



## *The Citizens Association Of Palm Beach Annual Meeting.*

On February 23rd, 2023, the Citizens' Association hosted their Annual Meeting at the Tideline Hotel. It was well attended by the Mayor, Town Council and several department heads of Palm Beach. The Mayor swore in the CAPB Board of Directors for the 2023 year and also gave her 'State of the Town' address

As part of her address at the association's annual meeting, Moore discussed building inspections, water quality, code review and other matters that were relevant to residents living south of Sloan's Curve. The Citizens' Association represents the interests of those residents.

Topping Moore's list was a proposed improvement plan from the Florida Department of Transportation for a section of South Ocean Boulevard between Lake Avenue and Ibis Way.

Town officials and South End residents oppose the plan, which includes widening a 1.7-mile stretch of roadway and expanding the nearby recreation path.

The Citizens' Association also sent letters to the governor in support of town officials' stance on the project.

"As far as the A1A widening, we're going to continue to fight that," Moore said. "The town is going to continue to work toward milling and resurfacing only the existing roadway and bike path. That's important to the town. We're going to keep working on that. We are not going to forget."



## Florida Holdouts Against Condo Termination Duel With Real-Estate Firms

*Developers say they are doing a service tearing down old structures and rebuilding*

By: [deborah.acosta@wsj.com](mailto:deborah.acosta@wsj.com)

When Joe and Janet Dippell bought their oceanfront condo in 2008, they thought they would live there forever. The Bal Harbour, Fla., property featured its own restaurant and the Dippells' 3,300-square-foot apartment boasted water views.

But over the past two years, local developers have been trying to buy each of the Carlton Terrace's 88 units. They plan to knock down the property and build a development where they can charge premium prices for more units. The Dippells and five other owners declined to sell. But the condo bylaws stated that if 80% of the unit owners vote in favor of selling, then everyone must sell. The Dippells moved out in November. They are now living in a house roughly half the size of their former condo and without the ocean view.

"They did well financially, but they still got kicked out of their home," said their daughter Marjorie Mannix, speaking on behalf of her parents, who signed a nondisclosure agreement as part of their buyout. "They have to start over in their 80s."

This process, known as condo termination, has cropped up across the U.S. But it has been particularly prevalent in Florida, where at least 400 buildings have experienced it over the past decade, according to the Florida Department of Business and Professional Regulation. The Carlton Terrace condo property in Bal Harbour, Fla., is being targeted for redevelopment.

The frequency reflects the large stock of aging condo buildings in South Florida and the lack of developable land near the ocean. Some developers are buying out unit owners, tearing down the buildings and constructing new ones in their place. Related Group, Starwood Capital Group and Fortune International Group are among the developers partaking in condo termination.

Developers say that many of these condos are on prime land and that they are performing a useful service, offering owners market-rate prices. By tearing down decades-old properties and building new, they are often removing structurally unsound buildings.

Many unit owners are happy to sell. After a condo collapse in Surfside, Fla., killed 98 people, Florida passed a law that requires most condo buildings over 30 years old to undergo structural inspections. Those are often accompanied by assessments on condo owners that can exceed \$100,000. Part-time residents, in particular, can be eager to take a check from a developer rather than come up with the cash to cover the assessment.

But some owners, especially older ones, oppose selling and having to find a new home in one of the country's most expensive states to buy.

In many cases, they have little choice. A Florida statute says that once a developer acquires 80% of the units, it can terminate the building.

Condo documents that govern the building can often contradict the law, leaving much up to legal interpretation. While some condo bylaws require 100% of unit owners to agree to a sale for example, developers can often change those bylaws once they acquire a majority voting stake in the property.

That is what happened to Howard Fellman, the lone holdout in a 176-unit condominium in Boca Raton. The bylaws at his association required a 100% threshold to terminate the condominium, he said. Scully Co., as the majority owner, voted to lower that threshold to 80% in February 2021. The firm then voted to terminate the condominium.

"We did what we're legally allowed to do," said Chief Executive Jessica Scully. Mr. Fellman, 57 years old, took his grievances to court and lost. He is appealing the decision. "I think property ownership is a vested right, not one that can be voted away with a hostile investor-led condo board," he said.



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# Radio Signal Strength For Fire Department Communications

By: Martin DeLoach- Fire Marshall

There has been a lot of discussion about a new requirement for buildings to provide radio signal strength for fire department communications. The requirement is real, however not new. This requirement was in the adopted codes written in 2012, 2015, 2018 and in 2021 editions of NFPA 1 in the chapter titled "Building Services".

