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

FINAL REPORT
OF THE
MIAMI-DADE COUNTY GRAND JURY

SPRING TERM A.D. 2021

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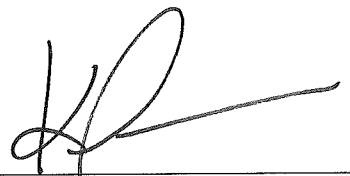
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December 15, 2021

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THE SURFSIDE CONDO COLLAPSE TRAGEDY: RECOMMENDATIONS TO MAKE BUILDINGS SAFER

I. INTRODUCTION

During the early morning hours of June 21, 2021, a significant portion of the Champlain Towers South condominium building in Surfside, Florida collapsed. When portions of the 12-story 136-unit residential building pancaked on itself, scores of condo unit owners, renters, visitors, workers, family and friends were crushed to death under tons of construction debris, furniture, appliances, roofs and air conditioning units. Except for a 14-year-old child, who was discovered near the top of the two-story tall pile of rubble, first responders were not successful in rescuing any survivors. They recovered and identified remains for 98 known persons who died in this tragic event. Our community will forever be in debt to the first responders, both local and from abroad, who came to search for survivors. We cannot let this happen again!

As of the release of this Grand Jury report we still do not know the cause of the collapse. The National Institute of Standards & Technology (NIST) along with many engineers, scientists and other experts are all involved in trying to discover the definitive answer as to why the Champlain Towers South condominium building collapsed. That is not our task here.

Instead, for our focus we decided to look at the policies, procedures, protocols, systems and practices of many of the participants involved in making sure that buildings in our communities are designed and constructed in a safe manner, that residents of those buildings effectuate timely and appropriate maintenance of their buildings so that they remain safe and habitable, and officers and officials exercise appropriate oversight to ensure all of the above. Unfortunately, as to Champlain Towers South there were failings at every level and for all of the participants.

Our investigation into the policies, procedures, protocols, systems and practices revealed many troubling issues and raised several concerns. Our recommendations included below are designed to 1) improve the ability of governmental officials to timely identify and address buildings with major issues that may impact life safety concerns of their residents; 2) highlight environmental issues in South Florida which may be hastening the deterioration of primarily older buildings; 3) suggest ways to identify such deterioration, ameliorate it or make modifications and improvements to alleviate it; 4) propose revised procedures that should result in better compliance and timely submittals of the 40/50 year recertification reports and documents; 5) give building officials more authority/power in their ability to take action against condo boards which fail to comply with the 40/50 year recertification process; and 6) for transparency purposes and so that residents can feel safe, require condo boards to provide electronic posting and on-line access to building owners, authorized renters, and sublessees of all inspection reports, permits, and code violations issued against their building.

II. THE 40-YEAR RECERTIFICATION PROCESS

As the world consumed all the media coverage that followed the tragedy in Surfside, we were all made aware of the fact that at the time of the partial collapse, the Champlain Towers Condo Board was in the process of securing compliance with the South Florida Building Code's 40-year recertification requirement.[1] Surprisingly, the creation and implementation of the requirement for a 40-year building recertification followed another tragic event in Miami-Dade County: the partial collapse of the federal office building housing the United States Drug Enforcement Administration (DEA) Miami Field Division. That building collapsed on the morning of August 5, 1974, crushing to death 7 DEA employees and injuring 15 others. The rooftop parking lot caved in causing the partial collapse.

The DEA building was constructed in 1925, making it 49 years old at the time of the collapse. Comparably, construction of the Champlain Towers South building was completed in 1981, making the 12-story luxury condo 40 years old at the time of its partial collapse. **A lot can happen to a building in forty (40) years** and that is where we will start our discussion.

A. The 40-year Recertification Requirement Should be Reduced

Yes, a lot can happen to a building in 40 years. And in spite of that fact, out of Florida's 67 counties, Miami-Dade County and Broward County are the only 2 which impose compliance with the South Florida Building Code and its 40-year recertification requirement. The 40-year recertification requires buildings in Miami-Dade County and Broward County be inspected to make sure they are structurally sound and electrically safe for continued use and occupancy. The safety inspection must meet a set of specific requirements and be performed by a licensed engineer or architect. Both counties have rules in place that mandate structural and electrical safety inspections for buildings 40 years old or older, and then, every ten years thereafter.

The scope of these issues and the recommendations set forth herein extend beyond the borders of Miami-Dade and Broward County. The significance of the importance of this issue outside South Florida is apparent with the review of a few numbers. Based on data received from the Department of Business and Professional Regulations, there are more than 1.5 million condominium units in Florida. Those units provide housing and shelter for more than three and a half million Florida residents. More than 912,000 of those 1.5 million condo units (60%) are more than 30 years old. Those 912,000 condo units house 2.2 million Florida residents, and over 40% of those are located in the Tri-county area of Miami Dade, Broward and West Palm Beach. Even though the majority of the condo units are located in South Florida, 40% of the 1.5 million condominium units are housing residents in other parts of our state.[2] Therefore, we believe the

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[1] https://www.miamidade.gov/permits/library/recertification-building.pdf

[2] One of the articles released during our Term carried this headline: *72 Units of Central Florida Condo Complex Deemed Unsafe, Residents Relocated.* This condo was located in Kissimmee, Florida.

Surfside tragedy and this report should be a wake-up call for state and local governmental officials throughout our state.[3]

For a host of reasons, we believe the 40-year recertification inspection should occur much earlier. We are not alone in this view.

At its August 24, 2021 meeting, the Boca Raton City Council passed an ordinance that will require buildings in Boca Raton that are 30 years or older to have recertification inspections.[4] This would apply to buildings greater than 50 feet or 3 stories in height and which hold more than 400 occupants. After the initial 30-year recertification process, buildings are subject to be recertified every 10 years.[5] The goal of Boca Raton's Ordinance 5589, the Building Recertification Program, is to increase building safety and revise the city's current recertification policies and procedures. The ordinance includes timeframes for recertification and repairs and has penalties for buildings failing to submit a recertification plan or complete repairs. The City of Boca Raton, which has 242 buildings in the City which meet the criteria for the new recertification program, passed the ordinance in the aftermath of the Surfside collapse. Neither Palm Beach County nor Boca Raton had a recertification process in place before the collapse. We appreciate and praise the counties of Miami-Dade and Broward for being the first to enact ordinances that mandate these critically important re certification inspections. We anticipate, and hope, that other jurisdictions, like Boca Raton, will also take this important step and institute measures designed to ensure the building their residents live in are structurally sound and electrically safe.

In addition to the City of Boca Raton enacting a 30-year recertification requirement, professionals who are intricately involved in this process are also taking a stand against the continuation of the 40-year recertification requirement. For instance, after the partial collapse of the 12-story beachfront property in Surfside, a coalition of 7 of the state's engineering and architecture professional associations formed the Surfside Working Group to come up with ideas to prevent the occurrence of another such tragedy. One of the Group's recommendation is that the State of Florida should consider requiring high-rise buildings near the coast (buildings within 3 miles of saltwater) to undergo safety inspections every 20 years with follow-up safety inspections every seven years. Based on the recommendations from their report, nearly all other large buildings in Florida should be inspected for structural problems within their first 30 years, with

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https://www.nbcnews.com/news/us-news/72-units-central-florida-condo-complex-deemed-unsafe-residents-relocated-n1272941. Clearly, building safety and inspections are not just a South Florida problem.

[3] There are 1,529,764 residential condominium units in the State of Florida operated by 27,588 associations. Of those units, 105,404 are 50 years old or older, 479,435 are 40-50 years old, 327,537 are 30-40 years old, 141,773 are 20-30 years old, 428,657 are 10-20 years old, and 46,958 are 0-10 years old. It is estimated that there are over 2,000,000 residents occupying condominiums 30 years or older in the State of Florida, based upon census data of approximately 2.2 persons living in an average condominium unit.

[4] https://www.myboca.us/2058/Building-Recertification-Program

[5] https://patch.com/florida/boca-raton/city-boca-raton-city-approves-new-building-recertification-program

follow-ups every 10 years.[6] Clearly, the Surfside Working Group believes a 40-year time period is too long.

Another group of professionals is of the same opinion. After the collapse, another group was formed, the Condominium Law and Policy Life Safety Advisory Task Force (CLPL Safety Advisory Task Force). Similar to the formation of the Surfside Working Group, the CLPL Safety Advisory Task Force was formed. It consisted of a diverse group of professionals, primarily condominium attorneys with experience in the formation, development, governance and operational issues of residential condominiums who represent a broad spectrum of interested groups, including condominium associations, boards of directors, unit owners, developers and others involved in the development, governance and operation of condominium projects.[7] The CLPL Life Safety Advisory Task Force released its report on October 13, 2021. Concerned about another collapse, the Safety Advisory Task Force included a recommendation that by December 31, 2024, every residential condominium building in Florida three stories or greater in height, be inspected and the condo association obtain an inspection report under seal of a licensed Florida architect or engineer. The Task Force also recommended that an updated report should also be required every five years thereafter.[8] The Task Force also recommended requiring periodic structural and life safety inspections of all condominiums and cooperatives with vertical construction of 3 stories or greater after transition of control to unit owners. Thereafter, updated reports would be required every five years. These recommendations are a clear retreat from the 40-year recertification presently required in Miami-Dade and Broward County and the 30-year certification ordinance the City of Boca Raton recently enacted.

Almost every expert and industry representative who testified to our grand jury opined that they thought 40 years was entirely too long to wait for a safety inspection which would determine the structural, electrical and life safety of buildings and residents in our communities. Reports in the news media added to this chorus.[9] There were several reasons offered for reducing the 40-year

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[6] The coalition's report can be found here: https://www.enr.com/articles/52822-spurred-by-collapse-group-calls-for-recertification-of-floridas-existing-buildings

[7] The mission of the task force was to engage in information-gathering and fact-finding through the review of all aspects of Florida condominium law, development, construction, association operations, and maintenance to determine if changes or additions to legislation and or regulations could prevent or minimize the likelihood of another tragedy like the Champlain Towers South condominium collapse or similar tragedies in the future.

[8] The report of The Condominium Law and Policy Life Safety Advisory Task Force can be found here.: https://www.floridabar.org/the-florida-bar-news/condominium-law-and-policy-on-life-safety-issues-advisory-task-force-report/

[9] https://www.local10.com/news/local/2021/10/28/engineers-call-for-more-inspections-after-surfside-condo-collapse/ . The report calls for inspections on a wide range of buildings, including condominiums, offices and other structures that exceed 10 occupants and are covered by the state's building code. https://www.sun-sentinel.com/local/palm-beach/fl-ne-palm-beach-county-25-year-building-inspection-20210816-ykbocbw27vff3fl7zmwxo3m64q-story.html 25-year inspections proposed for Palm Beach County buildings east of I-95; https://www.floridacondotelmortgage.com/task-force-calls-for-tighter-condo-regulations-but-a-key-building-official-may-stand-in-the-way-fl/ Task force calls for tighter condo regulations, but a key building official may stand in the way (FL)

time frame to a lesser number of years. One of the major reasons offered for this opinion is due to the marine environment that exists in coastal communities throughout South Florida. As discussed in greater detail later in this report, the salt air and the saltwater are unrelenting in the damage they do to buildings and equipment/machinery in and around those buildings.

