

LEGAL



New Law for Buildings Three or More Stories in Height

BY MARK FRIEDMAN, FLORIDA BAR CERTIFIED AS A SPECIALIST IN CONDOMINIUM AND PLANNED DEVELOPMENT LAW

The Florida Legislature recently adopted a bill which the governor signed creating new mandatory requirements if your building is three (3) or more stories in height. The following are some of the highlights.

If your building is 3 or more stories in height, a “milestone inspection” is required and must be performed by a licensed architect or engineer. The inspection must be performed within 30 years from the date the Certificate of Occupancy (“CO”) was issued for the building.

The law is being phased in by requiring buildings that received a CO before July 1, 1992, to complete the first milestone inspection by December 31, 2024. The new law requires the “local enforcement agency,” presumably the local building department, to send notice to associations of the milestone inspection requirement. The association then has 180 days to perform a “Phase 1” inspection.

The Phase 1 inspection requires the architect or engineer to perform a visual inspection of the property and undertake a qualitative assessment of the building’s condition. If the Phase 1 inspection reveals no signs of structural deterioration, then a “Phase 2” inspection is not required. A Phase 2 inspection is required if structural de-

terioration is noted. The Phase 2 inspection may require destructive testing, at the inspector’s direction. Please note that the terms “milestone inspection” and “substantial structural deterioration” are defined in the new statute. So, your engineer or architect must be aware and conduct the inspection accordingly.

The engineer or architect performing either a Phase 1 or Phase 2 inspection must prepare a written inspection report. The report must be sealed and have a separate summary pointing out its material findings. The report must be given to the association and the building official with jurisdiction over the building.

The new statute lists the minimum categories which must be addressed in the milestone inspection report, by reference to the new statutory requirement for a “structural reserve study,” (which will be discussed in an upcoming article). The association must distribute the milestone inspection report to all unit owners, regardless of its findings. Delivery must be by mail, personal delivery, or email to those who have consented to receive electronic notice. The association must also post a copy of the summary in a conspicuous place on the property. The association must post the full report on its website, if the association is legally required to have a website.

The new law gives local building officials dis-

cretion to prescribe timelines and penalties for non-compliance. County commissions may adopt ordinances establishing timelines for necessary repairs identified in a report, and such repairs must be commenced within 365 days after receiving the report.

The definition section of the statute adds the term “structural integrity reserve study” to the definitions included in the regulation of condominiums. The law requires that these reserve studies must be maintained as part of the official records of the association for 15 years, the same as for the milestone inspections discussed above. Renters are entitled to inspect the foregoing reports.

We will discuss the new law further in an upcoming article.

Mark D. Friedman, B.C.S. is recognized by the Florida Bar as a specialist in Condominium and Planned Development Law. This article is meant for educational purposes only and not meant as legal advice. You should consult with your own condominium’s legal counsel and your engineer in dealing with the new legislation. Mr. Friedman may be contacted at MFriedman@beckerlawyers.com.

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