

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

CIVIL DIVISION

CASE NO.:

BAYSIDE VILLAGE EAST
CONDOMINIUM ASSOCIATION,
INC., a Florida Non-Profit
Corporation.

Plaintiff,

vs.

MICHAEL KADOSH,

Defendant.

COMPLAINT

COMES NOW BAYSIDE VILLAGE EAST CONDOMINIUM ASSOCIATION, INC.,
a Florida Non-Profit Corporation, Plaintiff, and sues MICHAEL KADOSH, Defendant and
for its' Complaint states:

COUNT I

ACTION FOR DAMAGES

1. This is an action for damages in excess of \$15,000.00, exclusive of costs, interest and attorney's fees and within the jurisdictional limits of this Court.
2. Plaintiff, BAYSIDE VILLAGE EAST CONDOMINIUM ASSOCIATION, INC., is a Florida Non-Profit Corporation, organized and existing in the State of Florida, whose principle place of business is Miami-Dade County, Florida.
3. Defendant, MICHAEL KADOSH, is a resident of Miami-Dade County, Florida and is otherwise *sui juris*.
4. Plaintiff is entitled to relief upon the following facts:

a. On August 21, 2012 at an annual meeting of the board of directors of Bayside Village East Condominium Association, Inc., the board of directors voted and adopted a resolution that all condominium unit owners must comply with Class A qualification for windstorm and property insurance including the installation of accordion shutters and impact windows to obtain a discount on the windstorm insurance policy of approximately 15 to 20% of the cost of the policy.

b. On October 23, 2012 demand was made upon the Defendant, Michael Kadosh and all unit owners to make installation pursuant to the resolution of the board of directors at the annual meeting granting the Defendant and all unit owners until June 1, 2013 to comply. Attached hereto and made part hereof as Exhibit "A" is a copy of the October 23, 2012 letter sent from Bayside Village East Condominium Association, Inc. to Michael Kadosh advising of the board of directors vote requiring that all unit owners be in compliance with Class A accordion shutters and impact windows which would also have the effect of reducing the cost of insurance for the association and the unit owner, together with a proposed contract from Optimum Contractors, Inc.

5. The board of directors of the Plaintiff listed three vendors available to the Defendant and all unit owners to make the improvements ordered by the board of directors.

6. Over twenty two months has elapsed since October 23, 2012 and the Defendant, Michael Kadosh has willfully failed and refused to make the repairs as ordered by the board of directors and adopted in their resolution.

7. Defendant is the only unit owner of Bayside Village East Condominium Association not in compliance with the resolution of the board of directors.

COUNT II

INJUNCTIVE RELIEF

13. Plaintiff re-adopts and re-alleges the allegations contained in paragraphs 1 through 12 above as fully stated herein.

14. This is an action for mandatory injunction.

15. Defendant steadfastly fails and refuses to make the repairs as voted, authorized and ordered by the board of directors of Bayside Village East Condominium Association, Inc. in conjunction with securing the Class A Wind Protection of accordion shutters and impact windows.

16. The acts of the Defendant in failing to comply with the vote of the board of directors are willfull.

17. Defendants failure to comply with the resolution of the board of director there is a likelihood of irreparable harm and unavailability of adequate remedy at law.

18. There is a substantial likelihood that the Plaintiff will succeed on the merits and the threat and injury to the Plaintiff outweighs any possible harm to the Defendant.

19. The granting of a mandatory injunction would not disserve to the public interest.

20. Plaintiff has retained the undersigned counsel and is obligated to pay him a reasonable attorney's fee pursuant to the Declaration of Bayside Village East Condominium, Recorded in Official Records Book 13718 Page 1001 of the Public Records of Miami-Dade County, Florida, in particular paragraph 19 of same. the prevailing side is entitled to costs and attorney's fees. Attached hereto as Exhibit "B" is

8. Because of the Defendant, Michael Kadosh's non-compliance, the association has been unable to obtain the maximum discount for the cost of the policy of insurance.

9. The Plaintiff has caused on numerous occasions, demand letters to be sent to the Defendant by their counsel and Defendant continues to fail and refuse to make the repairs.

