

A publication of:

## GLAZER AND ASSOCIATES, P.A.

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## WELCOME ABOARD



While our firm practices in several areas of the law, such as commercial litigation, real estate and construction, the majority of the practice is devoted to the representation of condominium and homeowner associations. We are proud to announce the addition of the following associations to our list of clientele: Turnberry Towers Condominium in **Aventura**, Woodlake Apartments Condominium in **Hallandale**, Ibis Villas Condominium in **Miami**, Dixie Terrace Condominium in **North Miami**, King Richard Condominium in **Miami Beach**, Edgewater HOA in **Kendall**, Paradise Gardens III and Darby Hall Condominiums in **Hollywood**, Avalon HOA in **Pembroke Pines**, Courtyards II Condominium in Hialeah, Garden Terrace Apartments 10, Hyacinth House, Bayshore Embassy and Middle River Condominiums in **Fort Lauderdale** and Long Lake Villas HOA in **Orlando**. We can assure you that we appreciate the business and confidence placed in our firm.

## HAPPY NEW YEAR!



Each of us at Glazer and Associates want to wish our readers a very healthy and happy new year. We know that serving on an association Board was not easy in 2005 and respect the fact that so many of you volunteered your time and effort to help make your community a better place to live. While some of you might have made a new year's resolution to become less involved in the association's politics in 2006, we encourage you to stay active in your community. However, you should also make your job easier by surrounding yourself with qualified managerial, accounting and legal personnel who can help relieve some of the stress and pressure of your demanding association responsibilities.

## REFLECTIONS ON WILMA

(By: Eric Glazer)



Nobody can say that we weren't repeatedly warned that it was just a matter of time before South Florida was hit with a powerful hurricane. Yet, despite these warnings, many condominiums were woefully unprepared for Wilma. Many associations who were reserving for roof repairs and building painting didn't find themselves scrambling to find the money to replace the roof and make other necessary repairs. On the contrary, and unfortunately in the majority of situations, associations were not reserving enough funds and are now forced to impose huge special assessments that many unit owners have difficulty affording. Since the repairs must be made immediately, many associations are turning to bank loans for a quick fix, but are now left with long-term payments that will increase maintenance and make a unit more difficult to sell for years to come. The forecasters keep telling us that South Florida will be under the hurricane gun for perhaps the next ten to twenty years and that it is a virtual certainty that there will be one or more hurricanes visiting South Florida again. It seems rather obvious that in light of these predictions, the prudent course of action is to begin reserving repair funds now if the association has not already started. Those associations that were also shocked to learn about their tremendously high hurricane deductible may also want to discuss a hurricane "deductible buy-back" policy which involves the payment of an additional insurance premium, but lowers the amount of the hurricane damage deductible. In any event, even though it's no longer hurricane season, prudent steps must be taken now to properly prepare the association for the next catastrophe.

## WINDOW REPLACEMENT

(By: Andrew Demos and Meredith Spira)



A topic of hot debate is the Board's ability to force installation of new storm resistant windows. In Brickell Townhouse Association v. Bagdan,

Case No. 00-1683 (Arbitrator, Scheurman) the association suffered major window damage as a result of Hurricane Andrew, leaving the property with damaged window frames and susceptibility to further damage should another hurricane hit. After obtaining advice from their window experts, the Board determined that the windows were not safe and needed to be replaced. Moreover, unit owners in the condominium had been aesthetically altering the appearance of the property by installing different types of windows over the years. The issue in the case was whether the window change was a "material alteration" requiring a vote of the unit owners. The Board voted on its own, to install upgraded, safer windows in all units to preserve the uniformity and appearance of the condominium and ensure the structural safety of the property. The arbitrator held that the Board has the statutory duty to preserve the common elements and their "business judgment" will not be second-guessed when based upon the advice of their experts. Thus, the arbitrator affirmed the decision of the Board in all respects.

## UNLICENSED CONSTRUCTION

(By: Andrew Demos)



Many associations fall prey to persons who portray themselves as licensed and insured contractors, when the truth is otherwise. An unlicensed contractor recently tried to foreclose a construction lien for work performed at one of our client condominiums. Relying on Florida Statute 489 and a recent appellate decision, Andrew Demos was able to persuade the court that since the work performed required performance by a state licensed contractor, the contractor was not entitled to any payment as his alleged contract was unenforceable as a matter of law. Moreover, the court reimbursed the association its attorney's fees and costs incurred in defending the action.

## MONITORING YOUR UNIT

(By Eric Glazer and Ralph Ruocco)



Flooding or other damages in a unit are often exacerbated as a result of an absentee unit owner not being able to fix the problem in a timely manner. While the snow birds are back in town, the Board should take steps to advise them that just because they don't live in the community full-time, doesn't mean that they need not check-up periodically on the condition of their unit while living away. Arbitration decisions have consistently held that even when living in another country, it is incumbent on the unit owner to routinely and periodically examine and inspect the unit to insure the absence of leaks and conditions that would otherwise lead to damage to the building and its occupants, i.e. rusting and leaking water heaters, infestation of rodents and insects, electrical problems, major appliance malfunctions, leaking pipes and sewer system back-ups or break-ins from criminals.

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The primary practice of our firm is representation of condominium and homeowner associations in the South Florida area. The firm has represented hundreds of associations since its inception in 1994, regarding all facets of association law. In addition, the firm has litigated and/or arbitrated hundreds of association cases in the state courts as well as before the Division of Florida Land Sales, Condominiums and Mobile Homes, Arbitration Section.

The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.