I have reviewed numerous after-action reports, after significant events involving police or fire operations. The section that details areas to improve or areas identified as deficiencies that lead to deaths or extended operations has been "communication". I believe we can all reflect on September 11, 2001, a day that innocent civilians and first responders perished from the planes that were flown into the World Trade Center Buildings. Here in Florida, we can remember the Stoneman Douglas High School shooting and the senseless deaths that followed. Both events would have been mitigated with fewer problems and arguably fewer deaths with ideal communication.

Florida legislators' passed legislation after the tragedy in Broward County to ensure communication problems are diminished, passing Florida Statute 633.202. Florida Buildings are required now with the adopted fire codes and state statute to correct signal strength deficiencies for public safety radios.

What is required? Who do I hire? How much will it cost? When do I have to have it installed? Why did it take so long? All good questions that need to be answered.

The requirement states "In all new and existing buildings, minimum radio signal strength for fire department communications shall be maintained at a level determined by the AHJ." The AHJ is defined as the authority having jurisdiction. We have researched the best options here and are currently looking for a digital audio quality of 3 to 3.5, and an uplink measurement at 102.

If you own or manage a high-rise building in Florida, you should be familiar with Florida Statute 633.202. Let us break it down for you:

Existing high-rise buildings are required to have completed a radio signal strength survey.

Existing high-rise buildings have until January 1, 2022, to improve the signal levels to meet AHJ requirements. (Already past that deadline)

Apartment buildings are not required to comply until January 1, 2025, but they were required to apply for the appropriate permit by December 31, 2022.

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The coverage requirements include: 99% coverage in critical areas (emergency command centers, fire pump rooms, exit stairs & passageways, elevator lobbies, standpipe cabinets, and valve locations); and 90% coverage in general building areas.

There are some good companies that specialize in the installation of signal strength improving equipment, often called Bi-directional amplification equipment or BDA. There are also a lot of people entering the industry with poor ethics and unscrupulous approaches to correcting the signal strength deficiencies. We have reviewed a plan for a building, that hired and paid thousands of dollars for a signal strength test and report, which indicated they needed equipment on every floor. We worked with the building management, only to find their building did not diminish our radio digital audio quality when tested with our radios.

The Town of Palm Beach Fire Rescue is performing radio tests during your annual fire inspection. The inspector will notify you if you have deficiencies in the report or verbally during their inspection. We want to help ensure if you have signal strength concerns, we want to work together to find the best solution for your building.

If you are seeking to purchase a signal strength test before your annual fire inspection is performed, please do not commit to anything beyond the signal strength report until you have been able to share your report with us. This will allow us to help work with your chosen company to determine the signal strength improvements that may be required for your building.



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BY MARRIOTT

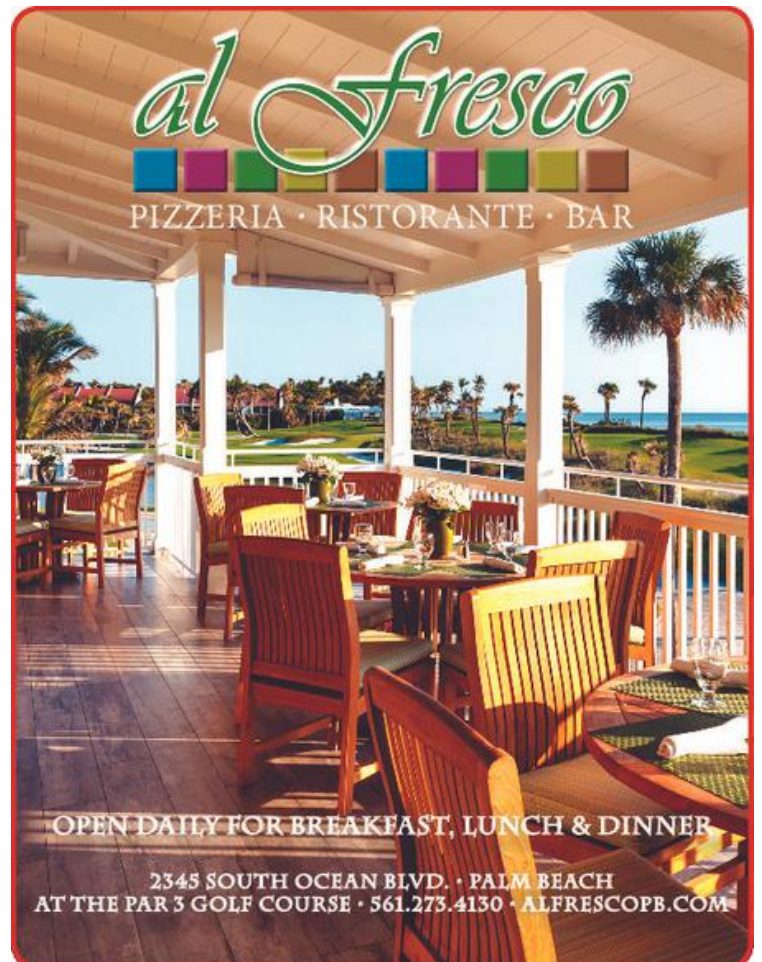
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# Palm Beach's Zoning Code Is Getting An Overhaul: Here Are The 5 Main Areas Of Concern

