starlight Musicals Marlins vs. NY Mets Pro Player Times Vary Through 7/11 Tix.: ticketmaster.com	10

A LOOK AHEAD

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July 26-29 Marlins vs. Philadelphia Pro Player Stadium Tix.: ticketmaster.com

Rip Current...Continued

Even the strongest of swimmers are not able to swim to shore through a moderately powerful rip current. The key to surviving a rip current is to calmly swim out of the current. Since the currents are relatively narrow, you can escape the flow by swimming parallel to the shore until you break free, and then swim diagonally toward the shore. If you cannot swim out of the current, float until it dissipates. Once free of the current, swim diagonally toward the shore or continue to float and summon the beach patrol (or passers by) by waving your hands.


A good friend and neighbor that lived on the beach, Joseph Boghos, was in good shape and enjoyed excellent health. Joe was a strong swimmer, often taking advantage of the ocean's proximity to exercise. Last month, Joe was pulled from the ocean a few hundred feet from shore. Medical authorities confirmed that he did not sustain a heart attack while swimming. Police suspect that he was caught in a rip current. They surmise that he attempted to swim directly to shore. Had Joe been aware that all he had to do to escape the rip current was to swim parallel to the shore for a short distance before swimming toward the shore, he would be with us today.

You, fortunately, are now aware of this. Tell your friends. Tell your family. Tell your neighbors. If one valuable life is saved from this information, Joe will be pleased. So will we!

Continued on page 15


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Tallahassee...Continued

condo board attorneys, who had a serious stake in the outcome." Ironically, the enactment of his HB 1223 would have made Condo Law one of the most lucrative fields in the legal profession, practically guaranteeing a continuous flood of litigation. The "Cybers" arranged a few high visibility demonstrations with the help of a union, Local 11 of SEIU, which is exploring inroads into organizing condo employees, an event that would skyrocket maintenance expense. The group and the union arranged a demonstration outside the Palm Beach office of Senator Jeffrey Atwater, the sponsor of a Homeowners Association bill, SB 2984. They demanded that he include a feudal style Ombudsman similar to the one conceived for the Condo Killer Bills into his legislation. He didn't. The House and Senate Committees that reviewed the legislation excised the damaging provisions, opting to protect millions of condo owners throughout Florida rather than pander to this small special interest group and the legislators that they acted through. Despite their being relegated to a shadow of their original impact, the Condo Killer bills had engendered so much antipathy from Robaino's continuous efforts to disenfranchise condo owners that the bills were doomed.

While the disgruntled cybers sought a scorched earth answer to their complaints - if they couldn't prevail in their respective condo Associations, neither would anyone else - the motives of the legislators were more mundane. When Senator Long characterized the Senate Bill (SB 2498) as bad legislation and stepped down as its sponsor, it was picked up by Miami Senator Rudy Garcia. Miami Representative Julio Robaino, the

House sponsor, was joined by friends and fellow Miami-Dade Representatives Rafael Arza, Gustavo Barreiro, Gaston Cantens, Rene Garcia, Marcelo Llorente, Juan-Carlos "J.C." Planas, David Rivera, Marco Rubio and Juan Zapata as co-sponsors of HB 1223.

It seems that Representatives Juan Zapata and Gustavo Barreiro both own condominiums. Apparently, both of them neglected to pay legal assessments due on their units. Their Associations, fulfilling their fiduciary responsibility to protect the members from having to "carry" those who don't pay their obligations, took action. Perhaps the legislators felt that they were entitled to special treatment because they were Florida State Representatives. Their Associations did not. The East Atlantic Gardens Condominium placed a lien against Barreiro's unit on May 29, 2003 after he was legally notified on April 22nd that his \$595 maintenance payment was past due. Barreiro claims that he was away in Tallahassee at the annual legislative session when he missed his maintenance obligation. The session was over by the first week in May and he wasn't liened until May 29th, 3 and a half weeks later. Juan C. Zapata neglected to pay monthly maintenance for his unit at Elan at Calusa Condominium from June through October, 1989, in the amount of \$181. He claimed that the Association was sending his bills to the wrong address. Is it possible he forgot that he owned a condominium for five months until they filed a lien?