10. All conditions precedent to this action has been complied with by the Plaintiff or waived by the Defendant.

11. The Plaintiff has suffered damages for the amount necessary to make the repairs to Defendants condominium unit and has suffered damages for the loss of the discounts as a result of the Defendant's willfull failure to comply with the resolution of the boards of directors.

12. Plaintiff has retained the undersigned counsel and is obligated to pay him a reasonable attorney's fee pursuant to the Declaration of Bayside Village East Condominium, Recorded in Official Records Book 13718 Page 1001 of the Public Records of Miami-Dade County, Florida, in particular paragraph 19 of same, the prevailing side is entitled to costs and attorney's fees. Attached hereto as Exhibit "B" is the relevant paragraph 19, page 37 of the Declaration of Bayside Village East Condominium.

WHEREFORE the Plaintiff, Bayside Village East Condominium Association, demands judgment against the Defendant, Michael Kadosh for a sum in excess of \$15,000.00, to be determined by this Court, plus costs, interest and attorney's fees for all damages.

the relevant paragraph 19, page 37 of the Declaration of Bayside Village East Condominium.

WHEREFORE Plaintiff, Bayside Village East Condominium Association, Inc., demands judgment against Defendant, Michael Kadosh for mandatory injunction, and the Court compel Michael Kadosh to make all windstorm repairs and install the according shutters and impact glass windows forthwith, as prayed for together with costs, interest and attorney's fees.

Dated: 8/19/14

GUY SPIEGELMAN, ESQUIRE
Counsel for Plaintiff
Suite 912 - Biscayne Building
19 West Flagler Street
Miami, Florida 33130
Telephone: [REDACTED]
Facsimile: [REDACTED]
e-mail: [REDACTED]

By: [Signature]
GUY SPIEGELMAN, ESQUIRE
Fla. Bar No.: 169689



BAYSIDE VILLAGE EAST CONDOMINIUM
ASSOCIATION INC.

Dear Mr. Michael Kadosh
2034 Fisher Island Drive
Fisher Island, FL 33109

VIA CERTIFIED MAIL

October 23, 2012

Dear Mr. Michael Kadosh

The Bayside Village East Condominium Association ("the Association") completed its inspection of the Association's buildings to qualify for all wind mitigation credits on the property insurance policy, a measure which will greatly reduce the Association's, and in turn your Unit's, insurance costs. The inspect [REDACTED] acted on behalf of the Association has determined that your unit has not taken the necessary measures to qualify for current Class A Hurricane Wind Protection which, when complete throughout the entire Association, will qualify Bayside Village East for these significant discounts.

Therefore, pursuant to the August 21, 2012 Annual Meeting (minutes attached) at which the Board of Directors voted to require all Units comply with the Class A qualification, the Association now hereby requires compliance with said requirement: June 1st, 2013.

The Association has worked together with CSI Management to identify a list of Fisher Island approved vendors whom have [REDACTED] similar improvements and can be contacted immediately to arrange installation after which your Unit may be re-inspected to verify compliance, as follows:

Pectz Windows & Doors: John [REDACTED] Bayer 954-659-3887 or 305-586-6543
Ready Windows & Sales: Juan Lopez 786-308-8582 / 954-479-7582
Windoor Impact: Luis Jaime 305-254-8212 or 305-308-7894

Should your Unit not comply with the requirement by June 1, 2013, the Association may remedy your Unit at its expense and create an assessment to your Unit which may become a claim of lien against your property if not paid.

Furthermore as the Association will fail to qualify for a discount against its Property Insurance policy of approximately 15 to 20 % as the result of failure to [REDACTED] remedy the

EXHIBIT "A"

openings in your Unit as required, the Association will also assess your Unit a monthly pro-rata share of the lost discount until such a time as this matter is resolved and inspected appropriately. Finally, should incidental damage occur as the result of your Unit's openings remaining unprotected, the Association shall hold the Unit fully liable for any direct or indirect damages which may result accordingly.

Please contact me directly as soon as possible to confirm your arrangements to comply with this important directive.

Sincerely,

Alex Datz, LCAM
CSI Management Services
6 Fisher Island Drive
Miami, FL 33109
305-672-8724
305-962-2618

cc: Board of Directors

OPTIMUM CONTRACTORS, INC.