From our perspective, a second reason for reducing the 40-year time frame to a lesser number of years is that if a building has not been maintained, and through neglect and failure to enforce regular and routine maintenance has deteriorated, by the time the 40-year recertification period arrives, the financial impact of paying the costs for the mandatory major repairs attendant thereto will be totally prohibitive. The case in point is the Champlain Tower South condo building. Because the building was neglected and inadequately maintained over an extended time-period, the engineer's estimate of the probable construction costs for the 40-year Remediation Repairs to Champlain Towers was in excess of $14 million dollars!

To our surprise, requiring an initial inspection on a time schedule much less than the 40-Year Recertification in the Miami-Dade County Ordinance is not new. In fact, our review of the CLPL Life Safety Advisory Task Force Report revealed the following information:

> In 2008, the Florida Legislature adopted a requirement that every building greater than three stories in height to be inspected every five years as part of Section 718.113 of the Florida Condominium Act. This law required that condominium buildings over 3 stories be inspected under seal of an architect or engineer attesting to required maintenance, useful life, and replacement costs of the common elements. In 2010, this law was repealed for what was stated in the Senate Staff Report as "cost-savings measures".[10]

In hindsight, it would appear the Legislature's repeal of that statute was a huge mistake!

After the collapse, the City of Surfside also took steps to get certifications done before the 40-year timeline. On July 1, 2021 the City issued a notice to building owners including multi-family, commercial and hotel structures over 3 stories, that it was accelerating its 40 -year Building Recertification Program. Specifically, the notice advised:

> In light of this tragedy and in an abundance of caution, we are requesting owners of buildings over 30 years old and over 3 stories in height to begin assessing their buildings for recertification in advance of their 40-year deadline. We request all owners of structures over 30 years old and over three stories in height to follow the Miami-Dade 40 Year Recertification Program as found on these links: https://www.miamidade.gov/permits/library/structural-recertification.pdf https://www.miamidade.gov/permits/library/electrical-recertification.pdf
>
> In addition to hiring a Florida Registered Structural Engineer to perform the above analysis, we also request all property owners as referenced above, especially those with structures on the east (ocean) side of Collins Avenue, hire a Florida Registered Geotechnical Engineer to perform an analysis of the foundation and subsurface

[10] Report of The Condominium Law and Policy Life Safety Advisory Task Force, at pg. 14

soils. Please be advised it is the owner's responsibility to regularly maintain buildings per Miami-Dade Code Chapter 8-11. Please provide us with your written action plan by email to: buildingpermits@townofsurfsidefl.gov within 30 days of this notice.[11]

The fact that the City of Surfside is asking owners of all structures older than 30 years old to start their 40 year certification now, and the fact that they have requested a written copy of the action plan within 30-days of receiving the notice is another indication to the grand jury that 40-years is too long to wait for the initial certification inspection.

For these reasons, and based on the collective opinions of the experts, *we recommend that the Miami-Dade County Ordinance requiring the 40-Year Recertification be amended to provide for a certification process that starts much earlier than 40 years. Specifically, we recommend the initial detailed certification inspection would be performed no less than 10 years and no more than 15 years after completion of construction of the condominium building or other residential property with updated reports required every 10 years thereafter.*[12] *Building owners who have already submitted Recertification Reports would be required to provide updated reports 10 years after their initial submittal and every 10 years thereafter.*

In connection with the above recommendation, we further recommend that owners of buildings 10 years or older be given a deadline to have their initial detailed inspections completed and those inspection reports filed with Local Building Officials. We recommend that the deadline be no later than December 31, 2023.

B. The Need for Owners to Conduct Regular and Routine Maintenance of Their Building

The 40-year recertification requirement does not preclude or exclude the requirement of building owners to "maintain" their buildings. In fact, Section 8-11(a) of the Miami-Dade County Building Code provides as follows:

> (a) The requirements contained in the Florida Building Code, covering the maintenance of buildings, shall apply to all buildings and/or structures now existing or hereafter erected. All buildings and/or structures and all parts thereof shall be maintained in a safe condition, and all devices or safeguards that are required by the Florida Building Code shall be maintained in good working order.

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[11] https://www.townofsurfsidefl.gov/docs/default-source/default-document-library/building/notice-to-building-owners--acceleration-of-40-year-building-recertification-program.pdf?sfvrsn=c21b1194_8

[12] Our repeated references and recommendations throughout this report to improve the 40-year recertification process should in no way be seen as diminishing or dismissing our primary recommendation of requiring mandatory inspections well before the buildings reach the 40-year mark.

Maintaining buildings and structures "in a safe condition" requires regular and routine maintenance and repairs.

One may purchase a brand-new luxury vehicle or lesser expensive basic mid-sized car. Both will come with the manufacturer's recommended schedule for routine maintenance and service during and after the warranty period. Due to the costs of maintenance and servicing one may choose to ignore the recommended tune-ups. However, such kicking the problem down the road mentality may lead to a ruined transmission, a damaged engine and a set of brakes that go out during an emergency. The failure of the owner to provide routine maintenance and servicing of their automobiles not only puts the owner at risk of danger and liability, but also puts other drivers on the roadway at risk. Car buyers do not buy a new car with the expectation that they will have their car undergo its first inspection 40 years, 20 years, 10 years, or even 5 years after the initial purchase. Similarly, condo and other building owners should not kick maintenance repairs down the road, waiting for a huge first inspection when the building reaches 40-years old. Condo owners should feel secure in the knowledge that maintenance repairs will not be deferred by their condo association.

Section 8-11(f) of the Miami-Dade County Ordinance states:

> (f) Recertification of buildings and components:
>
> (i) For the purpose of this Subsection, recertification shall be construed to mean the requirement for specific inspection of existing buildings and structures and furnishing the Building Official with a written report of such inspection as prescribed herein.
>
> Such inspection shall be for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible of any part, material or assembly of a building or structure which affects the safety of such building or structure and/or which supports any dead or designed live load, and the general condition of its electrical systems pursuant to the Building Code.[13]

The aforementioned provisions of the Building Code clearly demonstrate that the 40-year recertification and the attendant inspections process **presumes** that in the decades leading up to the 40-year recertification, owners have maintained their building in a safe condition. The only way to achieve this is through regular and routine maintenance and repairs. During our investigation we discovered that a number of the major problems that threatened the safety of condemned and red-tagged buildings were problems that could have been avoided had critical repairs been made in a timely fashion. As will be discussed later in this report, there are a number of environmental factors impacting buildings in the coastal areas of South Florida. The environmental elements initiate corrosion and rusting. Uncorrected, the deterioration escalates,

[13] Miami-Dade County Ordinances 8-11(f)(2)

the damage becomes more severe, and the cost of the repairs skyrocket. The cliché, "a stitch in time saves nine" is most fitting for this situation.

As part of our educational process, we learned there are some relatively inexpensive measures condominium associations can take to help protect and preserve their buildings. Routine painting of exterior building surfaces is a preventative measure that provides huge benefits in the form of protecting the building from water intrusion. Waterproofing roofs and exterior building surfaces are other relatively inexpensive measures that could go a long way to providing protection from water intrusion. Routine painting coupled with the application of waterproofing materials will help preserve and protect buildings while also reducing the structural damage that will occur to buildings which sustain water damage and water intrusion over an extended period of time. Experts opine that painting every 7 years should afford an appropriate level of protection and extend the life expectancy of building structures.

In light of our prior recommendations seeking to change the 40-year recertification to a 10-year recertification requirement, *we recommend that Local Building Officials require building owners to paint and/or waterproof their exterior building surfaces at least every 10 years.*

We further recommend that the approved form used to specify the areas inspected during recertification inspections be amended to include painting and waterproofing. We recommend that the engineer or architect record the year the exterior building surfaces and roofs were last painted or treated with waterproofing.

One of the other areas we saw potential for improving the safety of condo building residents involved the checklist and areas of inspection presently required in connection to a recertification. The document utilized by the architects and engineers lists (and limits) the areas to be inspected. Generally speaking, the areas to be inspected for the "*Minimum Inspection Procedural Guideline for Building Structural Recertification*" are as follows:

a. Foundation
b. Roofs
c. Masonry Bearing Walls
d. Floor and Roof System
e. Steel Framing System
f. Concrete Framing System
g. Windows
h. Wood framing
i. Loading

The areas listed above with sub-lists for comments and ratings are the present **minimal standards** necessary for recertification. We think the scope of the areas to be inspected should be enlarged and there is already an available checklist to use for that purpose.

Pursuant to Section 718.301(4)(p) of the Condominium Act, a *Developer Turnover Inspection Report* must be provided once construction of a new condominium is complete and

control of the association is being turned over to the unit owners. When that happens, the developer is required to provide an inspection report under seal of an architect or engineer, attesting to the required maintenance, useful life, and replacement costs of the following items:

a. Roof
b. Structure
c. Fireproofing and fire protection systems
d. Elevators
e. Heating and cooling systems
f. Plumbing
g. Electrical systems
h. Swimming pool or spa and equipment
i. Seawalls
j. Pavement and parking areas
k. Drainage systems
l. Painting
m. Irrigation systems

Clearly, this list is more exhaustive than the one used for the recertification process. *The Developer Turnover Inspection Report*, with these criteria, is required when the building is brand new. As this expanded list allows for a more thorough evaluation of the condition of the building, we believe using this checklist for periodic inspections that we recommended earlier in this report and for the recertification of buildings would be a prudent step. Using this list would provide a more intense examination of the building structure and other components that impact life safety of building residents.

Accordingly, we recommend *that the Local Building Officials adopt the Developer Transfer Report guidelines as the new standard and scope of areas of investigations for recertifications.*

We further recommend that to the extent our prior recommendation mandating periodic inspections before recertification inspections is accepted, that condo board members will have their engineers or architects use the developer transfer report guidelines as the standard and scope for those inspections.

We further recommend that inspecting engineers who observe significant deterioration during their inspections consider whether they should include primary and secondary analyses in their evaluation, which may include a review of initial building design plans.

It is apparent from our review of the engineer's *Structural Field Survey Report,* correspondence from Condo Board Association Officers and photographs taken of Champlain Towers, that regular and routine maintenance and repairs were not being conducted at the Champlain Towers South Building. All parts thereof were not being "maintained in a safe condition." Letters from one of the Condo Board Officers come across as a desperate plea to condo owners and officers to vote in favor of approving the commencement of the much-needed repairs. It appears that the enormous costs of making those repairs had led owners and officers to, "Kick

the can down the road". As discussed, this unfortunate scenario has replicated itself in condominiums all over South Florida; a failure of condo boards to implement much needed repairs and maintenance has led to unsafe building structures throughout South Florida. This reality led to the closure of many buildings during the term of our grand jury service. One news report highlighted the partial roof collapse that had already passed its 40-year inspection![14]

We learned during our investigation that there are scores of lawsuits filed in connection with the Champlain Tower South building collapse. As the building was insured, we expect that some of the litigation will involve the insurance company. The insurance coverage and the issuance of the insurance policies are premised and conditioned upon the routine and regular maintenance of the building. For condo associations which fail to comply with the insurance policy's required routine and regular maintenance, any damages that occur as a result of that failure may result in a denial of that claim by the insurance company. We are afraid that condominium associations and their boards may not know that their negligence or mismanagement with regards to ensuring the routine maintenance and repair of their condo building may provide a legal defense to the insurance company that could result in the denial of a claim for damages. Going forward, and particularly in light of the condo collapse, we anticipate that insurance companies will become more diligent in remaining apprised of the continued safety and structural integrity of their "insured interests".