The legislators might have found a more appropriate way to exact revenge on their Associations for expecting them to pay their bills. To dismantle the entire Condominium



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Fire...Continued

ment properties as donors will add \$1 million to the City's bottom line. The cost of delivering Fire-Rescue services to these heretofore non-contributors is almost \$2 million annually. Chief Latin explained, "The bottom line is that it costs the city money to provide fire protection service to those entities and that they should be paying, like everyone else, for that service, as authorized by law." Coupled with the assessment increase, Fire-Rescue would receive almost \$2 million in additional funds to help contend with its annually underestimated overtime budget. The assessment should also afford Fire-Rescue the opportunity to plug its portion of the City's talent drain that arose from the severe measures taken to avoid layoffs. Disgruntled employees on all levels have left municipal service to avoid experiencing the pay cuts, assignment shifts, unstable working conditions and other fallout from the budget squeeze.

It is unlikely that the suicide rate will increase owing to any single fee hike. However, the cumulative impact of all these increases is substantial. Those of us that rate the City's effectiveness in managing its fiduciary obligation by checking to see if our Property Tax assessment was elevated will be fooled. User fees are taxes - PERIOD. The alternatives, an ambulance being unavailable when needed or adding minutes to the 911 response time, are unacceptable. We are limited to two responses. We obviously have to do a better job of monitoring those who oversee our money. Secondly, we have to get used to paying our way. This crunch is far from over.

For additional information about the Fort Lauderdale budget boondoggle and its impact on Galt Mile residents, see the Galt Mile Community Association web site (www.galtmile.com). Click on "Issues"; then scroll down to "Budget Bust" and click.

PROJECTED FIRE-RESCUE NON-AD VALOREM ASSESSMENT INCREASE FOR COMMERCIAL PROPERTIES

Building Classification (Square Feet)	Current Assessment	New Assessment
Less than 1999	\$105	\$200
2,000 - 3,499	\$210	\$399
3,500 - 4,999	\$367	\$697
5,000 - 9,999	\$523	\$994
10,000 - 19,999	\$1,046	\$1,987
20,000 - 29,999	\$2,092	\$3,975
30,000 - 39,999	\$3,138	\$5,962
40,000 - 49,999	\$4,184	\$7,950
50,000 - 59,999	\$5,239	\$9,954
60,000 - 69,999	\$6,275	\$11,923
70,000 - 79,999	\$7,321	\$13,910
80,000 - 89,999	\$8,367	\$15,897
90,000 - 99,999	\$9,413	\$17,885
100,000 & Up	\$10,459	\$19,872

* The Projected Fire-Rescue Non-Ad Valorem Assessment Increase for Residential Properties will go from the current \$63 to \$119.

JUST SOLD

Information provided by Eastside Properties

Twelve more properties were sold in the Galt Ocean Mile Community:

- | | |
|--|--|
| L'Hermitage #2001
(2/3.5)
\$860,000 - closed 3/29/04 | Playa Del Sol #414
(1/1.5)
\$220,000 - closed 3/5/04 |
| L'Ambiance #701
(3/2)
\$545,000 - closed 3/2/04 | Coral Ridge Towers N. #707
(2/2)
\$183,000 - closed 3/24/04 |
| Galleon #902
(1/2)
\$330,000 - closed 3/19/04 | Regency Tower #208
(1/1.5)
\$190,000 - closed 3/19/04 |
| Plaza East #2C
(2/2)
\$346,000 - closed 3/12/04 | Ocean Manor #402
(0/1)
\$135,000 - closed 3/11/04 |
| Playa Del Mar #1503
(2/2)
\$300,000 - closed 3/3/04 | Coral Ridge Towers S. #807
(2/2)
\$120,000 - closed 3/2/04 |
| Regency South #603
(1/1.5)
\$220,000 - closed 3/12/04 | Ocean Club #912
(3/2.5)
\$500,000 - closed 3/15/04 |



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Tallahassee...Continued

Senator Walter G. "Skip" Campbell, Jr. assembled SB 1184 to protect condos from civil liability when installing a life saving Automated External Defibrillator and deter insurance companies from requiring attendant Medical Malpractice coverage as a pre-condition to comprehensive protection. A veritable buffet of bills, good and bad, dealing with Mold Remediation (SB 1350 - HB1215), the extension of an Association's covenants and restrictions by a majority vote (SB 1438 - HB 589), fire safety (SB 1728), elevators (SB 672), time shares (SB 1208), AEDs (SB 404), and any form of governance evolved like bacteria.