By: Jodie Wagner - Palm Beach Daily News

As a team of consultants continues to work on an overhaul of Palm Beach's nearly 50-year-old zoning code, residents and business owners gathered at the town's recreation center this week to learn more about their plans. Designing our Palm Beach Week, a four-day event that ended Thursday at the Mandel Recreation Center, included presentations by the town's consulting team; charrettes where visitors could view engagement boards, collect literature, and meet with consultants Sean Suder of ZoneCo, Joe Corradino of The Corradino Group and Joe Nickol of Yard & Co; and opening and closing events that drew more than 300 people.

The event was organized to invite public comment that will help lead to the development of a new zoning code that is clear, efficient and more user-friendly, said Anne Fairfax, a partner with Fairfax & Sammons Architects. Fairfax & Sammons was tasked with interpreting the comments of visitors to the event and drawing up renderings of buildings that the new codes may allow.

"The current code was written in the 1970s, and much of what we love about Palm Beach is unable to be built under the current code, and requires onerous variances," Fairfax said. "Our current code has numerous conflicting concepts, and has over time been so constrictive that as it may prevent the worst development, it also has hampered good development."

Suder, Corradino and Nickol are working on a total tear-down and ground-up rebuild of the town's commercial and residential zoning codes that govern land use and growth patterns.

The last time the town's zoning code received a major overhaul was in 1974, when the town was experiencing explosive growth and a push was made to control intensity, density and height, Suder told the Daily News in an interview Tuesday.

Building heights were a particular concern then because of development pressures, especially in the South End, Suder added.

"In other parts of Florida and coastal communities, everyone was clamoring for waterfront property and going higher and higher," he said. "Palm Beach did not want to be a typical beachfront community like Fort Lauderdale, and other places. So the code they adopted in 1974 was very limiting, anti-intensity, anti-density, single-use, single-story.

"The zoning code did its job then, Suder said, but the status quo no longer is an option because of environmental and economic changes; aging infrastructure; new demands on retail, dining, office and entertainment; and the high demand for Palm Beach real estate.

"You have a situation where it's almost a perfect storm," Suder said. "You have economic pressures, you have environmental pressures, and you have other global economic issues. There's a lot of stuff coming together at once."

Suder said he and his team plan to craft a custom-tailored, consistent and user-friendly zoning code that advances the community's vision.

It will be the first comprehensive update of the town's code in nearly 50 years. Since 1974, town officials have addressed issues one-by-one with amendments and variances.

"There have been hundreds of piecemeal updates of the code," Suder said. "That's telling us that the code no longer is responding to what people want to do on their properties. There also have been a lot of variances granted, and what that tells us as zoning professionals is the code is not addressing, by right, what people want to do."

Suder and his team have met with residents, business owners and town officials during the past year to hear concerns and gather input for their code rewrite.

Here are the five main issues that Suder and his partners will address as they work to revise the town's zoning code:

**North End modifications**

Changes could include:

- Creating new bulk, massing, scale and height standards; varying height lines
- Screening utility equipment
- Defining location and size for pools and pool houses
- Creating new ways to measure height that are proportionate and context sensitive
- Varying roof lines
- Regulating side windows
- Addressing parking in a 'less dominant' way

**South End modifications**

Suder and his team will look at:

- Creating a system of paths and drives that promote vehicular and pedestrian mobility and safety
- Instilling a comprehensive and development approach that responds and interacts with rising water levels
- Getting ahead of inevitable future redevelopment that is uniquely Palm Beach in scale and intensity

**Midtown modifications**

Changes could include:

- Creating standards that could allow Addison Mizner designs to be built today
- Considering a refreshed mix of uses and residential options
- Focusing on how buildings interact with the street and sidewalks
- Aligning indoor/outdoor dining regulations

**Size of new homes**

- The confusion and lack of specificity in the town's zoning laws have allowed some builders to erect massive homes that, while built to modern FEMA standards to be above sea level, tower over nearby smaller homes.
- Suder said he and his team will work to balance the property rights of new residents coming in to Palm Beach with the property rights of existing residents.

