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Condo Killer 2006- Part III

THE THIRD BITE AT THE APPLE



Article by Eric Berkowitz

"Its déjà vu all over again" Mr. Berra's famous observation aptly describes the most recent legislative effort to transfer control of condominiums from the people that own them to a governmental bureaucracy in Tallahassee. During the past two years, a cabal comprised of a local union, a group of disgruntled condo owners and some legislators hoping to cash in on controlling condo operations has repeatedly attempted to pass legislation terribly destructive to condo owners. In 2004, Miami Representative Julio Robaina sponsored the first "Condo Killer" bill - HB 1223 - which he publicly described as the "Peoples Bill". Once condo owners read the actual text, they buried their representatives, Senators and the Governor in a blizzard of angry emails, letters and phone calls opposing the legislation. The bill was an ill conceived, poorly drafted monument to ineptitude. Through a series of harsh regulations, it sought to alter the current condo system into one more consistent with public housing... and pass its \$multi-million costs to the homeowners. As the bill was vetted in the legislature's "Committee Process", its glaring deficiencies came to light. Unsurprisingly, it went down in flames.

In 2005, the legislation was reincarnated (HB 1229) by the same cast of characters. This time, they took some precautions prior to plowing the faulty bill through the legislature. They mischaracterized their handiwork to their fellow legislators, stating that the vast majority of condo owners supported their onerous regulations. Decisions about funding reserves or who could serve on a condo's board were too important to be left to "naïve" homeowners. In fact, one provision that dictated how many months an owner had to spend in the building annually before qualifying as a board

candidate rendered every time-share condominium owner in the State ineligible to serve on their own boards. The bill mandated how Associations should allocate their parking spaces. It created different classes of condo owners within an individual Association, each subject to a different set of rules, obviating the constitutional guarantee of equal protection under the law.

When fellow legislators asked the sponsors why their bills were so vehemently opposed by condo owners, they exclaimed that condo owners were being misled by their attorneys. Asserting that the average condo owner was too simple-minded to understand the bill text, they proclaimed that condo attorneys throughout Florida, attempting to sabotage the bill, brainwashed their condo clients into fomenting mindless opposition. Inasmuch, they demanded that the myriad objections to their heavy-handed regulations be summarily dismissed and ignored. The hundreds of condo owners that flooded Tallahassee last March during the Community Association Day event gave lie to the assertion that they supported the legislation. After the House staff's analysis of the bill confirmed its opponents' trepidations, the legislation was withdrawn by its sponsor. Legislators who took campaign contributions from a union supporting the disruptive legislation promised to their benefactors that they would return next year for another bite at the apple.

Continued on page 5

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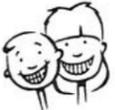
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FLPD...Continued

Members queried Major Negrey about the recent closing of the Fuddrucker's Restaurant that served as an unofficial gathering site for motorcycle enthusiasts. With the restaurant's closing, area residents planned on enjoying long sought relief from the intolerable noise disturbance that stigmatized the neighborhood at night. To preclude the establishment of another restaurant as a replacement motorcycle hot spot, Major Negrey rolled up her sleeves. Her "grapevine" identified the Ale House as Fuddrucker's heir. She had previously contacted Ale House Management in May of 2005 concerning their weekend "bike" events which she successfully terminated. Expecting to take advantage of their close proximity to Harley Davidson of Fort Lauderdale on N. Federal Highway, the Ale House planned on inheriting Fuddrucker's uncommitted "biker business". Mustering diplomatic skills for which she is largely unappreciated, the Major discouraged Ale House management from becoming the new "Noise Central". To affix the final nail into the coffin of an undisputedly bad idea, she enlisted Harley Davidson's cooperation as well.

Last month, when asked by Presidents Council Chair Pio Ieraci if the Police Department's diminished manpower was responsible for increasing the crime rate, Assistant City Manager Kathleen Gunn referred him to the Safir Rosetti Report. Commissioned by the City to investigate this issue in early 2005, the report states, "When compared to a comparable population group of cities, Fort Lauderdale in 2004 was the highest in authorized force and spending per 10,000 residents and among the lowest in Calls for Service handled per Police Officer. Authorized staffing levels are not the driving factor of the recent crime increase in Fort Lauderdale. This recommendation is based on a belief that current authorized staffing levels, if effectively organized, managed, deployed and utilized, should be appropriate to fulfill the department's mission." The report recommends regular COMPSTAT meetings as part of an administrative reorganization that imbues all levels of the Department with full accountability. It also recommends the formation of a special unit designed to quickly respond to changing crime patterns.

The strategic Departmental improvements described by Assistant Police Chief Robitaille and Major Mary Negrey appear consistent with those recommended in the Safir Study. Evidently, the management recommendations made in the report were effectively implemented by Chief Roberts' office. Thanks to the intelligent teamwork displayed by Fort Lauderdale Chief of Police Bruce Roberts and City Manager George Gretsas, every City resident will reap the benefits of a more effective Police Department. It is particularly commendable that they accomplished this impressive achievement by using their heads, not our tax dollars! •

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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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P R E S S : L L C

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The publisher accepts no liability for the accuracy of statements made by association members, outside contributors, third party articles, or advertisers.

