



**GOREN CHEROF
DOODY & EZROL P.A.**
ATTORNEYS AT LAW

July 13, 2023

Via Email and U.S. Mail

ben@algpl.com

Benjamin A. Solomon, Esq.
Association Law Group, Attorneys at Law
1101 Brickell Avenue, Suite N1101
Miami, FL 33131

Re: City of Pembroke Pines (the "City") / Heron Pond Condominium Association, Inc. (the "Association") / Notice of Designation of Certain Apartment Units as Unsafe to Occupy / Continued Request to Provide Updated Structural Analysis / Property Located at 8400 SW 1st Street, Pembroke Pines, FL. 33025 (the "Property")

Dear Mr. Solomon,

This letter shall serve as our response to your email submitted at 7:24 PM yesterday, July 12th and Ramon Palacio's email submitted at 11:54 AM today. This letter shall also provide a summary of actions taken by the City pursuant to its on-site visit earlier this week and the City's continued request to provide an updated structural analysis.

Future Contact

As requested by your above-referenced emails, the City shall proceed to schedule any requests for inspections of the Property in writing through your office.

We ask that future correspondence from you or the Association regarding non-legal matters be addressed directly to Assistant City Manager and Director of Planning and Economic Development, Michael Stamm, Jr.

July 11th Exploratory Inspections

On July 11, 2023, representatives of the Pembroke Pines Building and Fire Departments (the "City Representatives") were present on the Property pursuant to their discussions and coordination with your Property Manager, Laura Serrano, who invited them into the Property. The purpose of the visit was to allow the City Representatives the opportunity to observe your engineer, Emilio

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3099 E. Commercial Blvd, Suite 200, Fort Lauderdale, FL 33308
T 954-771-4500 : 561-276-9400 F 954-771-4923
www.GorenCherof.com

Castro, conduct exploratory inspections on several buildings within the Property in order to further inform the Building Official and Fire Marshal of the present status of the serious, long standing and increasingly concerning structural issues within the residential buildings on the Property, which the City has been communicating to the Association since 2021. A summary of the City's years-long efforts to ensure that the Association comprehensively address the structural issues impacting the buildings on the Property was provided within our letter submitted to your office on July 5, 2023. To date, we have not received a response to our July 5th letter.

Although Emilio Castro was not present at the July 11th meeting, Manuel Herrera, who indicated that he works with Emilio was present on the Property to meet with the City Representatives and conduct the exploratory inspections while the City Representatives observed. The City Representatives observed Manuel Herrera conduct partial exploratory inspections on Buildings 3, 10, and 16, the results of which were significantly concerning.

The City Representatives observed numerous structural repairs that had been performed without presenting the requested updated engineering report for review and approval by the Building Department, applying for a building permit with the City, or requesting an inspection from the City. The City Representatives further observed severely damaged main columns within the inspected buildings, including columns where termite damage and water intrusion had been so significantly damaged that hardly any part of the columns remained. During the exploratory inspections, the City Representatives noticed severe damage and signs of structural decay within Buildings 3 and 10 that were not readily apparent or otherwise observable from the outside of the buildings.

As the Authority Having Jurisdiction, the Building Official, after consultation with the Fire Marshal and their mutual observation of the significant structural issues described above, has declared and tagged the following nineteen (19) apartment units as "Unsafe to Occupy" as of July 11, 2023 pursuant to the power granted to the Building Official under Chapter 469, Florida Statutes, and the Broward County Board of Rules and Appeal:

Building 3: Units 101, 104, 105, 108, 201, 204, 205, and 208.

Building 5: Unit 208

Building 10: Units 101, 104, 105, 108, 201, 204, 205, and 208.

Building 16: Units 106 and 206.

Unsafe to Occupy Designation

The units have been declared as unsafe pursuant to the following provisions of the Florida Building Code Broward County Amendments:

116.1.1 Buildings or structures that in the opinion of the Building Official are, or hereafter shall become unsafe, unsanitary or deficient in adequate facilities for means of egress, or which constitute a fire or windstorm hazard, or illegal or improper use, occupancy or maintenance, or which do not comply with the provisions of the applicable Minimum Housing Code, or which have been substantially damaged by the elements, acts of God, fire, explosion or otherwise shall be deemed unsafe buildings and a permit shall be obtained to demolish the structure or bring the building to comply with the applicable Codes.