**Aging infrastructure and buildings**

- The South End, in particular, is home to many aging, oceanfront buildings. As a result, assessments and HOA fees are rising, and probably will continue to so, Suder said
- Last year, the Florida Legislature passed a bill requiring milestone inspections of condominiums three stories in height and within three miles of the coast when the buildings reach 25 years of age. Many South End condo buildings are, or will be, included in that category and will be inspected, Suder said
- Suder said he expects to see redevelopment in the South End in the future

Mayor Danielle Moore said zoning code reform is an important issue for the town, and its consulting team is working carefully to craft a new code that meets the town where it is today.

"We have to be able to figure out how to make this work for today's reality," she said. "Not the reality of the late '70s or early '80s. This is how we do it."

# WATER FEASIBILITY STUDY MOVES ON

By: Ronald Matzner

The Town Council continues to move forward in its exploration of future water supply options for Palm Beach.

From its original six or more possibilities, the Council has decided to pursue three options: (1) remaining with West Palm Beach (WPB) utilizing the current water treatment process; (2) partnering with WPB in the upgrade of its water treatment plant to a new facility using state-of-the-art membrane technology (nanofiltration and brackish water reverse osmosis (RO)); and (3) partnering with the city of Lake Worth Beach (LWB) in a facility upgrade also using nanofiltration and RO.

In recent weeks, Council members have visited the water treatment facilities in WPB, Jupiter, and LWB. Citizens Association co-chair, Skip Aldridge, accompanied Council President Maggie Zeidman on her visit to LWB.

At its March meeting, the Council authorized Mayor Donnie Moore and Town Manager Kirk Blouin to begin negotiations with WPB and LWB. It also authorized the hiring of an attorney to assist in the negotiations.

Emphasizing the seriousness of water to the future of Palm Beach and the complexity of the financial considerations, the Town Council's Finance and Taxation Committee held a public hearing on March 16, its first such hearing since 2017. Committee members Maggie Zeidman and Lew Crampton chaired a deep dive into the cost of the different options, hearing reports from three teams of consultants and receiving estimates of the impact of the various options on residents' water bills.

All five Council members have expressed a clear preference for state-of-the-art membrane technology that will capture the smallest microbes and impurities, while placing the Town in the position to satisfy increasingly stringent Federal requirements

# NEW FLORIDA LAW IMPACTS CONDOMINIUM ASSOCIATIONS

By: MOORHEAD LAW GROUP

SB-4 as passed IN 2022 is the most significant amendment to the Florida Condominium Act in many years. The requirements contained in SB-4 will be difficult to navigate and expensive to fulfill. Condominium associations should formulate a compliance plan now by contacting their legal counsel and licensed architects and/or engineers to identify current threats to building integrity.

## Recap of SB 4-D

SB 4-D puts in place the following safety and preventative measures which must be carefully considered by the Florida condominium associations. The new law requires additional and stringent inspections by licensed professionals and forbids the waiver of reserves for many condominium property components. In recognition of the expense and contracting necessary to implement these changes, the Legislature has provided a two-year period of compliance for many of the requirements. Following is a summary of several important items addressed in SB 4-D.

## Milestone Structural Inspections

Condominium associations with building(s) of 3 stories or more will now be required to perform what has been termed a Milestone Structural Inspection (“MSI”) where a Milestone Inspection Report (“MSR”) must be produced by a licensed architect or engineer. The MSI will analyze a building’s life safety and structural component integrity. The costs of the MSI and the resulting MSR are anticipated to be significant and condominium associations should prepare to fund the MSI. It will be considered a breach of a director’s and/or officer’s fiduciary obligations to willfully and knowingly fail to have an MSI performed by the required dates.

- Buildings 3 stories or higher must perform an MSI by December 31 of the year in which the building is 30 years old (must be performed every 10 years thereafter)
- Buildings within 3 miles of the Florida coastline that are 3 stories or higher must be inspected by December 31 of the year the building is 25 years old (must be performed every 10 years thereafter)
- Buildings with a certificate of occupancy issued on or before July 1, 1992 (30 years or older) must conduct an MSI before December 31, 2024.

## Structural Integrity Reserve Study and Reserve Funding Requirements

In addition to the MSI, condominium associations must perform what has been termed to be a Structural Integrity Reserve Study (“SIRS”). The SIRS must consist of a visual inspection of various condominium property components by a licensed architect or engineer. These components include the condominium’s roof, load-bearing walls, floor, foundation, fireproofing and fire protection systems, plumbing, and any item with a deferred maintenance or replacement cost that exceeds \$10,000. The SIRS is required every 10 years after the condominium’s creation for each building that is 3 stories or higher. If the SIRS identifies any recommended repairs, the association’s board will have 1 year to begin the recommended repair items. Again, it will be considered a breach of a director’s or officer’s fiduciary obligations to willfully and knowingly fail to perform the SIRS by the required dates.