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16	17	18 Panthers vs ATL BankAtlantic Center 5 p.m. Chicago Broward Center (Through 4/30) Tix.: 954-462-0222	19	20 Clueless on Las Olas	21 Ocean Fest Dive & Adventure Sports Expo Ft. Lauderdale Beach 11 a.m. to 2 p.m. (Through 4/23)	22 Bromiliad Sale Fairchild Tropical Garden 9:30 a.m. to 4:30 p.m. Cirque du Soleil Delirium BankAtlantic Center Tix.: ticketmaster.com
23 Earth Day in the Park Holiday Park 10 a.m. to 4 p.m. Info.: 954-828-5577	24	25	26	27	28 Pompano Beach Seafood Fest (Through 4/30)	29 Spring Plant Sale Fairchild Tropical Garden 9:30 a.m. to 4:30 p.m.
30 AIDS Walk Huizenga Plaza & down- town area sidewalks 8 a.m. to 3 p.m. Info.: 213-201-1355	1	2	3	4 SunFest Palm Beach (Through 5/7)	5	6 Air & Sea Show Ft. Lauderdale Beach (Through 5/7)
7 Sunday Jazz Brunch Riverwalk, Downtown FL 11 a.m. to 2 p.m. Info.: 954-828-5985	8	9	10 USA Diving Int'l Grand Prix Ft Lauderdale AquaticComplex 8 a.m. to 7 p.m. (Through 5/15) Info.: 317-237-5252	11 Las Olas Wine & Food Festival	12	13 Flowering Tree Show & Sale Fairchild Tropical Garden (Through 5/14) 9:30 a.m. to 4:30 p.m.

A look ahead

- May 11-14 Florida Grand Opera's Carmen Broward Center, Tix.: 954-462-0222
- May 14 Urban Outdoor Gourmet Market 1201 E Las olas Blvd., 9 a.m. to 3 p.m.
- May 20 Jazz at the Museum of Art Javon Jackson Quartet, 7:45 p.m.
- May 26 - 27 Donna Summer BankAtlantic Center, 8 p.m.
- June 6 Saltwater Slam Fishing Tournament Sands Harbor
- June 10 Annual Reef Sweep & Beach Cleanup



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Condo Killer... Continued

On February 21st, Miami Representative Rene Garcia, a new player in this group of Miami Representatives who, strangely enough, have few or no condos in their home districts, sponsored HB 1227, this year's version of the "Condo Killer" legislation. Co-sponsoring the bill, however, is one of the original legislation's supporters, Miami Representative Juan Zapata. It appears that the vested interests behind the twice-defeated bills assembled every provision that was excised by various legislative committees as "unacceptable" and rolled them into one legislative "weapon of mass destruction" - HB 1227.

The public face of the coalition is a small collection of disgruntled condo owners whose unifying ideology is dissatisfaction with decisions made by their respective Boards. In response, the "Cyber Citizens for Justice" adopted a scorched earth policy; if they couldn't control their condos, nobody would. Their intention is to dismantle the Condominium system in Florida. Their methodology is to regulate it into oblivion. Consistent with their previous ill-fated legislative attempts, the bill is designed to relieve homeowners of the responsibility for controlling their own homes. Decisions currently made by homeowners will instead be made by legislators in Tallahassee or an Ombudsman with overt ties to the "Cybers" and the legislators. This truckload of heavy-handed regulations will effectively disable condominium operations and skyrocket maintenance expenses. Its primary political objective, however, is to obliterate self-governance.

HB 1227-ATTACK ON CONDOMINIUMS

The bill is a stew of badly written and often incomprehensible provisions apparently created in retaliation for alleged anecdotal injustices. It aspires to prevent an Association from enforcing its own rules. For instance, it requires the board to notify anyone who is subject to an enforcement action by certified mail. The violator "shall have 30 days in which to respond in writing. If no response is provided and the violation continues or is repeated, the Association may then proceed" with enforcement.

If your neighbor parks in your space or leaves garbage in the hallway, the Association may only act to curb the abuse after the 30th day. However, if the transgressor parks elsewhere or properly disposes of the garbage on the 29th day, the clock starts again. Another certified letter must be sent and the parking space is lost for another month. This applies to every Association rule or regulation. During the past few years, surveys universally demonstrate that the overwhelming majority of condo owners expect their boards to fully enforce their rules and documents. With no recourse to abusive neighbors playing loud music at 2 AM, allowing unauthorized persons to occupy their unit or taking their dog for a swim in the pool, this provision alone will make living in a condominium intolerable. Ramifications of this regulation aren't subtle. It's a huge loophole with one objective, to make Association rules unenforceable.

Another "Association Killer" provision states that, "a lien may not be filed on a condominium parcel until 30 days after the date a notice of intent to file a lien has been served on the owner of the condominium parcel by certified mail or by personal service" of process. By simply refusing any certified mail from the Association, a scofflaw's unit remains immune to a deserved lien. This regulation will serve to make assessments voluntary. When scofflaws avoid paying their fair share, the expense falls to their neighbors or the Association does without the service, improvement, repair, etc. for which the assessment was levied. The only protection condo owners have against having to pay for a scofflaw's indebtedness is its right to file a lien against the scofflaw's unit. This provision doesn't cure the loss of someone's home to a minor indebtedness; it simply allows deadbeats to force their neighbors to pay their bills. Incredibly, the bill adds fuel to the fire by stating that "associations will no longer be able to accelerate assessments for a delinquent owner until a lien has been filed." This gift to chronically delinquent owners places the additional financial strain on every owner that pays on time.

Continued on page 8

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Condo Killer...Continued

these destructive regulations. In addition to notifying their legislators that the bill was laden with damaging provisions, homeowners anticipated visiting with the bill's sponsors to elicit their motives for promoting such poorly conceived legislation. Homeowners were scheduled to hear key legislators address the bills' critical weaknesses on the House floor and attend a press conference designed to draw attention to what has developed into an annual assault on their rights.