For these reasons, *we recommend that Building Officials develop policies, procedures and training protocols to remind owners of the Building Code requirement to maintain their buildings and structures "in a safe condition."*

We recommend that Building Officials develop procedures for regular and timely inspections to confirm that owners are conducting regular and routine maintenance and repairs to ensure the structural integrity of their buildings.

We recommend that on an annual basis Condo Board officers be required to file a document certifying that regular and routine maintenance of all components impacting the structural integrity of the building has been conducted at their building within the past 12 months. We believe Local Building Officials can develop such a prepared form that can be accessed and submitted to the building department electronically.

As condo board members owe a fiduciary duty to the condo owners and residents of their buildings, that duty should extend to making sure that regular and routine maintenance and repairs are performed. *Therefore, we recommend that a specific duty of inspection be imposed on the*

[14] https://thehill.com/homenews/state-watch/563485-roof-of-miami-dade-apartment-partially-collapses-had-already-passed-40

condo board members and such periodic inspections and attendant repairs be performed at least every 10 years.

Finally, as a means of ensuring sufficient insurance coverage is available in case of another catastrophe, we recommend that condo board members obtain insurance coverage for their condominium based on recently assessed replacement costs.

C. The Need for Advance Notice to Building Owners of Their Impending Recertification

Each year, new properties become subject to the recertification process at 40 years and every 10-year interval thereafter for the life of the structure, pursuant to Section 8-11(f) of the Code of Miami-Dade County. For those properties that require certification, the property owners receive a Notice of Required Recertification to commence the process. Local Building Officials for the cities, towns and municipalities obtain from Miami-Dade County the list of buildings and structures within their respective jurisdictions which are coming up for the 40-year recertification in the ensuing year.[15] For most of the jurisdictions that notice is sent out in January of the new year. The recertification report is due within 90 days of the date of notice.

For a condo board caught unaware, it is unreasonable to expect that, within 90 days, board officers will be able to convene a board meeting, discuss what needs to be done, solicit bids, hire a qualified person or company to do the work, engage the architect or engineer to conduct the inspection, conduct any necessary testing, have the architect or engineer complete the reports (with the attendant photos, sketches, diagrams, certifications) for the structure, roof, foundation, electrical and fire safety, receive and review the contents of the reports and submit same to the Building Official. It also will take time for the condo board to acquire funds to pay for repairs, whether that be through reserves or loans. Further, assuming financial reserves are not available, the process of determining the amount of assessments, making the assessment requests to the unit owners, or alternatively, even applying for a loan to acquire the funds to pay for repairs, is a lengthy process, not likely to be completed within a 90-day period. There are currently 35 municipalities within Miami-Dade County, and each municipality's building official has jurisdiction over its own building approval, permitting process, inspections and 40-year recertification. We find that sending out a notice that requires the recipient to provide information within 90 days is unrealistic. Although this is the practice that has gone on for years, it is neither reasonable nor practical.

One of the results of the Surfside tragedy building collapse is that many Building Officials, Directors of Building Departments, City Managers, and other elected officials have been reviewing their practices and policies to determine whether there are better practices and policies that should be implemented to help prevent a repeat of the tragedy. Apparently, one of the areas where some Building Officials have seen a need for change is in this area of giving advance notice to building

[15] There are currently 35 municipalities within Miami-Dade County, and each municipality's building official has jurisdiction over building permitting, inspections and 40-year recertification.

owners of their impending 40-year recertification. Miami-Dade County and the City of Miami have both initiated major changes with this practice.

A press announcement issued on October 15, 2021 advised that the Miami-Dade County Department of Regulatory and Economic Resources (RER) has begun mailing out advance courtesy notices to properties in unincorporated Miami-Dade County that are 40 years or older and due to recertify in 2022. Properties will receive another notice in January 2022 and will have 90 days to submit their reports to the County's Building Official.[16] As set forth in the announcement, this is an administrative change RER implemented to provide properties advance notice before they would normally receive their Notice of Required Recertification to begin the process, with the goal of helping property owners plan their recertification well before the actual recertification due date. The hope? To "increase building safety and better support building owners and associations with their 40-year recertification processes."

Officials at the Building Department for the City of Miami also saw a need to provide advance courtesy notices to the building owners within their jurisdiction. However, they are going a step further. The City of Miami has passed an Ordinance amending Chapter 10 of the City Code. Pursuant to the amendment, the Notices requirement will change as follows:

> b. Notices:
>
> (1) First notification shall be mailed 2 years prior to the recertification Due Date.
>
> (2) Second notification shall be mailed 1 year prior to the recertification Due Date.
>
> (3) Last and final notification shall be mailed 90 days prior to the recertification Due Date.
> (4) All recertification reports are due by April 30 of the Anniversary Year. Failure to obtain a 40/50 year re certification shall be subject to revocation of Certificate of Use pursuant to the City Code and any other penalty allowed by law.

The Grand Jury is firmly of the opinion that by giving building owners these advance courtesy notices, this will give the condo board, its officers, and the licensed structural engineer ample time to perform all the requirements of the recertification in a timely manner. Even if repairs are needed, the condo board can start the permitting process to make such repairs, and once begun, the board can also ask for an extension of time to file the report. To the members of the Grand Jury this seems to be a much more reasonable and prudent manner for handling the notice requirements.

For that reason, *we recommend that all of the municipalities in Miami-Dade County enact a similar ordinance to provide advance courtesy notices to building owners at least two years prior to the Anniversary Year of their 40-year recertification.*

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[16] https://www.miamidade.gov/releases/2021-10-15-rer-courtesy-recertification-letters.asp

Once building owners receive their notice, many of the local jurisdictions provide online access to information, forms and instructions about the recertification process.[17] Websites, such as those for Miami-Dade County, also allow users to submit building structural recertification and electrical recertification reports. The website also allows design professionals to digitally sign and seal those Reports in electronic format to county officials. Further, for property which is located within unincorporated Miami-Dade County, members of the public can now check the status of recertifications online using the County's 40-Year Recertification Portal,[18] and search for records relating to building code violations which occur in unincorporated Miami-Dade County, including within their own building. We believe this online Portal will be a phenomenal tool for our residents.

III. THE UNSAFE STRUCTURES DIVISION

As revealed in numerous media accounts, the Surfside condo collapse has led to increased scrutiny by elected officials and Building Officials of all policies, procedures, practices and personnel involved in the determination or assessment of the safety and integrity of building structures in Miami-Dade and Broward County. This reality is aptly captured in a headline that ran on a local news tv station the month after Surfside tragedy: *24 Miami-Dade Buildings Facing Violations As County Steps Up Inspections In Wake of Condo Collapse.*[19] In the article, Miami-Dade reported 24 buildings had been "red tagged" for violations mostly tied to the 40-year recertification process. Obviously, the county is stepping up its inspections in the wake of the partial collapse of Champlain Towers South in Surfside. According to the article, a special team of code compliance and building inspectors is involved as a direct result of an emergency audit mandated by Miami-Dade County. In addition to two public housing complexes identified in the July 1, 2021 news report, additional condo buildings, parking garages, commercial buildings and even the Dade County Courthouse have been red-tagged or condemned since.

One of the places where additional scrutiny and desire for change is most visible is in the City of Miami's Building Department.[20] The present Director conducted an assessment and evaluation of the entire Building Department to discover the area needing the most reform or attention. The area needing the most attention was determined to be the Unsafe Structures Division. Buildings that are deemed unsafe, buildings that don't pass reinspection or are derelict in submitting their recertification reports are referred to the Unsafe Structures Division.

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[17] https://www.miamigov.com/Permits-Construction/Unsafe-Structures/Get-a-4050-Year-Recertification

[18] Miami-Dade County's 40-Year Recertification Portal may be accessed here. https://wwwx.miamidade.gov/apps/rer/fortyyearportal/

[19] https://miami.cbslocal.com/2021/07/01/miami-dade-inspections-building-violations-condo-collapse/. Building owners were red-tagged for either not complying with the 40-year process or not having pulled permits or finished the required work.

[20] Like most building departments in Miami-Dade, the Building Department for the City of Miami enforces codes and regulations established by the State of Florida and Miami-Dade County governing the construction, alteration, and maintenance of buildings and structures within the City of Miami for the protection of residents and property.

In 2020, the City's Unsafe Structures Division ("USD") was staffed with one Inspector, one Chief and four administrative personnel. The USD had one Inspector for the entire City of Miami! With approximately 1,300 to 1,500 40-year recertifications becoming due every calendar year and with many properties not submitting their recertification reports, having one citywide inspector covering all five districts in Miami is woefully insufficient. In FY 2020-21, the Director of the City of Miami's Building Department was able to increase staffing to the USD to one Senior Chief, one Chief of Inspectors, one Inspector, one Structural Engineer and nine administrative personnel. This additional staff would allow for two Inspectors in each of the five Districts and would assist the Unsafe Structures Board in reviewing the decisions of Building Officials regarding buildings considered unsafe. The proposed FY 2021-22 budget for the City of Miami seeks to add an additional four Inspectors who would have Citywide coverage and be available to conduct after-hours inspections. Having gotten additional staffing to process the cases and inspect the buildings, the next task of the USD was to address the backlog of pending cases.

With the increase in the number of cases being reviewed and the number of Recertifications being submitted, *we recommend that local governmental officials continue to increase the budgets and staff of their respective building departments and Unsafe Structures Departments to provide for more inspectors. The increases in staffing should assist in identifying problem structures that could pose risks to Miami-Dade County residents.*

Many of the cases pending with the USD were for buildings that were overdue for their 40/50-year recertification. As a result of the new ordinance passed by the City of Miami, when recertification reports are not submitted, that failure is now considered a violation of Chapter 10 of the City Code and results in revocation of the certificate of use for the building or structure in question. In order to get an appreciation of the magnitude of the backload of cases pending with the Unsafe Structures Board, we must review some numbers and stats.

As of July 8, 2021, there was a total of 6,400 cases/violations pending with the Unsafe Structures Division. The Unsafe Structures Panel is a quasi-judicial group that hears evidence and issues rulings regarding code violations, unsafe buildings, late submittals of 40/50-year recertification inspection reports and other issues affecting buildings and structures in the City. The 6,400 pending cases as of July 8, 2021 included:

1,606 cases where the 40/50 Recertification was submitted but not approved;
2,212 cases where the 40/50 Recertification was "pending but not submitted; and
2,582 cases where the building structure was tagged as being unsafe.