Continued on page 7



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Rip Currents...Continued

FYI...The National Weather Service (NWS), a division of the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), has created a Graphical Hazardous Weather Outlook System to easily track dangerous weather conditions such as waterspouts, flash flooding, rip currents, etc. As the intensity of a color increases, so does the level of concern for the threatened danger. A set of color codes show the various intensities of local rip currents. To see the location and degree of rip currents affecting the Galt Mile area, check the Galt Mile Community Association web site (www.galtmile.com). Click on the "Weather" section and scroll down to the "Rip Currents" article. Simply click on the graphic to get a current view of the Rip Current conditions affecting our beach. You'll also find a multiplicity of useful Rip Current informational links. Be smart...be careful...please!

CONSTRUCTION ANTICS IN TALLAHASSEE

Eric Berkowitz



It never stops. The legislature in Tallahassee, in addition to attempting to regulate your rights into oblivion through the absurd "Condo Killer" bills (SB 2498 & HB 1223), has discovered a new way to disadvantage the average condo owner. This has taken the form of two new construction defect bills, SB 3046 (Bennett) and HB 1899 (House Judiciary Bill), that will make it more difficult for every type of association and the residents who live in them to bring lawsuits and to pursue claims for construction defects. These take on added significance due to the enormous amount of construction required by condos undergoing rehabilitation throughout South Florida.

The Bills are a love letter to the construction industry. If an Association has ANY type of maintenance work (construction, renovations, remodeling, design, or similar construction projects) performed in the common elements or an individual condo owner has work done in a home and the work does not meet the contract specifications, these bills would make pursuit of the developers, contractors, architects, engineers, etc. to address the defects a veritable "tour-de-force" with little chance of success. Before any action can be initiated, the contractor would be entitled to 120 waiting period, starting with notification. During this 4 month reprieve, the contractor (developers, contractors, architects, engineers, etc.) must be given the opportunity to inspect the association grounds and each individual unit and/or home. The contractor (developers, contractors, architects, engineers, etc.) is also allowed to do what's classified as DESTRUCTIVE TESTING! The bills don't define or limit the term "destructive testing" but they are given the right by law to break holes in walls, remove floors, etc. in an effort to test the extent of the defects at issue. This can be done in individual units as well as in common areas.

Continued on page 16

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TALLAHASSEE BAIT & SWITCH

Eric Berkowitz



Tallahassee hardball is a game for adults who never worked out some of their childhood conflicts. While it doesn't require great hand-eye coordination, it conjures the old admonition to "keep one's eye on the" BILL! Fanatical persistence and fervent determination score big points. Distraction, even for a minute, results in immediate forfeiture. Delivery of the loopholes/access/weapons/resources/influence that were part of whatever deal was arranged prior to the session are the winners' trophies. Some legislators are impresarios while others are drone-like pawns. The stakes on the table during this year's session were condominiums...our homes.

Prior to the legislative session, Governor Bush set up a task force to investigate some governance foibles surrounding Homeowner Associations. Some Associations prevented members from flying the flag. Of greater importance was the refusal of some Associations to permit handicap ramps to be erected within their dominion. The Task Force was a reasonable response to questionable policies. They would strive to induce Homeowner Associations to exhibit fiscal responsibility and answerability to their memberships. Structures for settling disputes were conceived and refined. The Task Force would get some positive press, make legislative recommendations and possibly do some good.

Legislators looking to extract political capital from the Governor's actions quickly jumped on the "Association" bandwagon. Legislation spewed forth from Tallahassee that transformed Association members into ping-pong balls. Much like the NASDAQ during the high-tech dominance of the stock market, Associations developed a sort of "dot com" allure that would guarantee any legislative sponsor the media coverage that politicians crave. Distinctions between Homeowner Associations, Condominium Associations, Cooperative Associations and Neighborhood Associations blurred as bills designed to exploit "Association fever" became fashionable overnight.

Many of these efforts were positive and had the support of condo owners. Senator Stephen Geller and Representative Faye Culp devised a vehicle (SB 1938 - HB 747) to facilitate a condo's ability to "opt out" of the full sprinkler retrofit mandated by the two year old multi-\$Billion gift from the legislature to the Fire Sprinkler Association and the Plumbers and Pipe Fitters Union. Senator Jeffrey Atwater, sensitive to the Governor's original intention to counter some of the excesses perpetrated by Homeowner Associations, created SB 2984 to help bring HOAs under the authority of the Division of Land Use, Condominiums and Mobile Homes.