Along with Galt Mile representatives, participants include homeowners from the GSAC (Gulf Shore Association of Condominiums), the Space Coast Condominium Association, OCHAA (Orange County Homeowners Association Alliance), and a newly formed coalition of mobile home park owners (among others). At a March 6th Presidents Council meeting, Chairman Pio Ieraci invited participation by all Galt Mile residents and board volunteers.

Ieraci exclaimed that "There was never a greater need for a strong response than to this year's Condo Killer bills." He also confirmed that the cabal of legislators trying to gain control over Associations is planning three other bills injurious to Association members. In the offing are an anti-foreclosure bill (SB 586) sponsored by Senator Gary Siplin and a construction defect bill (SB 1940) sponsored by Senator Charlie Clary which will destroy decades-old statutory warranties on condominium construction. Ieraci admonished, "To defeat these bills, we need to demonstrate that the bills' supporters do not represent our interests, as they so claim. In addition to securing the support of our representatives, we must also demonstrate the depth of our concern to the Governor and legislators throughout the Capitol."

TIME TO ACT

The Galt Mile Community Association is distributing information about the bills to member Associations. GMCA will post the legislation's progress through the House and Senate on the GMCA web site (www.galtmile.com). Component to the legislative process, the bills will be reviewed by several committees in the House and the Senate. Contact information (telephone numbers, addresses and email addresses) for the members of these committees will also be provided on the Galt Mile web site. Galt Mile residents will be able to conveniently call, write or email these legislators to express their concerns.

To function fairly and properly, democratic institutions such as community associations (or the legislature!) must balance the needs of the individual with the needs of the Association. Every democratic institution benefits from regulations that effectively fine tune that delicate balance. These bills do the opposite. Every condo owner has a serious stake in this issue. Condo owners are reeling from the effects of Hurricane Wilma while being threatened with huge insurance premium increases. These legislators would do well to support legislation addressing these real problems instead of attempting to destabilize their homes. Additional information about these bills and other deleterious legislation is available on the Galt Mile web site. Either click on the title of any article to bring up its content or click on "Issues" on the navigation bar atop any page. Scroll down to Tallahassee and click again. Events in the State Capitol affecting Galt Mile residents are contained on this page. After, March 15th, a description of what transpired during the C.A. Day event will be posted on our web site. It will also be published in next month's Galt Mile News. •



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Rep. Julio Robaina



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Condo Killer...Continued

for declaratory relief, injunctive relief, or restitution against any developer, association officer or member of the Board or its assignees or agents". In addition to giving the Ombudsman absolute power over 1.1 million condo owners; it enables him to represent lessees and potential purchasers despite their lack of standing in the Association. This is the third time that these legislators have attempted to morph the Condo Ombudsman into an omnipotent hired gun. No one may question or interfere with the Ombudsman's appointment of an election monitor. Many of the 43 Associations for which the Ombudsman has already provided election oversight have questioned the qualifications of monitors selected by Dr. Rizzo and the exorbitant fees that were assessed. Although the bill requires the Department to pay all of the Ombudsman's expenses, "all revenues collected for the office by the department shall be deposited in a separate fund or account from which the department may not use or divert the revenues." Since the Ombudsman's expenses will be paid with taxpayer dollars, the huge fees collected from Associations in connection with the Ombudsman's services (the necessity for which is determined solely by the Ombudsman) will accrue to a slush fund to be used as he sees fit.

HB 1227 creates a new 718.1223 - Protection Against Abuse. The Division of Florida Land Sales, Condominiums and Mobile Homes must immediately investigate all complaints of abuse. The "ringer" here is contained in the Statute's definition of abuse. It is defined as "any willful act or threatened act by a member of the board of directors of a condominium association or any member of a committee or subcommittee appointed by the board and any employee, volunteer or agent purporting to act on behalf of the board or any officer, director, employee or agent of the management company acting on behalf of a condominium association who denies OR IS LIKELY TO DENY a condominium unit owner or DWELLER

any of the rights and protections afforded to the unit owner or dweller under applicable state and federal laws, administrative rules and the governing documents." The Division is required to act against any volunteer or employee that incurs the ire of anyone in the building. No committed abuse is required to trigger an investigation, just the suspicion that an abuse may be in the offing. Enigmatically, this provision allows lessees and visitors (dwellers?) to also initiate actions against any employee, Association volunteer or Association member that so much as looks at them. Lessees could bring actions against owners in retaliation for complaining about their noisy parties at 2 AM. A paranoid visitor could bring an action against an employee for asking which unit they are visiting. In another effort to discourage board participation, this rule imbues visitors and lessees with greater standing than elected members of an Association's Board.

BEATING BACK BAD BILLS

The sponsors of this bill are not simply "out of touch" with the needs of condo owners. When the original "Condo Killer" bills were offered a few years back, it was widely believed that the original sponsors were simply unfamiliar with the problems faced by condo owners and the destructive regulations that comprised their bills were generally regarded as "unintended consequences". During the past few years, the deficits in their legislation were questioned and eviscerated by every examining legislative committee. Committee members and bill supporters received thousands of objections to the baseless regulations that sought to drain Association resources while punishing owners and Association volunteers. Despite having been made aware of the adverse consequences their bills portended, sponsors steadfastly refused to adjust the legislation to accomplish their stated objectives without the attendant injury. Zapata continues to remain conveniently out of touch with the real problems facing condo owners.