The numbers represented here include carryover numbers that go back as far as 2015 and reflect a significant increase in the number of cases represented by building owners not submitting their 40/50 recertification report.[21] Again, the passage of a recent ordinance resulted in the referral

[21] Numbers provided to us reflect that for 2018 and 2019, the number of cases pending due to Failure to Submit a Recertification Report was 152 and 160 respectively. With additional scrutiny from the City's Building Department, for 2020 and 2021, those numbers jumped to 863 and 671 respectively.

of 40/50-year certifications to the Unsafe Structures Panel. They started hearing recertification cases in February 2021.

In 2020, well before the Surfside Collapse, the City of Miami's Unsafe Structures Panel was meeting 4 hours a day, once a week and adjudicating only 25-30 cases per month. With recent increases of hours (from 4 hours to 8 hours a day) and the addition of another hearing day, the Unsafe Structures Panel now adjudicates approximately 180 cases per month, an almost 600% increase. With further incremental increases to the total cases presented to the Unsafe Structures Panel on its hearing days, the plan is to reach the goal of adjudicating 360 cases per month. As encouraging as these efforts may be, the number of 40-year recertifications and the refusal to submit reports are also increasing. Records reflect that for 2018 and 2019, in the City of Miami, from February 2021 to July 21, 2021, referrals were made for 168 properties to have their certificates of use revoked for either unsafe conditions or non-compliance with the 40-year recertification process. As daunting as these numbers may seem, we note this is only for one city in Miami-Dade, albeit one of the larger ones. It is plain to see that even with an increase in inspectors and other personnel, the sheer number of cases makes it unlikely that officials will be able to identify every unsafe structure or building within its jurisdiction. Nevertheless, with so much scrutiny focused on this issue post-Surfside collapse, we commend the Local Building Officials and the other public servants who are working diligently on the backlog and we hope they will be successful in their efforts to prevent another such tragedy.

On that note, with such volume of cases for the Unsafe Structures Panel to review, combined with architects and engineers submitting so many reports, fears were shared with us that unscrupulous individuals might submit reports that are incomplete, intentionally misleading or outright fraudulent. With such a huge volume of cases coming in and being handled on an annual basis by the Unsafe Structures Panel and with such a huge number of 40/50 recertification inspection reports being submitted every year, it is no surprise to us that architects and engineers can probably get away with submitting reports which contain inaccuracies, falsifications, and even misleading information. However, because the stakes are so high and we see that lives can be lost, if Local Building Officials, personnel in the Unsafe Structures Division, members of the Unsafe Structures Panel or others discover that a licensed engineer or architect has engaged in any such conduct, that individual should be dealt with in a most severe manner.

Accordingly, *we recommend that any licensed engineer or architect who is found to have submitted a false, misleading, or fraudulent statement in connection with any recertification report shall have his license suspended for a minimum of 12 months. The company, corporation, partnership, or entity employing the subject engineer or architect shall be debarred from doing such recertification inspections during the term of the suspension. Any licensed engineers or architects found to have engaged in subsequent violations should have their licenses revoked.*

IV. RAISING THE QUALIFICATION STANDARDS FOR PERSONS CONDUCTING THE INSPECTIONS

In addition to the issue of advance notice to building owners regarding their 40/50 year recertification, one of the other areas where there appeared to be universal agreement involved the qualifications of the persons who conduct the recertification inspections. Under the present language of the Building Code, building owners "must submit a written recertification report to the building official, prepared by **a Florida registered professional engineer or architect**, certifying each building or structure is structurally and electrically safe for the specified use for continued occupancy." As pointed out by several witnesses, the fact that an engineer or architect may be both registered and a professional does not mean that he is qualified or otherwise experienced enough to conduct a recertification inspection. Several recommendations were made in this regard and some of the municipalities have already begun taking steps to address this apparent oversight in the statute.

Recertification inspection reports may be prepared only by a Florida-licensed Engineer or Architect, who must thoroughly inspect the building's structural and electrical condition to determine if it is safe for occupancy. It is understood and expected by some building departments that a great many plans, reports, and certifications received from architects and engineers contain inaccuracies and falsifications. Architects and engineers who engage in such practices can continue to do so because there are no consequences. In the absence of City inspections, falsified reports are rarely ever detected.

Many experts believe architects, even "competent" architects, are ill-suited for the task of conducting 40/50-year recertification inspections. Determining issues of the structural integrity of aged buildings is, purportedly, outside the scope of expertise for most architects. Further, depending on the size of the building, the task of conducting 40/50-year recertifications inspection may also be beyond the skills and expertise of many engineers. To help ensure that the 40/50-year inspections are being conducted by competent and qualified persons, the City of Miami is seeking to raise the qualifications for engineers who perform those 40/50 structural Recertification of Threshold Buildings. The proposed ordinance would require that "structural recertification of existing buildings . . . shall be performed by a Licensed Structural Engineer who has previously designed and inspected at least 3 buildings of the same or greater height as the building which is to be recertified." Because the Grand Jury believes it is prudent to impose such a requirement on the individuals required to inspect and certify the structural integrity of buildings in our community, we recommend that such a requirement be imposed by the County and other municipalities within Miami-Dade County.

Accordingly, we recommend that any engineer certifying a building in connection with the 40/50-year recertification process must have previously designed and inspected at least 3 buildings of the same or greater height as the building which is to be recertified.

As a future goal, we recommend that the language in the Florida statute and the Building Code be amended to ensure that only licensed structural engineers certify buildings for the 40/50-year recertifications.

Alternatively, we recommend that a qualified inspecting engineer must have experience with the design and construction of similar buildings. The qualified inspecting engineer must have a Florida Professional Engineer's License and a Florida Threshold Building Inspector's License.

Similarly, as the 40/50-year recertification inspection also includes determination of whether the building or structure is electrically safe for the specified use for continued occupancy, we believe the person conducting the electrical inspection should also not just be competent, but "qualified" to perform such inspections. Information on the County's website regarding the 40-year recertification specifically states that the design professional must have proven qualifications by training and experience in the specific technical field covered in the inspection report (structural and/or electrical) as per the Miami-Dade County Code.[22] Consistent with that requirement, *we recommend that the County raise the qualification for the person conducting the electrical inspection by imposing a requirement that said inspection and certification be conducted by a licensed electrical engineer.* The City of Miami has included this requirement in a proposed amendment to Section 10-104 of Chapter 10 of the City Code, and we hope other jurisdictions will follow this example. Raising the qualification standards for persons conducting these critically important inspections will certainly increase the life safety of tenants, visitors and residents.

V. THE DANGER OF NEGLECTING ROUTINE REPAIR AND MAINTENANCE

Based on documents we reviewed, it is clear that as early as October 8, 2018 the Champlain South condo board was aware of significant necessary repairs and maintenance that had been identified by the structural engineer, they hired to inspect the building. The structural engineer's report dated October 8, 2018 was prepared and submitted to the Condo Board Treasurer. The Board of Directors for the Champlain Tower South Condominium Association, Inc. held a Board meeting a month later, on November 15, 2018. The minutes from that Board meeting specifically shows that the "40-year certification" and the "structural engineer report" was discussed and "was reviewed by then Building Official of Town of Surfside.[23] According to the minutes of that Board meeting, the Building Official of the Town of Surfside "determined the necessary data was collected and it appears the building is in very good shape." Assuming the Board minutes accurately reflect the Building Official's comments, notwithstanding his opinion and comments,

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[22] http://miamidade.elaws.us/code/coor/8-5/

[23] See Minutes of Champlain Towers South Board Meeting, November 15, 2018, https://www.townofsurfsidefl.gov/docs/default-source/default-document-library/town-clerk-documents/champlain-towers-south-public-records/champlain-towers-south-board-meeting-november-15-2018.pdf

the engineer's Structural Field Survey Report clearly reveals that there were significant problems with the integrity of the building structure and the much-needed extensive repairs had not yet begun. As a permit would have been required to perform the repairs, this final fact should have been readily apparent to the Building Official of the Town of Surfside and others involved in the permitting process.

The critical nature of the repairs that needed to be done is revealed in the contents of the April 2021 letter from the then Board President to the condo owners. In part, the letter provides:

> Because so much of the needed concrete/waterproofing work is underground, we must pull up almost the entire ground level of the lot to access the area that requires repair…This includes the pool deck, the entire entry drive and ground level parking, north side contractor parking and planters/landscaping.

The letter also noted that "observable damage such as in the garage has gotten significantly worse since the initial inspection "and" that the concrete damage observed would begin to multiply exponentially over the years." If that wasn't clear enough, for those not familiar with the lingo or the science, she explained:

> When you can visually see the concrete spalling (cracking), that means that the rebar holding it together is rusting and deteriorating beneath the surface. **The concrete deterioration is accelerating.**

To put it mildly, the Board President was saying, "Houston, we have a problem." The findings of the Grand Jury reveal that within a three-year period of time beginning in 2018, the Champlain Towers condo board hired an engineer to start the 40-year recertification process years before it was due. That inspection report was timely completed, submitted to the Condo Board and in November 2018, was provided to the City of Surfside's Local Building Official. The contents of the engineer's report suggests that in the decades leading up to the 40-year recertification, Champlain Towers owners failed to implement routine repairs and maintenance in, on and around the property. The proposed costs for building repairs were more than $14,000,000. In April 2021, more than 29 months after the engineer's report was received, Champlain Towers had not begun any repair work to address the structural deficiencies identified in the report, nor had the City taken any steps to address those structural deficiencies or the safety of the building. Thirteen days after the Board was to hold a meeting to open the bids received from companies interested in making the repairs, the building collapsed. There was sufficient information, provided early enough to put everyone on notice of a major problem. However, sadly, none of the participants acted quickly enough to avert this tragedy.

VI. THE DANGER OF NOT PROVIDING NOTICE OF STRUCTURAL DEFICIENCIES TO BUILDING OFFICIALS

Following the collapse of the Champlain Tower, the Miami-Dade County Mayor requested the County and all municipalities review all of their structures that were over 40 years of age, over 5 stories and have completed - or in the process of completing - their 40-year certification. In compliance, the City of Aventura posted on its websites the proactive steps it was taking, including ordering inspections of every building coming up on their 40-year certification, as well as all buildings older than 40 years, which have not been recently recertified. Additionally, the City advised it was adding 2 building department staff and a full-time code official "to ensure we have sufficient personnel to assist in conducting building inspections and responding to residents' calls." After the Surfside collapse the City of Miami also added more inspectors and administrative personnel. These additional "eyes" have assisted in identifying building owners who are derelict in submitting timely certification reports and discovering buildings that pose safety issues for residents. The "see something, say something" mantra has assisted in providing much needed information to Local Building Officials. All of these efforts have proven successful.

During our service on the Grand Jury, we followed media accounts of a number of red-tagged apartment buildings, condos, office buildings, a courthouse and other buildings deemed so unsafe structurally that they required the emergency evacuation of all tenants. Although it does not appear to be the case with Champlain Towers, Building Officials from other jurisdictions who educated us on this process advised that often, they did not receive timely information regarding deficiencies or issues concerning structural integrity of dwellings and other buildings within their cities or municipalities. That would seem to be the case on many of the buildings that were red-tagged or evacuated during our term of service on the Grand Jury.

