

Charles W. Drago, Secretary

Charlie Crist, Governor

VIA Email to:

August 14, 2009

Mr. William H. Lee

Re: GOLFSIDE VILLAS CONDO ASSN INC (Association)
Case No. 2009024331

Dear Mr. Lee:

The Division of Florida Condominiums, Timeshares, and Mobile Homes has completed the investigation of your complaint and is closing the case at this time.

The following is a summary of the issues in your complaint and the resolution:

1. You stated that in August 2004 Hurricane Charlie caused major damage to 32 units and minor damage to 19 units of the total 112 units in the condominium; all repair work was done by the Association including what was unit owners' responsibility (drywall, paint, interior doors, light fixtures, cabinets, tiles, plumbing, electrical, a/c, etc), and when the Association's insurance disbursed funds for these damages the Association disbursed the funds to the unit owners for work that had already been done. You further stated that receipts from unit owners and unit owners' release forms cannot be found.

As previously relayed to you, the Association was cited by a Warning Letter issued on July 8, 2008, in Case No. 2006026509 for failure to maintain accurate, itemized, and detailed accounting records, as evidenced by the fact that the Certified Public Accountant (CPA) was unable to prepare year end audited financial statements for the years 2005 and 2006 due to the inability to obtain necessary records, including those involving the insurance proceeds. The Division cannot investigate this issue when it is already aware that all of the necessary accounting records from the Association for an investigation are unavailable. Pursuant to resolution guidelines in the Florida Administrative Code, a repeat violation of the same or similar nature within two years from the resolution of a first citation may result in further administrative action including the issuance of civil penalties; therefore, only those records required to be maintained after the resolution of this issue in Case No. 2006026509 can be required to be produced for any subsequent investigation.

Additionally, you should be aware that the Florida Condominium Act was amended effective July 1, 2008, to substantially clarify requirements regarding insurance coverage, responsibility, assessments, and payments. (See section 718.111(11), Florida Statutes). This change in the statute was not retroactive for occurrences prior to the effective date, and under the previous statute language, the Division had limited authority to regulate an Association's insurance damage assessments and payments for incidents occurring prior to the

date of the change in the Act, July 1, 2008. This issue will be closed with no further activity and without the finding of a violation. You may however, wish to consult with an attorney to ascertain if there is a cause of action that could be decided in civil court.

2. You stated that the Association failed to include insurance proceeds in the amount of \$1,053,643.34 in its 2007 year end financial statements.

Investigation has revealed that the actual settlement of the insurance claim for damages was reached in fiscal year 2006 even though the final check in the amount of \$1,053,643.34 payable to the insurance trustee, John Leklem P.A. and the Association is dated in 2007. Under the accrual method of accounting, which is required for all condominium financial statements, revenue is recognized when it is accrued, not when it is actually received. Therefore, under the accrual method of accounting this would have been in the 2006 year end financial statements. As you are aware, the CPA was unable to prepare 2005 and 2006 audited financial statements due to the lack of necessary accounting records. Nevertheless, the final amount was not deposited in the Association's bank account, but rather deposited in the insurance trustee's escrow account and disbursed by the insurance trustee. The end result did not affect the Association's Balance Sheet. Whether the CPA should have disclosed the transaction in the notes of the year end financial statements is not an issue that the Division wishes to challenge the CPA on; this Division does not regulate CPAs and their judgments on generally accepted accounting principles. CPAs are regulated by the Board of Accountancy in the Division of Professional Regulation. This issue will be closed with no further activity and without the finding of a violation.

If you have any questions regarding the above, please do not hesitate to contact me by telephone at 850-488-1124, by fax at 850.488.7149, or by email at Debbie.Stancliffe@dbpr.state.fl.us

Thank you for the opportunity to be of service and please let us know if we can assist you in the future.

Sincerely,
BUREAU OF COMPLIANCE



Debbie Stancliffe
Financial Examiner/Analyst