Continued on page 12

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Condo Killer...Continued

In a recent WIOD radio broadcast, interviewer Brian Freeman asked Zapata, "What are the top three things that are in the bill here that you feel are the most important items?" Zapata responded, "Well, obviously, you know, in one of the bills where we put term limits, we talk about their being requirements of reserve in the budget, because many times the board basically decide not to have reserves in the budget, and then what happens if people get hit with these huge special assessments, they can't afford their property, they're forced to sell, or they have a lien placed on their property." Obviously, Mr. Zapata is thoroughly unfamiliar with condo law. Condo boards don't decide whether or not reserves are waived. That is determined by a vote of the full Association membership. Many of Zapata's responses to Freeman's questions revealed similar disconnects with the issues he is claiming to ameliorate. If Zapata harbored real concerns about condo owners, he would have at least educated himself about their problems.

The Miami legislators that annually promote these skewed bills are beneficiaries of contributions and campaign support from a union with a vested interest in dismantling stable Condominium Associations. SEIU Local 11 in Miami has been waging a campaign to replace lost income by penetrating the Condominium market. Composed primarily of Building Service Employees, they've lost much of their dues-paying membership to recent advances in technology. To help achieve their goals, they invested in the election campaigns of some local Statehouse Representatives. To formulate a rationale for these sordid regulations, they enlisted the aid of a small group of radical, yet vociferous, disgruntled condo owners called the "Cyber-Citizens for Justice" to publicly "plead" for the legislative "reforms" that they intended to ram through.

Not surprisingly, Mr. Zapata has an additional personal agenda. Juan C. Zapata neglected to pay monthly maintenance for his unit at Elan at Calusa Condominium in Miami from June through October, 1989, in the amount of \$181. His Association, fulfilling its fiduciary responsibility to protect its members from having to "carry" those who don't pay their obligations, took action. Perhaps he felt that he was entitled to special treatment because he serves in the Florida Statehouse. His Association did not. 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 the lien?

Representative Zapata might have found a more appropriate way to exact revenge on his Association for expecting him to pay his bills. To dismantle the entire Condominium Association system in the State of Florida and place 1.1 million condo owners at risk is a severe response to an embarrassment that he brought on himself. Enlisting the aid of his friends in the legislature to accomplish payback is an abject abuse of his position and the power that accompanies it.

Another Miami legislator, Senator Alex Diaz de la Portilla, has agreed to sponsor a sister bill in the Senate, SB 2570. The bills' proponents are relying heavily on the prospect that condo owners won't sustain an effective opposition to this damaging intrusion of Government into their homes. In actuality, thousands of condo owners are again responding to this ongoing attempt to sabotage the condominium system and usurp the constitutionally and contractually guaranteed right of homeowners to govern themselves.

The Community Association Leadership Lobby (CALL) has agreed to spearhead opposition to this egregious abrogation of our rights. In a "Wag the Dog" moment, the vocal opposition is again claiming that they represent the interests of condo owners. To send a clear message to our public policy makers that the vast majority of condo owners do not want to see their homes regulated like public housing, another Community Association Day event was organized for March 15th. Hundreds of condo owners from across the State planned converging on Tallahassee to oppose the

Continued on page 16

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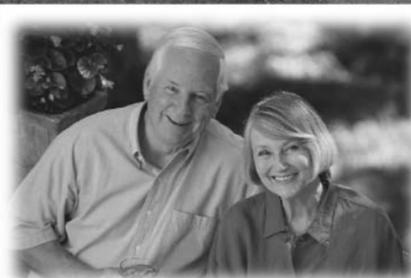
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Bogdanoff...Continued

My kids are home on break. They came in last night and then I head out Sunday. I guess I will have to wait until they get back to Tallahassee to spend time with them. As always, I am looking forward to opening day. Adam Hasner and I delivered our gift of lunch boxes to the House members a couple of weeks ago. With the new lobby bill, they will need something to tote around their own bottle of water when they attend receptions. I sure hope the local organizations who visit us don't cancel their receptions this year. We may not be able to eat or drink with them, but we can stop by and visit. Sometimes it is our only opportunity to meet with the individuals and businesses that make up the membership of the organizations that have issues before us. Most hire lobbyists to advocate on their behalf...doctors, dentists, small business, child advocates etc..., but it is important for us to hear from the members too. Many did cancel, which is unfortunate.

Oh well, time to clean off my desk and pack the rest of my things. Again, thank you for your great feedback over the last 2 years. I can't believe this will be my third session...time flies when you are having a blast.

Until next time...•

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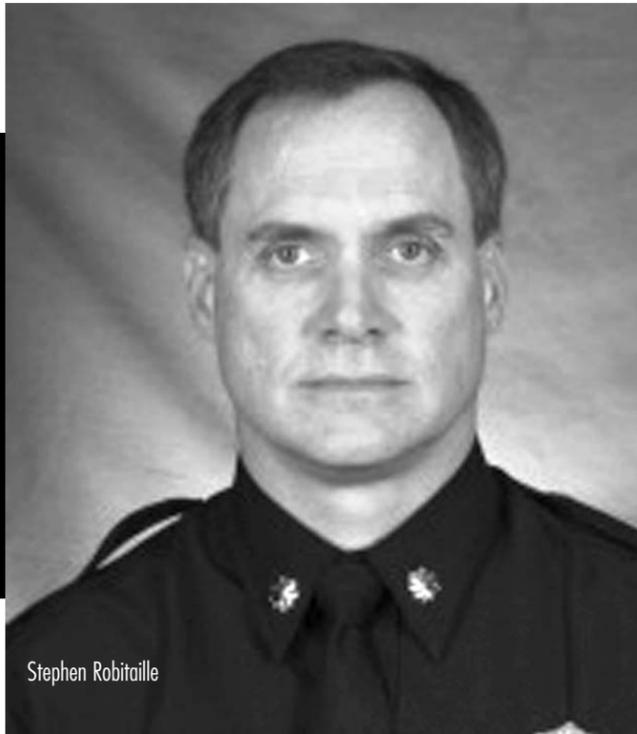
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Stephen Robitaille

FLPD Update

Assistant Chief Stephen Robitaille

By Eric Berkowitz



The Galt Mile Community Association hosted two of FLPD's finest at their February 16th Advisory Board meeting. Assistant Chief of Police Stephen Robitaille of the Fort Lauderdale Police Department was accompanied by Major Mary Negrey of the Galt Mile's Police District 1. They gave members a "State of the Department" overview, touching on issues that affect the Force, the Galt Mile neighborhood and the City of Fort Lauderdale. Chief Robitaille reviewed post-budget crisis Department history, outlined recent root organizational changes and, along with Major Negrey, addressed efforts to curb Galt area crime.