As part of the certification process, Condo Association, HOA or owner of buildings which meet the "threshold definition"[24] may receive an engineer's report or some other official inspection of their respective building. The report may very well include observations of serious and much-needed repairs. Such reports may also call for immediate action to correct the structural integrity issues. However, even if the information is shared with the owners of the condo units, there is no guarantee or requirement that such information will be shared with tenants who are renting those units. Similarly, there is no guarantee or requirement that this information will be shared with the Building Official for that city. This reality is revealed when we look at what happened with Crestview Towers.

[24] "Threshold building" means any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons. Florida Statute 553.71.

VII. THE BENEFIT OF PROVIDING NOTICE OF STRUCTURAL DEFICIENCIES TO BUILDING OFFICIALS

Crestview Towers is a 10-story, 156-unit condominium building. Built in 1972, its 40-year recertification was due in **2012.** When the Champlain Towers condo collapsed in Surfside on June 24, 2021, Crestview Towers' recertification was 9 ½ years overdue. Following the collapse, the City of North Miami Beach, as well as many other cities and municipalities, decided to conduct an audit of all buildings and structures five stories or higher within their jurisdiction which were due or past due for their 40-year recertification. As a result of the audit conducted by the City of North Miami Beach, on July 2, 2021, officials in the Building and Zoning Department received a letter and an 11-page inspection report from a professional engineer with B&A Engineering Services. The letter and engineer's report were sent by the engineer to the City of North Miami Beach Building Department. In the letter, the engineer advised that he had performed the required inspection (structural and electrical) on the above referenced building on January 11, 2021. He attested to the best of his knowledge, belief and professional judgment, that based on the conditions observed on the date of the inspection, the subject building is:

> Structurally no (sic) safe for the specified use for continued occupancy.
> Electrically no (sic) safe for the specified use for continued occupancy.

Upon receipt of the engineer's report that the building was not safe for continued occupancy structurally or electrically, the City Manager, who had only been in his present position for two months, ordered that the building be red-tagged, and all occupants ordered to evacuate the building immediately. Based on news media accounts, the 300 plus residents were given 15 minutes to gather their essential belongings. NMB officials told residents they would not be allowed to return to the building until they provide a certified engineer's report attesting that all of the repairs impacting the structural and electrical safety of the building have been completed. A fire inspection conducted after the evacuation uncovered a host of fire safety and code violations. As an aside, at the time the evacuation was ordered, the Crestview Towers Condo Association was in debt to the City of NMB for half-a-million dollars in fines for various past construction issues and code violations that had been issued (and not corrected) over the years. On a site visit where we viewed several buildings in Miami-Dade County, our Grand Jury saw firsthand, many damaged areas of the Crestview Towers building which were in obvious need of repair.

We now know that within Miami-Dade and Broward County there are many buildings that are past due for their 40-year recertification and some are even past their 50-year recertification. In some jurisdictions, some buildings have reached the 50-year mark without having ever complied with the 40-year recertification requirement. As was the case with Crestview Tower we are fairly certain that there are other condo boards that are sitting on information and reports that found major structural integrity issues in their buildings. They may not have sufficient money in their reserves to pay for the much-needed repairs. Although they are aware of the contents of the reports, like the condo board in Crestview, they may not have shared that information with building

officials or others. They also may not have shared that information with all the tenants in their buildings. However, the fact that post- Surfside collapse, more buildings are being red-tagged and more tenants and residents are being evacuated from buildings all over the state, we have confidence in our belief that now, local building officials are taking a more proactive effort at ferreting out unsafe structures and condo boards which have been derelict in the maintenance of their buildings and in filing timely reports with their local building officials. Unless we want to see another building collapse, this proactive approach must continue.

To assist with that change, *we recommend that a law be passed requiring all condo board members, condo associations and owners of buildings which meet the threshold definition, to provide the Local Building Official with copies of any and all inspections conducted on their buildings. Copies shall be provided to the Local Building Official within seven (7) business days of the receipt of said inspection report. Failure to provide the report should result in a stiff fine that would be assessed against the building owner or individual condo board member in their individual (as opposed to Board) capacity. Repeated failures by a condo board to provide such reports shall result in the removal of those members from the board.*

We further recommend that "a duty to report" also be imposed on professional engineers and architects who conduct building inspections. At the time they provide copies of inspection reports to the condo board or owners of buildings which meet the threshold definition, they should be required to provide a copy of the same report to the Local Building Official. Should an engineer or architect who conducts a building inspection determine that the building or structure is unsafe for continued occupancy, (whether structural integrity, electrical issue, fire safety, or any other life safety concern) the engineer or architect shall notify the Local Building Official within 24 hours of such finding.

As every member of a condo board owes a fiduciary duty to not just the owners, but also to the renters in their buildings, their failure to timely inform officials of significant defects in their buildings is inexplicable. It is even more so when we consider that their failure may result in significant injury or the loss of life. To its credit, the City of Aventura, a community which is almost entirely made up of high-rise condominiums, has gotten a jump on this problem by passing an ordinance that addresses this concern. The ordinance requires both condominium board representatives and managers of homeowners, condominium, and cooperative owners' associations to provide a copy of any engineering report concerning structural, electrical, or life-safety concerns of a building they are responsible for to the City within forty-eight hours of receiving such a report. Any owners' association or property manager who violates this new ordinance is subject to penalty.[25]

To further enhance the monitoring of building conditions within the City of Aventura and to ensure compliance by private property owners with the life safety requirements of The Florida

[25] City of Aventura Ordinance No. 2021-13.
https://egov2.cityofaventura.com/Imaging/DocView.aspx?id=318600&dbid=0&repo=CityHall

Building Code and applicable Miami-Dade County and City Ordinances, City of Aventura Ordinance No. 2021-13 mandates that the president, a designee, or any person, firm, corporation or entity serving as a property manager for a condominium association, homeowner's association, cooperative owners association or apartment complex of more than 4 units, who receives the report of a professional engineer or architect concerning the structural, electrical or life safety conditions of a building under the control or jurisdiction of that association **shall file a copy of such report with the City's Chief Building Official and City Manager** (emphasis added). The report shall be filed with the Aventura City officials within 48 hours of receipt of The Report by the "Responsible Person". For Engineer's Reports which were provided to the President or other Responsible Person before the effective date of the ordinance, the Engineer's Report shall be filed by the Responsible Person with the City within 24 hours of the City's written request.

In addition to passing an ordinance that governs dwellings, the City of Aventura also passed an Ordinance imposing the same requirements on Responsible Persons who are the owners of commercial buildings consisting of more than 2,000 square feet of floor area. Fines and penalties can be imposed for violations of the filing requirements of the Ordinances.

Documentary evidence supports the conclusion that as early as November 13, 2018, the Town of Surfside, through its Building Official was in receipt of the engineer's Report and was on notice of the nature of the structural deficiencies and the repairs that needed to be completed. At some point the Building Official for the Town of Surfside left and began working for another municipality. We do not have any information on what happened with the transfer of information from the outgoing Building Official to the Town of Surfside when he left that position. However, because the information discovered and uncovered by Local Building Officials during the course of their employment is critical to the safety of its residents, tourists and other visitors, *we recommend that local governmental entities develop a method for the continuity of enforcement by requiring outgoing Building Officials to provide information to their successors regarding buildings or structures which are not in compliance with local or state rules or regulations.*

Unlike in the Surfside tragedy, no notification at all was provided to the Local Building Official regarding Crestview Towers. The Crestview Towers scenario revealed a situation where not only was the Local Building Official in the dark about the condition of the building, residents and tenants who were not condo owners also had no knowledge of the deplorable condition of their building and the critical safety issues attendant thereto. In that regard, *we recommend that condo boards be required to post maintenance documents and inspection reports online so that they will be available to residents, tenants, renters and condo owners who do not attend condo board meetings.*

We further recommend that condo boards use letters and email to inform residents and tenants who are not condo owners of the existence of such maintenance documents and inspection reports and where they can be found.

VIII. THE DANGERS OF SOUTH FLORIDA'S MARINE ENVIRONMENT

A. Salt Air Intrusion and Penetration Into the Concrete

One of the harmful realities of constructing buildings and structures on the South Florida coasts is identified in the structural engineer's Report: salt air from the ocean. An October 5, 2018 letter from a Consulting Engineer firm reported observations from an inspection of the conditions of the electrical, mechanical, plumbing, fire alarm and fire sprinkler systems at Champlain Tower South Condominium. The inspection was conducted in connection with the 40-year recertification. In various sections of that October 5, 2018 letter from the Consulting Engineer, references are made to 1 "a large intake louver (in the generator room) [that] allows the corrosive salt air from the ocean to get onto the equipment; 2) the repairs (to equipment located in the generator room and the roof mounted HVAC) are required [due] to corrosion **which can be expected** for exposed equipment next to the ocean; 3) the rest of the [common building owned] mechanical systems require repair due to corrosion; and 4) At the rate [the primary air handling unit for the common corridors] is rusting it will have to be replaced within the next 2-5 years. As to the fire sprinkler systems, the engineer's consulting report noted "the only things that need repair are in the generator room due to corrosion". Further, the Report noted that "the fire pump base frame has severe rusting." This one engineer consulting report underscores a major threat to buildings in South Florida coastal areas: salt air.

As we discovered during our investigation, "the corrosive salt air from the ocean" not only gets into the equipment, it also gets into the concrete. Florida has an abundance of limestone, which is used to make concrete. Thus, many developers and construction companies utilize concrete in the design and construction of buildings because it is economical and can be very durable. However, concrete alone cannot form the basis of large structures. While concrete is very strong when under compression (i.e., forces pushing down on it), it can fail or crack when under tension (i.e., when it is being pulled upon). To augment the strength of concrete, steel rebar is included in concrete structures. The combination of these materials is referred to as "reinforced concrete" and has been widely used in the construction of condominiums in Florida. For that reason, there are requirements for the strength of the concrete, the width of the concrete surrounding the rebar and the propensity of the concrete to resist moisture.

The trouble with reinforced concrete structures is that if the rebar begins to rust, it will expand and place pressure on the concrete which surrounds it. The concrete can then crack or "spall," resulting in chunks of concrete falling off the structure. As more spalling occurs, more rebar is exposed to the elements, and the damage to the structure will grow exponentially from small cracks in the concrete to large chunks falling from the structure. The climate of Florida, particularly in coastal areas, as well as the passage of time, makes spalling damage entirely predictable and if untreated and not repaired, will ultimately cause a structure to become unsafe.