Box 960753
Miami, Florida 33296
Licensed/Insured
CGC # 052834
Phone 786-406-2259

PROPOSAL/CONTRACT

February 28, 2014

To: Mr. Kadosh

Project: Same

Attn: Alex Danz

Description:

We are pleased to submit our proposal for the above-mentioned project. Our bid is based on our physical take off and review of existing conditions. Prices quoted are for our FL. Building Code Approved Impact Accordion Shutters, manufactured by Guardian Hurricane Protection with Windows Manufactured by RC Aluminum Industries.

Scope of Work:

Furnish and install impact accordion shutters at 12 openings and impact windows at 3 openings having fixed glass with White Kynar Paint, 7/16" glass and Double Colonial Grids

Accordion Shutters	\$ 9,475.00
Impact Windows	3,384.00
Engineering & Building Permit	650.00
Total	\$ 13,509.00

TOTAL COST:

\$ 13,509.00

NOTE: All above mentioned work includes materials furnished and installed, existing non-impact shutters & windows removed and disposed of, masonry and stucco repair as needed, touch up paint to match existing.

OPTIMUM CONTRACTORS, INC

- ❖ Terms: 50 % deposit upon signing of contract, and 50% balance due upon completion
- ❖ Owner/Contractor will be responsible for supplying electricity, water, and bathroom facilities.
- ❖ Conditions: Quotations are subject to acceptance within 30 days thereof.

Note: Any additional work required other than already agreed to and mentioned in this contract can be done by Optimum Contractors, Inc. either at a negotiated price or on a time and material basis.

Optimum Contractors, Inc. shall not be responsible for any unforeseen existing conditions, OR ANY DAMAGE TO TILE WHICH CAN NOT BE AVOIDED!!!!!!!

All work shall be conducted in a professional like manner and the project shall be picked up and left clean at the end of each workday.

In signing of this document both parties are hereby entering into a legally binding contract.

Optimum Contractors, Inc.

Name

Title

Date

Date

13718-1061

Prepared by:
Cary A. Noel, Esq.
Greenberg, Trautman, Grimmer,
Lipoff, Rosen & Quentel, P.A.
1071 Brickell Avenue, 25th Floor
Miami, Florida 33131

DECLARATION
OF
BAYSIDE VILLAGE EAST CONDOMINIUM

ISLAND DEVELOPERS, LTD., a Florida limited partnership hereinafter called the "Developer" does hereby declare as follows:

Introduction and Submittals.

- 1.1 The Land. The Developer owns the fee title to certain land located in Dade County, Florida, as more particularly described in Exhibit "1" annexed hereto (the "Land").
- 1.2 Submission Statement. The Developer hereby submits the land and all improvements erected or to be erected thereon and all other property, real, personal or mixed, now or hereafter situated on or within the Land - but excluding all public utility installations therein or thereon - to the condominium form of ownership to be used in the manner provided for in the Florida Condominium Act as it exists on the date hereof and as it may be hereafter renumbered. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid, shall for any purpose be deemed part of the Condominium or be subject to the provisions of the Association, the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto.
- 1.3 Name. The name by which this condominium is to be identified is BAYSIDE VILLAGE EAST CONDOMINIUM (hereinafter called the "Condominium").

Definitions. The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- 2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof and as it may be hereafter renumbered.
- 2.2 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as amended from time to time.
- 2.3 "Assessment" means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
- 2.4 "Association" or "Condominium Association" means BAYSIDE VILLAGE EAST CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, the entity responsible for, inter alia, the operation of the Condominium.

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- 19.3 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, the Master Covenants, or any other agreement, document or instrument affecting the Condominium Property or administered by the Community Association, in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines or to sue in a court of law for damages.
- 19.4 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).
- 19.4 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

20. Termination of Condominium. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least 80% of the applicable interests in the Common Elements and by the Primary Institutional First Mortgagee. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County.

This Section may not be amended without the consent of all Institutional First Mortgagees and the Developer as long as it owns any Unit.

21. Additional Rights of [REDACTED] Others.

- 21.1 Institutional First Mortgagees shall have the right, upon written request to the Association, to: (i) examine the Condominium documents and the Association's books and records, (ii) receive a copy of the Association's financial statement for the immediately