Assistant Chief of Police Stephen Robitaille has enjoyed a long and distinguished career in law enforcement. The 24-year FLPD veteran earned Associates and Bachelors Degrees from Florida Atlantic University and the State University of New York at Farmingdale. After joining Fort Lauderdale's Police Force on April 4, 1982, he was promoted to Sergeant on January 20, 1991. 9 years later, he achieved promotion to Captain on March 5, 2000. On October 24, 2004, he was promoted to Major, assuming full responsibility for Police District III. When Assistant Chief Al Ortenzo retired last year, Chief Bruce Roberts selected Robitaille to head the critical Operations Bureau. As the Chief's right arm, he is responsible for all uniformed police services in the three police districts, the Community Support Division and the Operations Support Division. His jurisdiction includes SWAT (Special Weapons and Tactics), the Crisis Negotiations Team, Community Policing, the K-9 (Canine) Unit, the Motorcycle Squad, Bicycle Patrol, the Mounted Unit, the Bomb Squad, the Honor Guard, the Dive Team, Marine Patrol Unit and Traffic Homicide. Personable and candid, the new Assistant Chief

demonstrated a comprehensive grasp of complicated FLPD organizational strategies, the City's political environment, staff temperament and Galt Mile issues. Inasmuch, Robitaille proved equally conversant with Fort Lauderdale's street problems as with Departmental mechanics.

Like every City agency, the Police Department was knocked for a loop by the Budget Boondoggle. While the Police and Fire-Rescue Departments side-stepped the staffing cuts mandated by City Hall a few years ago, they were forced to weather an employment freeze. To promote the City's recovery, the Administration had to introduce severe austerity measures that caused employee morale to tank. While the City did secure the jobs of cops and firefighters, recruitment was put on hold and overall manpower ebbed. Personnel lost to attrition weren't replaced. Cops nearing the back end of their careers opted for early retirement rather than endure the belt-tightening that proliferated after officials admitted to falling asleep at the switch. Every nickel of overtime pay was carefully scrutinized by interim City Manager Alan Silva and the suddenly spending-conscious City Commission. New recruits and disenchanting vets sought employment in neighboring municipalities. Were it not for an emergency Code Fine Amnesty Program having raised \$1.3 million at the eleventh hour, the City's Public Service Aides program would have been abandoned. Staffing levels were dangerously low.

The tough medicine worked. The stern fiscal therapy capped expenses while skyrocketing property values pumped a windfall into municipal tax coffers. Recent Moody's and Standard & Poor's rating upgrades for the City's bonds have punctuated the success of a mercifully expedited two-year recovery plan. Chief Robitaille stated that City Manager George

Continued on page 17

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Condo Killer...Continued

With regard to assessments, the bill mandates, "that a payment schedule be provided for special assessments with due regard to the financial burden of the assessment on the unit owner. Special assessment funds must be isolated from all other association funds." Optimally, Associations would have to arrange special payment plans to fit each owner's individual budgetary constraints. If, however, an owner considers the financial burden too onerous, either the Association can increase everyone else's assessment or again, do without the service, improvement, repair, etc. for which the assessment is being considered. Irresponsible owners could sidestep their fair share by simply characterizing an assessment as a "financial burden."

HB 1227 is peppered with provisions that interfere with an Association's ability to govern itself. The bill requires, "When a unit owner files a written inquiry by certified mail with the Board, the Board must now respond in writing by certified mail, return receipt requested." To prevent an abusive owner from repeatedly requesting the same documents or harassing the Association's office with nuisance requests, current law affords an Association the right to regulate the manner and frequency of responding to capricious inquiries. While owners could still make as many requests as desired, an Association could opt to answer one during any 30 day period. The next one would be answered in the following 30 days. This discourages abusive owners from using nuisance requests to capriciously waste Association resources and harass Board volunteers. This amendment expressly removes the ability of a Board to adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquiries within a 30-day time period, inviting repeated abuse and hiking administrative costs.

When the United States Congress first voted down the "term limits" legislation, they characterized the concept as "the dumbing down of the Congress"; ridiculing the notion that control of the country should be left to the most inexperienced Congresspersons available! HB 1227 states, "A unit owner may not serve as a director for more than 2 terms or longer than 4 years. A member may not serve as an officer for more than 1 term." The Florida legislators who designed this provision voted themselves an EIGHT YEAR TERM LIMIT a few years ago. Last year, these same legislators co-sponsored a bill to extend that to 12 years - claiming that their constituents had a right to elect the best qualified candidate. Clearly, the sponsors feel that living in a condominium makes that right superfluous. Convincing qualified people to volunteer service on a Board is difficult under the best conditions. After a few years, smaller Associations will be unable to fill their boards. A few years later, larger Associations will face the same dilemma.