Continued on page 6

Tallahassee...Continued

maneuvers. The legislators are a different story. At the same time Robaino and his friends were demanding 2-year term limits for Condo Board members, they were considering extending their own term limits from 8 to 12 years. Perhaps they should consider establishing an "Ombudsman" empowered to cash out elected officials who use their office for arbitrary vengeance on those who dare treat them like ordinary people. While Senate sponsor Rudy Garcia claimed to be satisfied with the result, Representative Robaino said, "I am accepting what they have given us because that's how it works in the legislature, but I'm coming back with it next year with a complete rewrite." This gives him a whole year to consider reasonable alternatives to the vindictive provisions that carried disastrous consequences and poisoned his legislation. Hopefully, he'll recognize the benefit of consulting with "the people" before designing another "People's Bill"!

To learn more about this year's legislative session and its impact on Galt Mile residents, see the Galt Mile Community Association web site (www.galtmile.com). Also available are links to the complete text of each bill to which reference was made.

Construction...Continued

their copy, but the contractor could just refrain from ordering its own report at this time to avoid similar disclosure to the association. Then, after a lawsuit has been filed and the contractor no longer has the duty to disclose any reports, the contractor can generate their own, using the association's report as a basis. This provides an unfair advantage to the contractor in subsequent litigation with the association.

The bill, as currently worded (confusingly), would require the association to affirmatively accept or reject any settlement offer the contractor may give before suing. However, due to the language proposed for the bill, if the association did not timely reject the offer, it may be barred from ever suing for the defects. The bill allows suit only after "timely and properly" rejecting any settlement offer. If the association inadvertently misses its deadline by which to reject the offer, it can never again "timely and properly" reject and therefore (depending on how a court interprets this provision) may have lost its ability to ever sue for these defects. The bill's language is just too unclear about what would happen if the offer is not timely rejected.

There is no requirement for a contractor offering to remedy the defects to do so within a reasonable time frame. They may agree to the repairs, but delay performance. The contractor can offer repairs, the association could accept, the contractor could string out performance or provide substandard repairs, and the association's only recourse is to sue for

Continued on page 18



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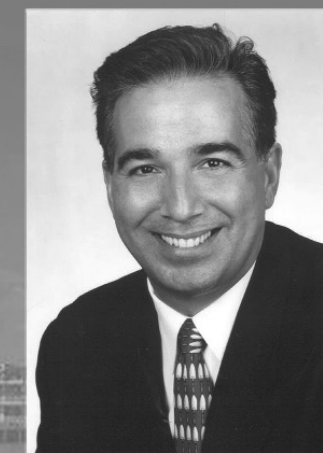
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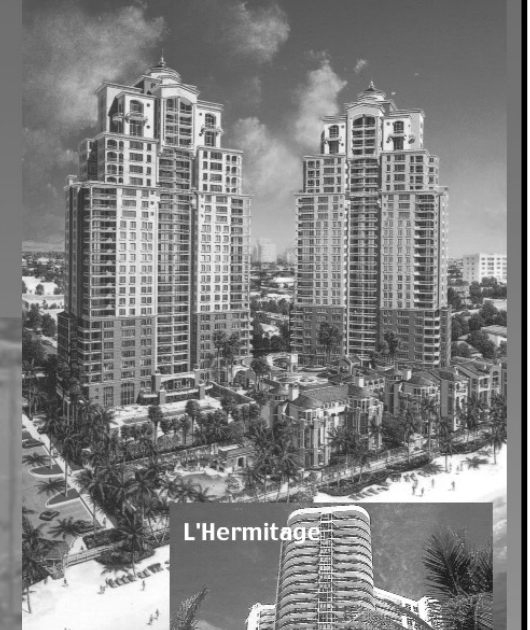
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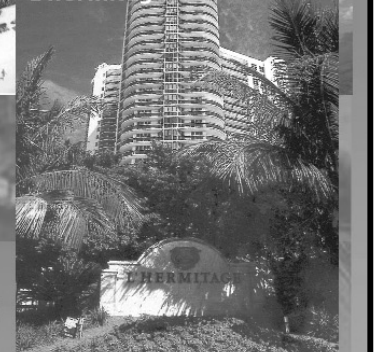
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