In order for the rebar to rust, 3 components must be in place. First, it must come into contact with water; second, it must come into contact with oxygen; and third, it must be in an

environment where the pH level is less than 10. When concrete is initially poured, it will generally have a pH level of 13, meaning that it is very alkaline and not acidic at all. That high pH level protects the rebar from rusting. However, with the passage of time, as the concrete surrounding the rebar is exposed to the elements like rain, sea salt and humidity (all of which are in abundance along Florida's coastal areas), the concrete will absorb this moisture because it is not inherently waterproof. Indeed, concrete is porous whether it forms the floor of a balcony, is a covering for a support column or pillar or is a concrete slab surrounding a pool deck. The "weathering effect" of the concrete can result in the steel rebar coming into contact with water, salt and carbon dioxide. Moreover, as more water, salt and carbon dioxide penetrate the exposed concrete, the pH level of the concrete decreases over time. In other words, the concrete becomes more acidic and ceases to protect the rebar. Therefore, with the passage of time, unless the concrete is protected from water intrusion, it can reasonably be predicted that the steel rebar will begin to rust because the pH level will be less than 10 and it will be exposed to water and oxygen. Rusted steel can expand to four (4) times its original volume, which puts a great deal of tension on the concrete. As noted above, concrete does not perform well under tension, so it will crack and ultimately fall off from the structure as the steel rusts. The science regarding the propensity of concrete to crack due to the rusting of the steel rebar is not new. Developers, builders, engineers and architects have had this knowledge for decades and the impact of the marine environment on buildings in our community seems to be escalating.

In connection with our investigation, we took a "site visit" to view the location where the Champlain Towers South condominium building previously stood. We also looked at what has been referred to as the Champlain Towers sister building, the north tower condominium building, which was constructed in 1944 and located only a short distance away. Our site visit included stops at other condominium buildings that, due to damage or code violations, had been reported in the media following the Surfside collapse. As we walked around those buildings, our cursory observations of exterior building walls, columns, pillars, slabs and balconies revealed a great deal of spalling. Moreover, even as we were riding on the bus to the various building locations on our site visit list, we saw a number of other high rise and mid-rise buildings east of Collins Avenue with spalling, missing concrete and in some cases, apparent repairs to the affected areas.

Photos and videos reveal that this concrete spalling was also present at Champlain Towers in various locations around the building. The exposed rebar in some of these areas clearly showed that salt water had penetrated the concrete and over time the salt water rusted the rebar causing the concrete to crack. Once the rebar was exposed, the corrosion proceeded at a much more rapid rate, resulting in more spalling and greater weakening of the concrete forming the pillars, slabs, or columns.

There are ways to try to guard against the intrusion of water into concrete. For example, simply painting the concrete on a regular basis can help protect it from the elements. Mere "patch repair jobs", done to areas where concrete has fallen off the structure can make it look like there is no longer a problem with the concrete. The patch will, for a time, provide some protection as it

will initially have a high pH level. But if the work is not done with proper materials, in the proper manner and by those with extensive knowledge of how to properly protect and repair the concrete, such patchwork can actually hide the damage which is ongoing to the rebar inside the column, balcony, pillar, slab, wall or support beam. We saw evidence of such shoddy patchwork at the Crestview Towers building in North Miami Beach. The "band-aid" types of repairs were simply cosmetic in nature and did nothing to reverse the damage that had already been done to the structure. In fact, the repairs we saw only covered up the rust that had already begun to form. No doubt, these mere patches are less expensive than effectively repairing the damage, or better yet, preventing it in the first place. However, such a misguided approach to effective building maintenance can only be described as "penny-wise, pound-foolish." We know in the long run this course of action will enable even further damage and potentially endanger the entire structure. Therefore, we *recommend that included with building maintenance plans, there must be recommendations from building officials on how to weatherproof buildings and to inspect for spalling damage for any reinforced concrete structure three (3) stories and above.*

B. Saltwater Intrusion and Penetration Into The Concrete

The concrete spalling that was observed at Champlain Towers was open and obvious. However, based on information we received during our Grand Jury Investigation, we are fairly certain there was unseen corrosion and weakening of the concrete in the foundation and underground pillars. This damage was likely caused by salt air or saltwater penetrating the concrete and coming into contact with the steel rebar. The extent of the damage noted in the structural engineer's Report leads us to conclude that the condo board did not implement the required, regular, routine maintenance and repairs that are designed to keep the building safe. That damage was above ground and visible. However, we discovered that there is an even greater danger underground that may be creating hazardous conditions that will negatively impact concrete pillars and foundations that are providing support to building structures, especially those in coastal communities.

The unseen damage is caused, in part, by global warming and the attendant rise in sea water. The rising sea water levels have resulted in increases in coastal flooding from storm surges related to hurricanes and tropical storms, the King Tides and even from significant rain events.

The global warming which has led to sea level rise, results in deeper water near the coast lines, higher storm surges and deeper underground intrusion of the saltwater inland. In other words, the higher the sea rise coastal flooding above ground the further the distance of the underground penetration of the saltwater.

With the increased levels of water along coastal areas, it is entirely likely that structures like the Champlain Towers South will be subject to attack not only above the ground from hurricane and rain events; the subterranean foundation of such buildings will be in danger of being inundated with water. As the shores erode and water levels creep up, there will be less of a land barrier between the water and the structure. Additionally, as the water below the ground gets

closer to the foundation structures, it will not only subject them to water intrusion, it can also subject them to tremendous forces. We learned that when there is wave action against a structure, it can cause far more damage to the structure than wind would cause. Miami-Dade County has joined with Palm Beach, Broward and Monroe Counties to form a collaborative effort called the Southeast Florida Climate Change Compact. This partnership has the stated goals of sharing regional tools and knowledge; increasing public support and political good will; and coordinating actions that will protect the people and property in these coastal communities.

Like the Southeast Florida Climate Change Compact, we recommend that other coastal areas implement collaborative agreements and action plans so that coordinated efforts can be made to protect the structures that already exist.

We further recommend that such collaborative agreements strive to ensure that all future construction in these marine environments be done under guidelines designed to ensure the long-term safety of the structures and those who live and work in them.

C. Focus on Protecting the Concrete

The strength of concrete is measured by pounds per square inch (psi). Depending on the purpose of the concrete, the psi range will vary. A concrete footing may only require a psi of 3,500 to 4,000 psi. A concrete column may require a psi from 3,000 to 5,000 psi. Pavement may necessitate an even higher psi, from 4,000 to 5,000. The higher the psi, the stronger the concrete and the more durable. We do not have information regarding the compressive or tensile strength of the concrete used for the pillars, columns, and concrete slabs at the Champlain Tower building. However, what we do know is, if the salt air or saltwater intrusion into the concrete contributed to the collapse, there are technological advances that have been made on several fronts that should help avoid a repeat of this tragedy.

First, assuming the collapse was due to the rusting and corrosion of the rebar from salt air/ sea water intrusion, for future construction projects, especially in coastal areas, builders should be required to use epoxy coated, stainless or non-corrosive rebar. As the science has emerged to reveal the impact the environment is having on buildings and other structures, scientists are working to develop other products, technologies or methods to mitigate or lessen those negative impacts.

Second, technological advances with concrete have resulted in a new concrete with greater strength. This Ultra-High-Performance Concrete (UHPC) can have a compressive strength of up to 10 times that of traditional concrete. Thus, where traditional concrete might have a compressive strength ranging from 2,500 to 5,000, UHPC may have compressive strength ranging from 25,000 to 50,000 psi.

One of the many theories espoused about the Champlain Tower collapse is an allegation that the initial construction was shoddy and there was insufficient concrete cover on the foundational pillars and columns. Concrete cover is the thickness of concrete between the outside

edge of the concrete member and the steel bar, which covers or protects the steel from exposure to the outside elements. Another measure to mitigate the damage from saltwater or salt air intrusion and to improve the stability of building structures is to increase the amount of concrete cover in the pillars, columns and support beams, especially those underground. Greater concrete cover will significantly decrease the rate of steel corrosion and the subsequent degradation of the concrete in marine environments.

IX. THE DELAY OF CONDO BOARDS IN MAKING TIMELY/ROUTINE REPAIRS DUE TO A LACK OF RESERVES

Chapter 718 of the Florida statutes is known as the Florida Condominium Act. The purpose of that statute is to establish procedures for the creation, sale, and operation of condominiums in the State of Florida.[26] The Act governs and allows for the creation of Associations (an entity which operates or maintains real property in which unit owners have use rights), Boards (a representative body which is responsible for administration of the association), Committees (a group of board members, unit owners, or board members and unit owners appointed by the board or a member of the board to make recommendations to the board regarding the proposed annual budget or to take action on behalf of the board).[27] Further, although the Act recognizes and defines Assessments (a share of the funds which are required for the payment of common expenses, which from time to time is assessed against the unit owner) and Special Assessments (any assessment levied against a unit owner other than the assessment required by a budget adopted annually) the law does little in requiring Associations or their Boards to mandate such assessments in situations where major repairs are needed to the condominium. In fact, the law presently allows a condo board to waive the obligation to fund reserves for repairs. We are at a loss to understand why such a provision would even be included in the Florida Condominium Act. That provision is antithetical to many of the recommendations we are making herein. Accordingly, *we recommend that the waiver provision regarding the obligation to fund reserves for condominium repairs be stricken from the statute.*

We further recommend that if the waiver provision is not stricken, the statute should be amended to provide that a waiver of the obligation to fund reserves for condominium repairs require an affirmative vote of a supermajority (at least 70%) of the unit owners.

We further recommend that the Florida Condominium Act be further amended to provide that funds reserved for condominium repairs not be repurposed for other uses.

The enormous responsibility for the upkeep and maintenance of condominiums is placed in the hands of its officers and board members. Under Florida law, the operation of a condominium shall be by its association and the law imposes specific obligations on the officers and directors running the association. For instance, every officer and director of the association has a fiduciary

[26] Fla. Stat. §718.102

[27] Fla. Stat. §718.103 (2); (4); and (7)

relationship to the unit owners.[28] Specifically, every officer, director, or agent shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. An officer, director, or agent who does not act in such a manner shall be liable for monetary damages as provided in s. 617.0834 if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in s. 617.0834. An officer, director, or agent who does not act in such a manner shall be liable for monetary damages as provided in s. 617.0834 if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.[29]

Florida Statute 720.3033 requires that every director elected or appointed to a condo board must, within one year before or 90 days after the date of election or appointment satisfactorily complete the educational curriculum administered by a division approved education provider. An online Google search reveals that a number of businesses, lawyers, law firms and other entities provide virtual condo board certification courses purportedly approved by DBPR. Many of the courses are free and some charge a small fee for the course and the certificate which is issued upon successful completion. Our Google search also uncovered several YouTube videos of presenters whose stated purpose was to educate new condo board directors on their duties and responsibilities as board members.

Many of the certification courses are from 60 to 90 minutes in length. With the wide scope of duties and responsibilities given to directors and in light of the significant obligations imposed upon them pursuant to the Florida Condominium Act, we believe a 90-minute educational certification course is woefully insufficient to inform directors how to operate efficiently and effectively and how to act as fiduciaries on behalf of the unit owners they represent.