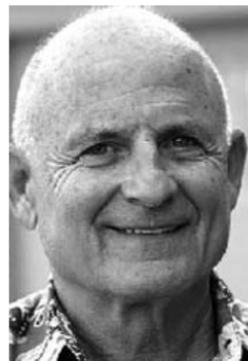
These provisions demonstrate the serious disconnect exhibited by Garcia and Zapata with the realities of condo living. They unhesitatingly open Board volunteers to abuse while simultaneously eliminating eligibility for the best qualified and most experienced candidates. While they strenuously exclaim that term limits shouldn't prevent THEIR constituents from repeatedly returning them to office, they demand that Condo boards be constituted through some eerie statutory version of musical chairs. Condo owners don't want Tallahassee mandating that Association members "take turns" governing their homes, they want the right to elect the best qualified candidates willing to assume the responsibility.

There are a series of provisions that serve no apparent purpose other than to hike maintenance costs. Financial reporting requirements (i.e. to have

your financial statements compiled, reviewed or audited) could not be waived for more than 2 consecutive years. Ordinarily, an Association may decide to pay an accountant for providing these services in order to allay concerns about the sufficiency of financial reports or when applying for financing. Forcing Associations to spend thousands of dollars for no reason is insipid. For smaller Associations, this groundless expense will force the elimination or postponement of some important repair or improvement. Another confusing provision requires that, "all notices of proposed amendments to the declaration be sent to unit owners by certified mail, return receipt requested." When owners live out of the country it is often not possible to send them certified mail. By law, they will remain uninformed of upcoming votes on important issues. Moreover, unless they are expecting it, many people refuse certified mail when delivery is attempted. In addition to effectively lessening the number of owners



Interviewer Brian Freeman



Ombudsman Rizzo

apprised about new amendments, this will create another pointless expense.

HB 1227 removes the ability of an association to opt out of statutory election procedures. Under current law, smaller condominiums are able to streamline procedures in their bylaws for election of directors and notice for the annual meeting rather than use the more complicated and costly statutory procedures appropriate for larger Associations. This pointless additional expense will divert funds from needed improvements or seriously add to maintenance costs. Inexplicably, the bill also expressly forbids an association from printing the candidate information sheet on both sides of the paper to reduce costs!

A "twilight zone" provision would allow boards to only enter into bulk cable contracts for basic service and nothing else. Right now boards can negotiate for premium channels, security cameras and in-house channels as part of their cable contract. If this bill passes, that will no longer be an option. Every resident will have to pay \$15 to \$30 per month extra for the premium channels currently included in their maintenance for 50 cents. Also, they would have to pay extra for their "in house" channel. A related provision would prohibit the association from entering into service contracts for terms in excess of three years. Our five-year cable TV contracts have kept prices down. Shortening the terms of fixed-price utility contracts will proportionately hasten price increases. Why shouldn't owners have the right to make these decisions? Do these legislators own cable television stock?

Another strange regulation prevents residents with disabilities from parking in a handicap parking space, even with the proper disability parking tags. Parking regulations and spot assignments are ordinarily constrained by an Association's size, premises layout, space positions and space availability. Notwithstanding these factors, the bill demands that Associations provide parking spaces for guests with disabilities. In a cynical twist, disabled residents are specifically precluded from parking in these spaces!

Not surprisingly, the bill seeks to imbue the Condominium Ombudsman with the authority to operate independently of the Department of Business and Professional Regulation, eliminating the only statutory oversight constraining the Ombudsman's behavior. It expands the Ombudsman's powers to include the ability to "command" meetings between the board and unit owners without the approval or control of the Department. At the Ombudsman's discretion, the Division will "pursue enforcement action in circuit court on behalf of a class of unit owners, LESSEES or PURCHASERS

Continued on page 9

FLPD...Continued

Gretsas allocated resources adequate to fund aggressive recruitment efforts once the budgetary clouds parted in 2005. He said, "The Department is participating in 'Career Days' held at military bases or sponsored by Universities. To get good candidates, an attractive package is being offered to potential officers." Unfortunately, recruitment efforts have run into a snag. While attending a recent conference of Florida Police Chiefs, Robitaille was alerted to the stiff competition for "new blood". In order to fill the Department's 20 current vacancies, Fort Lauderdale will have to successfully compete with offers from Police Departments across the State.

Last year was tough on the Department. The Organization of American States (OAS) selected Fort Lauderdale to host their General Assembly. From December 2004 until the June 2005 event, security preparations for the prestigious International Forum stretched Departmental resources to their operational limits while recruitment and training temporarily took a back seat. The second half of the year brought 3 hurricanes and the tragic death of Officer Jose A. Diaz while conducting a felony traffic stop. Despite these difficulties, the year ended on a positive note. Responding to questions about the crime rate, Robitaille admitted that "Part 1 crimes (violent crimes including murder, rape, etc.) increased in the first six months of 2005." Robitaille said, "Providing security for the OAS conference distracted the recovering Department's focus from its primary mission." In mid-year, however, the situation improved. The Assistant Chief said that during the first 3 months of the second half of 2005, "the increasing crime rate was finally checked. The full second half saw a 3% decrease in Part 1 crimes. Compared to the 2005 annualized crime rate, current 2006 statistics show a 5% decrease. In fact, compared to the first 6 months of 2005, the current rate represents a 10% decrease." Chief Roberts and his senior staff had engineered a timely turnaround in their battle for Fort Lauderdale's streets.