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- The initial SIRS must be completed by December 31, 2024, for each building that is 3 stories or higher (must be performed every 10 years thereafter).
- As of December 31, 2024, a condominium association may no longer refuse to fund (may not waive) or underfund the reserves for items required to be included in a SIRS. Members cannot opt-out of the mandatory funding of reserves for any components included in the SIRS.
- As of December 31, 2024, for items included in the SIRS, a condominium association may no longer use those itemized reserve funds (or any interest accruing thereon) for other purposes, and a condominium association may only use those itemized reserve funds for their designated purposes.

## Reserve Funding

As of December 31, 2024, condominium associations are prohibited from: (i) using reserves for a purpose other than as intended or reserved, (ii) waiving the reserves, or (iii) reducing the funding of reserves for certain structural components of the property. Each condominium association existing on or before July 1, 2022, must provide information to the Division of Florida Condominiums, Timeshares, and Mobile Homes on or before January 1, 2023, regarding the number of buildings that are 3 stories or higher, the total number of units in all buildings, addresses of all buildings, and counties that the buildings are located in.

All inspection reports and studies contemplated in SB-4 must be kept as official records of the condominium association and must be available to members. The Florida Department of Business and Professional Regulation and local municipalities are now required to track condominium buildings and the inspection reporting.

There are discussions regarding future amendments to SB-4, but condominium associations must not depend on any such amendments. These new requirements must be planned for in order to comply with the existing deadlines. Some immediate measures may be taken, such as amending the annual budget to gradually increase assessments

## Shredding Event

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# A1A RESURFACING PROJECT

By: Ronald Matzner

The Florida Department of Transportation (FDOT) has responded to the letters and emails to Governor DeSantis from Mayor Donnie Moore and members of the Citizens Association regarding the proposed resurfacing project along A1A in the South End of Palm Beach. It appears that the letters had, at least, some effect.

The crux of the objections expressed in the letters from the Town and many residents living along A1A was the safety of both vehicular and bicycle traffic approaching Sloan's Curve from the south. The original plans proposed by the FDOT increased the space for bicycles from Lake Avenue to Ibis Way but suddenly delivered cyclists and motorists to a narrow and dangerous Sloan's Curve shoulder. At the time FDOT asserted that there were no plans for a project north of Ibis Way.

In a letter to Mayor Moore dated March 14, 2023, the FDOT announced an additional A1A resurfacing project from Ibis Way to Southern Boulevard that would connect the original project to a third project previously announced from Southern Boulevard to Royal Palm Way. Presumably, the new project will address the safety issues presented by Sloan's Curve.

Design of the new project is scheduled to begin in spring 2023 with construction to begin in fall 2025.

Other issues remain with the original A1A South End project. The FDOT will be holding a second meeting in the South End on April 27. Citizens Association members and residents are encouraged to attend and express their concerns.

. The EPA has recently announced an intention to regulate PFAs, so-called minute "forever" chemicals that are dangerous to our health and remain in our bodies for years. Although the EPA process may take 5-6 years before a final regulation is implemented, it behooves Palm Beach to get out ahead of the requirement.

Council members have also expressed a clear preference not to be a mere water customer any longer, as the Town currently is with WPB, without any decision-making role or authority. Therefore, a focus of negotiations with WPB and LWB will be whether one or both are willing to create a multi-government water authority including Palm Beach and perhaps other local communities. If such an authority were created, what would be the role of Palm Beach on the Board and its decision-making authority?

The importance of being part of a multi-entity authority and board became even more obvious during a presentation at the meeting by Jay Glover, PFM Financial advisors, Inc, a financial advisor to the Town and expert on Water and Sewer Revenue Bonds. One of the key issues arising out of the Water Feasibility Study has been how Palm Beach is going to pay for it.

Water plants and facilities are usually financed by issuing long term 30-year water revenue bonds which are secured by the net revenues of the water system. A customer cannot issue a revenue bond. Only the owner of a facility can issue such a bond. Hence the need to establish a separate water authority in which Palm Beach is a member. The Water Authority would issue the bonds.

Finally, the consultants presented early estimates of revenue increases required to pay the water bond obligations. The estimates varied greatly depending on the facility option which will eventually be chose and the consultants' assumptions regarding the outcome of negotiations. But according to the consultants, residents' water bills might increase anywhere from 20% to 200%.

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