Therefore, we recommend that the Department of Business and Professional Responsibility (DBPR) expand the minimum requirement of the educational curriculum for elected or appointed condo board directors to include, but not be limited to, detailed information on such topics as: The Importance of Regular and Routine Building Maintenance; Effective Financial Management and Understanding Of Reserves; The Benefits Of Regular Audits Of Board Finances; and Tools For Effective Communication With Unit Owners.

We recommend that the educational courses be taken within the first 6 months of being elected or appointed.

We further recommend that training videos be prepared for unit owners, the purpose of which would be to educate them on their rights, obligations, and responsibilities as unit owners.

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[28] Fla. Stat. §718.111 (1)(a)

[29] Fla. Stat. §718.111 (1)(d)

The training videos would also provide to them a list of available resources to assist them in gaining knowledge about the operation of the condo board and or condo association.

In that vein, we also recommend that condo unit owners get involved in matters affecting their building, associations, and boards. Unit owners should get involved through regular attendance at board meetings, the review of board meeting minutes, and the inspection of budgetary and other financial documents. Effective and involved unit owners can exercise their power to ensure that condo boards are doing all they need to do and all they should do for the safety and well-being of condo unit owners and residents.

In Florida, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property.[30] To effectuate those duties and goals, the association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements or association property.[31] Our discussion herein regarding reserves and the requisite routine maintenance and repairs that should be ordered by the officers and directors should be viewed in light of these legal obligations.

We understand that condo board members do not always act in the best interests of their associations. There are various reasons for the failure of board members to act responsibly in the upkeep of their buildings. Condominiums are expensive to run and maintain. Sometimes, the failure to pay for repairs may stem from a well-intentioned but misplaced desire to save the unit owners money. There is often tremendous pressure on the elected board members to keep costs and assessments low, and as we heard from witnesses, board members who do not achieve this goal will often find themselves voted off the board. This reality probably accounts for many of the condo buildings that end up in disrepair.

On the other hand, sadly, the lack of proper building maintenance can also be the result of incompetence, graft, and corruption by board members. If funds are misused or stolen there are insufficient resources to carry out needed repairs. We understand that a number of investigations have been initiated in Miami-Dade County where allegations were made that board members stole or misappropriated hundreds of thousands of dollars of condo funds. Reportedly, several of the actors who committed these crimes acted with impunity. How could they do so?

Unfortunately, we have learned that the laws and regulations acting as a check on the misuse or theft of condominium funds by board members is inadequate. In theory, improper board behavior should be controlled by direct owner supervision and action, and by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Florida Department of Business and Regulation (DBPR) which supervises condominium associations. In extreme cases, improper board behavior should be controlled and enforced by law enforcement officers.

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[30] Fla. Stat. §718.111 (3)(a)

[31] Fla. Stat. §718.111 (4)

Ultimately, condominium owners are the first line of defense responsible for supervising the actions of their board members. The Florida Condominium Act provides tools to help accomplish that goal. The Act requires that all board meetings be public and that minutes of the meeting be kept. The Act also requires that official records be maintained and open and available for inspection by owners. Access to these records is vital for owners to supervise the finances of their condominium. We have learned that due to the actions of some board members and directors, owners are frequently thwarted in their attempts to obtain these important records. Owners must frequently make numerous requests, complain to the DBPR, and even hire attorneys or investigators to help them obtain the complete records that they are entitled to review. In cases where the DBPR or a court of law finds the board in violation for failing to turn over records the only remedy is a fine. The willful failure to provide official records is not a crime, it is only a civil violation. The fine, if imposed, is then paid by the entire association – not the responsible board members. Thus, while direct owner supervision and action is the first check on improper board behavior, it is often inadequate in the face of an intransigent or corrupt board that intends to hide its financial improprieties. The board exercises control over the finances and has total control over the condominium employees and the condominium attorney. Few owners are willing or capable of fighting back. *We recommend that the Florida Legislature make the willful failure to provide official records a crime.*

The DBPR has a troubled history with condominium owners in Florida. The Florida Legislature prepared a report in 2004, and in 2017 a previous Miami Dade Grand Jury detailed numerous insufficiencies with the DBPR's oversight of condominium boards. We heard from witnesses who testified to the DBPR's tendency to screen out complaints and its reluctance to thoroughly investigate matters. Owners frequently characterize their complaints incorrectly and as a result, many complaints filed with the DBPR are dismissed because they allege criminal conduct rather than a violation of regulations. Although both may be involved, the DBPR's practice is to dismiss complaints if the allegations have any components of criminality. Surprisingly, many DBPR investigators even lack proper training and motivation to investigate regulatory violations. As we have a concern that criminal activity may be occurring on a regular basis on condo boards, complaints are being filed with DBPR regarding those complaints and because the complaints include criminal components the entire complaint is being dismissed, *we recommend that DBPR amend its practice and stop the dismissal of complaints which contain both criminal violations and regulatory violations.*

We further recommend that in such instances, where complaints filed with DBPR include both criminal violations and regulatory violations, DBPR shall refer the criminal portion of the complaint to the law enforcement agency that has jurisdiction over that city, county or municipality where the violation was alleged to have occurred.

Frustrated condo owners frequently contact the police when they suspect fraud, but the police are often limited in their ability to investigate. While fraud may be involved, there is often insufficient evidence given nonexistent or poor record keeping. As previously mentioned, even if

police learn that official records were deliberately destroyed or hidden, the violation is only civil, not criminal. Police resources are limited, and complex financial investigations can take months or years to complete. At the end of a long condominium investigation, criminal activity is often not detected so the police prefer to focus their resources on more obvious targets. Significantly, many of the uncovered violations are "illegal" but they are civil violations requiring civil legal action, not police action. This is a significant shortcoming and one we believe the Florida Legislature should correct by changing these civil violations to criminal violations.

We are aware that past efforts to modify the condominium statutes have been rejected by the Florida legislature. The efforts included attempts to criminalize the destruction of official records and the commission of election fraud, which helps keep corrupt board members in their elected positions. While we think such efforts should continue, we learned of a new legislative effort to bring relief to condominium owners. We applaud and support pending legislation that creates a focus on condominium fraud. It is designed to create an investigative unit comprised of five certified law enforcement officers and three financial investigators whose sole purpose is to investigate condominium fraud. While this Grand Jury has no opinion on where these investigators should be located, *we strongly recommend and endorse the creation of a special unit of investigators who would be trained and qualified to investigate these important cases that now seem to fall through the cracks.*

We further recommend that this special unit of investigators be responsible for conducting investigations of criminal conduct involving directors who serve on condo boards.

Senate Bill 274 would also strengthen the Office of the Condominium Ombudsman. Currently, the Ombudsman serves mostly an educational role concerning important condominium issues. The proposed legislation permits the Ombudsman to subpoena, audit, and investigate complaints, make referrals to the new condo fraud task force and the DBPR. The law also empowers the Ombudsman to void an election if they determine fraud occurred in a condominium election. We think these new powers would play an important part in curbing fraud and easing the concerns of Florida's condominium owners. *Accordingly, we recommend that the Legislature approve those provisions of Senate Bill 274 which strengthen the Office of the Condominium Ombudsman.*

X. CONCLUSION

We conclude this report similar to how we started it. Persons who were not living in Miami on August 5, 1975 heard about the Surfside Condo collapse and thought it was the first time anything like that had ever happened in our community. It was not. On August 5, 1974 the partial collapse of the federal office building housing the United States Drug Enforcement Administration Miami Field Division killed 7 DEA employees and injured 15 others. The DEA Building was 49 years old at the time of it the partial collapse. The Champlain Towers building was 40 years old at the time of its collapse. Although these two tragedies occurred almost fifty-years apart, we

believe the message being delivered is clear. If we do not build safely, if we do not immediately institute suggested improvements to the policies and procedures surrounding the existing 40-year recertification process, if we do not adopt recommendations that expedite the identification and rectification of damaged buildings that are not structurally or electrically sound, and if we do not ensure that regular and routine maintenance is being conducted in all of these buildings, then sadly, we predict that the Champlain Tower South Condominium building will not be the last partial building collapse in our community.

XI. RECOMMENDATIONS

1. We recommend that the Miami-Dade County Ordinance requiring the 40-Year Recertification be amended to provide for a certification process that starts much earlier than 40 years.

2. e recommend that the Miami-Dade County Ordinance requiring the 40-Year Recertification be amended to provide for a certification process that starts much earlier than 40 years. Specifically, we recommend the initial detailed certification inspection would be performed no less than 10 years and no more than 15 years after completion of construction of the condominium building or other residential property with updated reports required every 10 years thereafter.[32] *Building owners who have already submitted Recertification Rèports would be required to provide updated reports 10 years after their initial submittal and every 10 years thereafter.*

3. In connection with the above recommendation, we further recommend that owners of buildings 10 years or older be given a deadline to have their initial detailed inspections completed and those inspection reports filed with Local Building Officials. We recommend that the deadline be no later than December 31, 2023.

4. We recommend that Local Building Officials require building owners to paint and/or waterproof their exterior building surfaces at least every 10 years.

5. We further recommend that the approved form used to specify the areas inspected during recertification inspections be amended to include painting and waterproofing. We recommend that the engineer or architect record the year the exterior building surfaces and roofs were last painted or treated with waterproofing.

6. We recommend that the Local Building Officials adopt the Developer Transfer Report guidelines as the new standard and scope of areas of investigations for recertifications.

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[32] Our repeated references and recommendations throughout this report to improve the 40-year recertification process should in no way be seen as diminishing or dismissing our primary recommendation of requiring mandatory inspections well before the buildings reach the 40-year mark.

7. We further recommend that to the extent our prior recommendation mandating periodic inspections before recertification inspections is accepted, that condo board members will have their engineers or architects use the developer transfer report guidelines as the standard and scope for those inspections.

8. We further recommend that inspecting engineers who observe significant deterioration during their inspections consider whether they should include primary and secondary analyses in their evaluation, which may include a review of initial building design plans.

9. We recommend that Building Officials develop policies, procedures and training protocols to remind owners of the Building Code requirement to maintain their buildings and structures "in a safe condition."

10. We recommend that Building Officials develop procedures for regular and timely inspections to confirm that owners are conducting regular and routine maintenance and repairs to ensure the structural integrity of their buildings.

11. We recommend that on an annual basis Condo Board officers be required to file a document certifying that regular and routine maintenance of all components impacting the structural integrity of the building has been conducted at their building within the past 12 months. We believe Local Building Officials can develop such a prepared form that can be accessed and submitted to the building department electronically.

12. We recommend that a specific duty of inspection be imposed on the condo board members and such periodic inspections and attendant repairs be performed at least every 10 years.

13. We recommend that condo board members obtain insurance coverage for their condominium based on recently assessed replacement costs.

14. We recommend that all of the municipalities in Miami-Dade County enact a similar ordinance to provide advance courtesy notices to building owners at least two years prior to the Anniversary Year of their 40-year recertification.