Further, Chapter 1 of the Florida Building Code Broward County Provisions provides:

116.2.1.1 A Building shall be deemed a fire hazard and/or unsafe when:

116.2.1.1.3 The building condition creates hazards with respect to means of egress and fire protection as provided herein for this occupancy.

116.2.1.2 A building shall be deemed unsafe when:

116.2.1.2.2 There is a deterioration of the structure or structural parts.

116.2.1.3 A Building, or part thereof, shall be presumed to be unsafe if:

116.2.1.3.1 The construction, installation of electrical, plumbing or other equipment therein or thereon, or the partial construction or installation of equipment has been commenced or completed without a permit therefore having been obtained or the permit therefore expired prior to completion and a Certificate of Occupancy issued.

Likewise, the Florida Fire Prevention Code (NFPA) and Chapter 633, Florida Statutes, provide the Fire Marshal the authority to also declare the buildings or portions of buildings as Unsafe to Occupy pursuant to the following provisions:

NFPA 1: 1.7.16.1 When, in the opinion of the AHJ, an imminent danger exists, the AHJ shall be authorized to order the occupants to vacate, or temporarily close for use or occupancy, a building, the right-of-way, sidewalks, streets, or adjacent buildings or nearby areas.

NFPA 1:10.1.4.1 Where structural elements have visible damage, the Authority Having Jurisdiction (AHJ) shall be permitted to require a technical analysis prepared in accordance with Section 1.15 to determine if repairs are necessary to restore structural integrity.

NFPA 1:10.2.4 The owner, operator, or occupant of a building that is deemed unsafe by the AHJ shall abate, through corrective action approved by the AHJ, the condition causing the building to be unsafe either by repair, rehabilitation, demolition, or other corrective action approved by the AHJ.

Structural Analysis Request

Pursuant to the foregoing, and due to the City Representative's observations during the exploratory inspections on July 11, the Chief Building Official and Fire Marshal now request an updated and revised complete structural analysis for every building on the Property due to the likely imminent threat that the present conditions of the buildings they observed pose to the life, health, and safety of the residents.

Prior to commencing to bring the buildings into compliance with the applicable sections of the Florida Building Code, further evaluations must occur pursuant to a review of the updated and revised structural analysis report that the City has been requesting of the Association for several months and now requests for every building on the Property. The City anticipates that such work shall require electrical, plumbing, engineering, complete renovation of the interior of several units, and reroofing in certain instances. In consideration of the foregoing, Section 116.2.2.2 of the Florida Building Code provides:

116.2.2.2 If the cost of structural repair or structural replacement of an unsafe building or structure or part thereof exceeds thirty-three (33) percent of the structural value such building or structure or part thereof shall be demolished and removed from the premises; and if the cost of such structural repairs does not exceed thirty-three (33) percent of such replacement cost, such building or structure or part thereof may be structurally repaired and made safe, as provided in FBC Existing Building.

The City has long expressed its growing life, health, and safety concerns over the structural issues on the Property. As outlined in our June 30th and July 5th letters to you, the City has addressed its well-founded and significant structural concerns for the buildings on the Property to the Association since 2021. The City remains steadfast in fulfilling obligation to protect its residents to the fullest extent of its constitutionally-granted powers. The City, Chief Building Official, and Fire Marshal take the actions described above seriously, but the City shall not yield to further inactions or delays on behalf of the Association and shall take whatever measures legally necessary to ensure the life, health, and safety of every resident living within the Property.

Benjamin A. Solomon, Esq.
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We thank you in advance for your considerate attention to this matter. Should you have any questions regarding this matter, please do not hesitate to our office.

Sincerely,

Samuel S. Goren

Samuel S. Goren
City Attorney

cc: Frank C. Ortis, Mayor
Members of the City Commission
Charles F. Dodge, City Manager
Aner Gonzalez, Deputy City Manager
Michael Stamm, Assistant City Manager and Director of Planning and Economic Development
Daniel Almaguer, Fire Marshall
Steve Pizzillo, Chief Building Official