While filling out the Force's staffing requirements is critical for the Department's future health, aside from improving general morale, it yields little immediate tangible benefit. The Assistant Chief explained, "During their first year, new recruits undergo intense training. They spend 16 weeks honing their skills at the Police Academy. Graduates then spend another 16 weeks gaining valuable experience under the guidance of an FTO (Field Training Officer)." While the minimum age for applicants is 19, Departmental screening procedures vastly favor candidates of at least 21 years of age. Almost 30% of the Force has seen only two years of service. Relying on a common sports analogy, Robitaille characterized 2005 as a rebuilding year. 30 new officers are currently enrolled in the Department's rigorous training program. The young Department heralds a bright future.

Assistant Chief Robitaille credited management initiatives for the Department's recent successes against the burgeoning crime rate. He outlined some of the operational improvements inherent in the Department's new Action Plan. Robitaille said, "We created a 'Tactical Impact Unit' to better target current problems. As the crime environment changes, this flexible unit adjusts its focus, responding to new threats as they become imminent."

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Bogdanoff...Continued

The papers are now focused on the limitations we placed in the bill so that we could gain the support in the House. Would I like a bill with no restrictions, you bet, but that is not the political reality. Some feel that since the Court ruled, we don't need a law, but many wineries are reluctant to ship on the basis of some verbiage on the DBPR website. They want to see the regulation through statute. Besides, there is always the possibility that some forces will work to shut off direct ship in state to cure the constitutional violation. That has always been my concern. Based on my two years of working on this issue, I don't think it is a far fetched possibility. If we work with all of the stakeholders and craft a compromise that everyone can live with, then hopefully that issue goes away.

Here is the reality...if my version of the bill passes, over 95% of the product throughout the United States will be available to the Florida consumer. This is a huge benefit. Alcohol is a regulated product. It always has been, so to simply allow shipping without guidelines is contrary to what we have always believed is important. With statutory regulation, we are assured greater protections for underage drinking and assured that we will collect taxes. Anyone in this industry is used to working with regulation. We didn't go overboard. I believe less is more, but after everyone had their say on what needed to be included, we came out with a good bill. This is a great free market issue. I wish we could simply free all of the grapes, but if I have learned anything over the past two sessions, good public policy takes time and when you consider all stakeholders, no one gets everything they want. If that happens, you know you've done well!

I'll be working on tons of education issues. We announced the anti-bullying bill (HB 535) last Thursday. I don't know if I mentioned it before, but it was written up by Bully Police USA, a grassroots organization established to promote legislation and awareness on this issue, that if passed will be the endorsed legislation and the best in the country. I read in the paper today that 160,000 kids each day in Florida skip school because of bullying...wow.

Budget issues, the DNA bill (HB 61 CS), and improving the Department of Motor Vehicles (HB 267 CS) are just a few of the additional items we will also try to accomplish over the next 60 days. I will write to you once a week as I have in the past to keep



State capital in Tallahassee

you up to date on what is happening and to get your feedback on important issues that pop up.

For those of you who are new to our email family, welcome. As a Representative in the Florida House, I will do my best to take the mystery out of what happens in Tallahassee. Sometimes the sound bite you read in the newspaper only tells a little bit of the entire story. I try to highlight one big issue each week, but sometimes things are happening so fast it is hard to just pick one.

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FLPD...Continued

By closing the gap between the initial identification of a threat and the Department's response, FLPD minimizes both the impact and the duration of crime trends. The Unit's recent preoccupation has been with violent crimes. The Department has also instituted a new policy stressing better communications. "COMPSTAT meetings are convened on a weekly basis," said Robitaille. These progress meetings keep every relevant Departmental entity up to speed. Increasing the frequency of these meetings also promotes improved accountability throughout the Department, precluding the unintentional loss of important data that could otherwise slip through the cracks.

Robitaille said, "FLPD includes 515 sworn officers and 200 to 300 civilian positions." He exclaimed the Department's Public Service Aides to be "an invaluable asset." Working with three Crime Prevention Detectives, the PSAs perform a wide variety of tasks that would normally tie up several officers. The Galt Mile neighborhood has been a favorite target for vehicular invasions. PSAs regularly distribute local alerts in neighborhoods experiencing these types of mostly avoidable crimes. Robitaille commented, "By passing out material in shopping centers and speaking at Community Centers, Hospitals and Associations about simple measures like not leaving valuables or keys in the car, they not only abate the crime rate - but allow sworn officers to handle tasks for which they were uniquely trained."

Major Mary Negrey seconded Robitaille's contention that Chief Bruce Roberts' recent improvements to the Department's management strategy have been extremely effective. Her Police District 1 jurisdic-

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tion (which extends from Sunrise Boulevard north to the City limits) enjoys "the lowest rate of dangerous Part 1 crimes in the City." She agreed with Robitaille that Galt Mile residents are predominantly victimized by avoidable crimes. She said, "Leaving a laptop computer, a purse or a cellular phone visibly unattended in a car is an open invitation to snatch it." She categorized the type of crime often perpetrated in the Galt area as "Quality of Life" violations. According to Assistant Chief Robitaille, when the budget crunch thinned resources, enforcement against "Quality of Life" violations was neglected in favor of addressing more dangerous crimes.

Major Negrey addressed the Galt Mile's seemingly entrenched Homeless population. She described Fort Lauderdale's Homeless Outreach Program as one of the best - and most effective - in the Nation. Specially trained officers attempt to offer a spectrum of services to the City's Homeless. The Major declared, "The Galt Mile's popularity among its Homeless population stems primarily from the misdirected generosity of its residents." Enigmatically, many Galt residents labor under the misconception that their donations to local Homeless people will encourage their "moving on". In fact, it produces the opposite effect. Since Homeless people generally gravitate to more "lucrative" locations, local and national experience universally confirms that a neighborhood's attraction to Homeless persons is directly proportional to the "generosity" of its residents and local merchants. The Major characterized the vast majority of Homeless as harmless, although she said that an "above average percentage of the Homeless population suffers from an assortment of mental health problems."