15. With the increase in the number of cases being reviewed and the number of Recertifications being submitted, *we recommend that local governmental officials continue to increase the budgets and staff of their respective building departments and Unsafe Structures Departments to provide for more inspectors. The increases in staffing should assist in identifying problem structures that could pose risks to Miami-Dade County residents.*

16. We recommend that any licensed engineer or architect who is found to have submitted a false, misleading, or fraudulent statement in connection with any recertification report shall have his license suspended for a minimum of 12 months. The company, corporation, partnership, or entity employing the subject engineer or architect shall be debarred from doing such recertification inspections during the term of the suspension. Any licensed engineers or architects found to have engaged in subsequent violations should have their licenses revoked.

17. We recommend that any engineer certifying a building in connection with the 40/50-year recertification process must have previously designed and inspected at least 3 buildings of the same or greater height as the building which is to be recertified.

18. We recommend that the language in the Florida statute and the Building Code be amended to ensure that only licensed structural engineers certify buildings for the 40/50-year recertifications.

19. We recommend that a qualified inspecting engineer must have experience with the design and construction of similar buildings. The qualified inspecting engineer must have a Florida Professional Engineer's License and a Florida Threshold Building Inspector's License.

20. We recommend that the County raise the qualification for the person conducting the electrical inspection by imposing a requirement that said inspection and certification be conducted by a licensed electrical engineer.

21. We recommend that a law be passed requiring all condo board members, condo associations and owners of buildings which meet the threshold definition to provide the Local Building Official with copies of any and all inspections conducted on their buildings. Copies shall be provided to the Local Building Official within 7 business days of the receipt of said inspection report. Failure to provide the report should result in a stiff fine that would be assessed against the building owner or individual condo board member in their individual (as opposed to Board) capacity. Repeated failures by a condo board to provide such reports shall result in the removal of those members from the board.

22. We further recommend that "a duty to report" also be imposed on professional engineers and architects who conduct building inspections. At the time they provide copies of inspection reports to the condo board or owners of buildings which meet the threshold definition, they should be required to provide a copy of the same report to the Local Building Official. Should an engineer or architect who conducts a building inspection determine that the building or structure is unsafe for continued occupancy, (whether structural integrity, electrical issue, fire safety, or any other life safety concern) the engineer or architect shall notify the Local Building Official within 24 hours of such finding.

23. We recommend that local governmental entities develop a method for the continuity of enforcement by requiring outgoing Building Officials to provide information to their successors regarding buildings or structures which are not in compliance with local or state rules or regulations.

24. We further recommend that condo boards use letters and email to inform residents and tenants who are not condo owners of the existence of such maintenance documents and inspection reports and where they can be found.

25. We recommend that included with building maintenance plans, there must be recommendations from building officials on how to weatherproof buildings and to inspect for spalling damage for any reinforced concrete structure 3 stories and above.

26. Like the Southeast Florida Climate Change Compact, we recommend that other coastal areas implement collaborative agreements and action plans so that coordinated efforts can be made to protect the structures that already exist.

27. We further recommend that such collaborative agreements strive to ensure that all future construction in these marine environments be done under guidelines designed to ensure the long-term safety of the structures and those who live and work in them.

28. We recommend that the waiver provision regarding the obligation to fund reserves for condominium repairs be stricken from the statute.

29. We further recommend that if the waiver provision is not stricken, the statute should be amended to provide that a waiver of the obligation to fund reserves for condominium repairs require an affirmative vote of a supermajority (at least 70%) of the unit owners.

30. We further recommend that the Florida Condominium Act be further amended to provide that funds reserved for condominium repairs not be repurposed for other uses.

31. We recommend that the Department of Business and Professional Responsibility (DBPR) expand the minimum requirement of the educational curriculum for elected or appointed condo board directors to include, but not be limited to, detailed information on such topics as: The Importance of Regular and Routine Building Maintenance; Effective Financial Management and Understanding Of Reserves; The Benefits Of Regular Audits Of Board Finances; and Tools For Effective Communication With Unit Owners.

32. We recommend that the educational courses be taken within the first 6 months of being elected or appointed.

33. We further recommend that training videos be prepared for unit owners, the purpose of which would be to educate them on their rights, obligations, and responsibilities as unit owners. The training videos would also provide to them a list of available resources to assist them in gaining knowledge about the operation of the condo board and or condo association.

34. We also recommend that condo unit owners get involved in matters affecting their building, associations, and boards.

35. We recommend that the Florida Legislature make the willful failure to provide official records a crime.

36. We recommend that DBPR amend its practice and stop the dismissal of complaints which contain both criminal violations and regulatory violations.

37. We further recommend that in such instances, where complaints filed with DBPR include both criminal violations and regulatory violations, DBPR shall refer the criminal portion of the complaint to the law enforcement agency that has jurisdiction over that city, county or municipality where the violation was alleged to have occurred.

38. We strongly recommend and endorse the creation of a special unit of investigators who would be trained and qualified to investigate these important cases that now seem to fall through the cracks.

39. We further recommend that this special unit of investigators be responsible for conducting investigations of criminal conduct involving directors who serve on condo boards.

40. We recommend that the Legislature approve those provisions of Senate Bill 274 which strengthen the Office of the Condominium Ombudsman.

NAME OF DEFENDANT	CHARGE	INDICTMENT RETURNED
JUAN ANTONIO GONZALEZ	First Degree Murder Child Abuse/Aggravated/Great Bodily Harm/Torture	True Bill
JOHN CHRISTOPHER CARLSON	First Degree Murder Murder/Premeditated/Attempt/Deadly Weapon or Aggravated Battery Shooting or Throwing Deadly Missile Firearm/Weapon/Ammunition/ Possession by Convicted Felon or Delinquent Firearm/Weapon/Ammunition/ Possession by Convicted Felon or Delinquent	True Bill
KARINA VANESSA CORBALAN	First Degree Murder	True Bill
ALBERTO CHRISTIAN QUESADA (A) and ANDREW CHRISTOPHER QUESADA (B)	First Degree Murder (A&B) Robbery/Armed/Attempt While Wearing Mask (A&B)	True Bill
EVOIRE LEA COLLIER (A) and DORIAN TAYLOR (B)	First Degree Murder (A&B) First Degree Murder (B) Burglary W/Assault or Battery (A&B) Sexual Batt 12+ Helpless to Resist Threat of Violence 10-1-14 (A&B) Fraudulent Use of a Credit Card (A&B) Petit Theft (A&B)	True Bill
ANTHWAN D. RAGAN, JR.	First Degree Murder	True Bill
DONTE ROLAND MARSHALL	First Degree Murder Attempted Felony Murder with a Firearm/Deadly Weapon or Aggravated Battery Firearm/Weapon/Ammunition Possession by Convicted Felon or Delinquent Shooting or Throwing Deadly Missile	True Bill

INDICTMENT NAME OF DEFENDANT	CHARGE	RETURNED	DATE
EDWARD VINCENT MILO	First Degree Murder Leaving the Scene of Crash Involving Death Burglary with Assault or Battery Robbery/Carjacking Criminal Mischief over $1,000 Grand Theft 3rd Degree Robbery/Carjacking/Attempt	True Bill	
DEYANSA DIONYSIUS MACKEY	First Degree Murder Robbery/Deadly Weapon/Firearm/ Attempt Cruelty to Animals	True Bill	
CHRISTOPHER JAMES BRYANT	Robbery/Carjacking/Armed Robbery Using Firearm/Deadly Weapon Before 10/1/19 Robbery Using Firearm/Deadly Weapon Before 10/1/19 Firearm/Weapon/Ammunition/ Possession by Convicted Felon or Delinquent Robbery/Carjacking/Armed Robbery Using Firearm/Deadly Weapon Before 10/1/19 Robbery Using Firearm/Deadly Weapon Before 10/1/19 Firearm/Weapon/Ammunition/ Possession by Convicted Felon or Delinquent Concealed Firearm/Carrying Robbery Using Firearm/Deadly Weapon Before 10/1/19 Robbery Using Firearm/Deadly Weapon Before 10/1/19 Burglary/Armed Firearm/Weapon/Ammunition/ Possession by Convicted Felon or Delinquent First Degree Murder Robbery/Carjacking/Armed Concealed Firearm/Carrying Firearm/Weapon/Ammunition/ Possession by Convicted Felon or Delinquent Resisting an Officer Without Violence to His/Her Person	True Bill	

ACKNOWLEDGMENTS

We have had the privilege of serving this community when more than six months ago 21 citizens representing a broad spectrum of our community were selected as the 2021 Spring Term of the Miami-Dade County Grand Jury. All of us have taken time out of our daily lives to participate in this process. For many of us, this experience has been an intense and emotional introduction to the judicial system. We began the term with little knowledge of criminal law. Yet now, through these months of case discussions with legal experts, we have learned to interpret and apply a legal definition to address specific capital crime cases with certitude. We learned during this process that some in our society caused a great deal of pain to other individuals and families due to their actions and behaviors. We have made hard decisions based on detailed and factual presentations of the prosecutors and witnesses and the letter of the law as written. We leave more aware, educated, enlightened, enriched, more engaged as involved citizens, and proud of what we have accomplished during our term.

Additionally, soon after our term began, an unfortunate event of a condominium collapse occurred in the city of Surfside. Upon request of the State Attorney, we also agreed to undertake an investigation to prevent such a disaster from occurring again in all geographical areas of our county, state, and nation. We made sincere efforts to find ways within such a limited time to make recommendations on how to prevent such a disaster from occurring again. With the help of numerous experts, we are proud to present our findings in our final report.

In conclusion, on behalf of my fellow jurors, it has been a great honor and privilege to serve on the Miami-Dade County Grand Jury. We are grateful for the opportunity to be part of the judicial system and to have worked closely with such professional and dedicated court personnel, and we would like to express our thanks and appreciation to the following individuals:

- Our judge, the Honorable Peter R. Lopez and his associate judges, for their guidance.
- State Attorney Katherine Fernandez Rundle, for her leadership, commitment and service to the Miami-Dade judicial system.
- Chief Assistant State Attorney Don Horn, for his dedication, guidance, professionalism, and his skillful ability to help us understand our role as jurors and to keep us on task.
- Assistant State Attorney Laura Adams, John Pericles, and other members of the Miami-Dade State Attorney's Office not previously mentioned that assisted the Grand Jury through our term of service, and particularly, with the release of our final report and recommendations for future reference in building inspections and recertifications in Dade County and the state of Florida for generations to come.
- Rose Anne Dare, for her communications and administrative support.
- Court reporter, Nicolas Delavega, for his professionalism and service throughout our term.
- Bailiff Nelido Gil, for his communications and attention to the jurors' needs.

- The detectives and other law enforcement professionals, the government and building officials, the private sector professionals, and all others who came before us to testify and facilitated our investigations by answering our questions and concerns with a lot of patience.

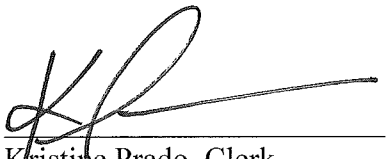
Once again, Thanks to all of you for making our experience on the Grand Jury enlightening and fulfilling. It has been a privilege and honor to serve our community.

Respectfully submitted,



Carl Jean Joseph, Foreperson
Miami-Dade County Grand Jury
Spring Term 2021

ATTEST:



Kristine Prado, Clerk
Date: December 15, 2021