

Association Can Help After Storm

FORT MYERS THE NEWS-PRESS, AUGUST 19, 2004



By Joe Adams

jadams@becker-poliakoff.com

TEL (239) 433-7707

FAX (239) 433-5933

Last Friday, Friday the 13th, started as a day like many I had experienced as a twenty-year resident of Southwest Florida. As a precaution, our business was closed, as it has been on many occasions when storm warnings are issued. I checked to make sure that my family had the rudimentary storm staples, some extra water, batteries, and the usual list. Just another ho-hum temporary inconvenience that would quickly pass.

Like several hundred other people, my Friday the 13th ended much differently than it started. Nature had unleashed its fury.

But for the eye of the storm deciding to take a last minute bounce off of the coast before making land-fall, it is likely that I would have been among the thousands of homeless whose life has been reduced to a pile of rubble. My brief sense of gratitude that Mother Nature's whim had dealt me only moderate property damage was quickly outweighed by guilt and sadness, knowing that the turns of fate which spare one devastate another.

Since this column is dedicated to issues involving condominiums, homeowners associations, and mobile home parks, I will suspend the past two months' review of new association legislation (which somehow seems rather trivial at the moment), and focus on what associations can do to help put life back together.

Fortunately, lessons learned from past major hurricanes such as Andrew and Opal have taught us some valuable lessons:

Arrange for immediate mitigation of further damage: This includes securing the community from acts of vandalism or looting, clearing construction debris, and making the buildings as watertight as possible through the use of temporary covers, plywood, and the like.

Beware of scam artists: Thousands of people have come to the aid of Southwest Floridians. The vast majority are legitimate, and are here to help. Unfortunately, disasters also attract crooks. Stories after Andrew include "official" looking teams showing up at a disaster site, with slick brochures, matching uniforms, and an overall "professional" look. A representative of the association is asked to "just sign here," so that cleanup can begin. The association later learns that it has assigned all of its insurance proceeds to a company that is not qualified to do what needs to be done.

Contact your insurance agent: According to John Pollock, President of local insurance agency Oswald, Trippe and Company, there is no "central number" that can be called to report your community's loss to your insurance carrier. Every carrier has set up hotlines to assist in dispatching adjusters. Your insurance agent should be able to get you your association's policy number and the phone number to call to begin the adjustment process.

Document existing conditions: Although the association's insurance adjusters will attempt to document the site, a picture paints a thousand words. With today's digital technology, photographic and video records can be conveniently and safely stored

off premises and easily retrieved, if needed. Obviously, no one should go to a disaster site unless it has been cleared for entry by emergency management officials.

Check contractor licenses: As most of us who live in this area know, it is not easy to find people to do repair work when there is such a booming new construction industry. Obviously, the magnitude of this storm will tax local contractors even more. Out-of-town entities will hopefully be available to fill the void. Obviously, it is important to make sure that any contractor selected is appropriately licensed in Florida for the type of work they will be doing, carries adequate insurance, and the like. Again, although time is of the essence in moving forward with these projects, millions of dollars are involved, and the board best protects itself by ensuring appropriate legal review of the relationships it intends to commence.

Have the Condominium Documents immediately reviewed: After Hurricane Andrew, some associations were shocked to learn of a provision in the declaration of condominium which provided for automatic termination when damage exceeded

fifty percent or more of the units, unless the owners voted to rebuild. Since the owners had scattered all across the country, at least one association had to seek court relief to prevent the activation of the provision. There will be other clauses in your documents which have importance in addressing post-disaster activity of the association.

I have personally had the opportunity to tour regions of Charlotte County with heavy condo and mobile home development and was literally nauseated at the scope of the hardship that this storm has brought to our region. Frankly, if there is anything good to be said about a calamity like this, we may take some solace in the fact that hurricanes hit during the time of year when many of our densely populated condo communities and mobile home parks are at their lowest occupancy point in the year. Otherwise, there is little doubt in my mind that the death toll would have been significantly higher.

The Question & Answer section of this column will not run today, but will resume next week with an emphasis on Charley-related questions. Inquiries can be sent to jadams@beckerpoliakof.com. ☺

Mr. Adams concentrates his practice on the law of community association law, primarily representing condominium, co-operative, and homeowners' associations and country clubs. Mr. Adams has represented more than 600 community associations and serves as managing shareholder of the Firm's Naples and Ft. Myers offices.

Send questions to Joe Adams by e-mail to jadams@becker-poliakoff.com This column is not a substitute for consultation with legal counsel. Past editions of this column may be viewed at www.becker-poliakoff.com.