Continued on page 21

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FROM THE OFFICE OF

REPRESENTATIVE ELLYN BOGDANOFF

March 2006 Update

On March 4th, Florida District 91 Representative Elyn Setnor Bogdanoff sent constituents participating in her "Legislative Update" email program one last correspondence before leaving for the Tallahassee Mixmaster. She reviews some of the unexpected obstacles her "Direct Ship Wine bill" is already facing. A bill classified as a benchmark template for the entire nation, her "anti-bullying" educational legislation has already been filed. Some other legislative targets in Elyn's 2006 session agenda include Budget issues, the DNA bill, and improving the Department of Motor Vehicles. Of course, she will also be confronted with supporting legislation that specifically improves life for her constituents and, conversely, be called upon to oppose bills posing a threat to the home folk. Her last pre-session message reads as follows: - editor

I wanted to drop you a quick note and let you now that tomorrow afternoon I am heading to Tallahassee to prepare for the 2006 Legislative Session. I feel like we lost a month because of Wilma and even though I feel prepared, March snuck up on me. We are forwarding our phones, and both Aaron and Gerard will be with me (legislative aides Aaron Mevins & Gerard O'Rourke - editor). If you need to reach us, we forwarded our phones. As always, email is the quickest way to reach us, so please stay in touch.

I filed most of my bills early this year and feel like we got a good head start. So far the feedback has been great. I am a bit frustrated with the Direct Ship Wine bill (HB 247 CS) though and the press it has been receiving. As many of you know, I have been working on this issue for over 2 years. I filed a bill my first two years because like many of you, I strongly believe in the free market. The distributors successfully held off our efforts until of course, the Supreme Court ruled. Now everyone has come to the table to work out a compromise. I know I have discussed the particulars before so I won't get into detail, but when I read in the newspapers that I am trying to restrict the market I go nuts. Where have they been for 2 years?

FLPD...Continued

The City recently undertook to discourage Homeless persons from staking out all the benches along the Galt Mile by moving some of them onto private Association property. The Major clarified, "While law enforcement is constrained from preventing anyone who wishes to sit on the public benches, trespassing on private property is an actionable offense." However, the police require that a complaint be made against a trespasser prior to enforcing the law. At the suggestion of Major Negrey during a previous meeting, the Galt Mile Community Association secured signed affidavits from its member Associations, providing authorities with official complaints against anyone not authorized to occupy benches located on Association property. Her idea has been surprisingly effective. Elderly Galt residents initially intimidated by these uninvited visitors have again reclaimed many of the street's benches - thanks to the Major.

Major Negrey also reviewed the latest results of Fort Lauderdale Chief of Police Bruce Roberts' "Traffic Enforcement Action Plan". Created after an April 2005 meeting at the Beach Community Center about unrestricted noise disturbance from motorcycles racing along A1A, the plan was designed to clamp down on dangerous driving as well. Since the Chief committed himself to transforming sections of A1A often used as an unofficial racetrack into a safe thoroughfare, Major Negrey's troops have issued over 1,361 citations, seized several vehicles and made related arrests including a few drug busts - as of January 26th. She said, "We intend to continue enforcing the traffic plan." Several members expressed appreciation for the Major's proven dedication to the Galt Mile Community. Others voiced support for her sustained effort to discourage dangerous driving along A1A. Members agreed that if the dangerous stretch of A1A developed a reputation as a "traffic checkpoint" - a buzz word for speed trap - the neighborhood would realize a long-term safety benefit.

The Major explained that the sound measuring equipment ordinarily used to discourage noise pollution cannot be utilized for traffic noise. Since participating officers must exercise subjective judgment when evaluating a disturbance, these actions are difficult to prosecute. When appropriate, they alternatively cite equipment violations that are often the source of the noise. For instance, Motorcycles with no pipes (mufflers) or straight pipes receive equipment violations. While officers can occasionally check for baffles to confirm the acceptability of a muffler, Assistant Chief Stephen Robitaille acknowledged that some illegal after-market mufflers are so well disguised that it is almost impossible to distinguish them from their legal counterparts.

Major Negrey reported to Chief Roberts that police enforcement ordinances are insufficient to squarely impact the problem. She took the initiative to investigate how neighboring municipalities contend with similar problems. Her research prompted her to suggest the passage of an anti-rewing ordinance. We also support the passage of the regulatory tools she needs to change A1A's current status as a vehicular demilitarized zone.

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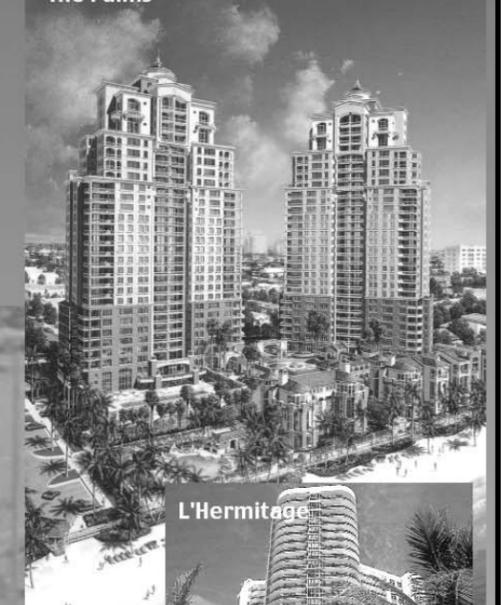
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