STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES AND MOBILE HOMES,	)	
Petitioner,	)	
vs.	)	Case No. 10-6483
CARILLON CONDOMINIUM, INC.,	)	
Respondent.	)	

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on October 15, 2010, by video teleconference with connecting sites in Miami and Tallahassee, Florida, before Errol H. Powell, an Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: William R. Wohlsifer, Esquire[1]
Department of Business and Professional Regulation
Northwood Centre
1940 North Monroe Street, Suite 42
Tallahassee, Florida 32399-2202

For Respondent: Jill Anne Hillman, Esquire
4640 Lankershim Boulevard, Suite 600
North Hollywood, California 91602-1818

STATEMENT OF THE ISSUE

The issue for determination is whether Respondent used its best efforts to obtain and maintain adequate property insurance and whether adequate property insurance includes windstorm coverage.

PRELIMINARY STATEMENT

The Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares and Mobile Homes, hereinafter Department, issued a Notice to Show Cause to Carillon Condominiums, Inc., hereinafter Carillon Association, on June 25, 2010. The Notice to Show Cause alleged, among other things, that Carillon Association failed to use its best efforts to obtain or maintain adequate hazard insurance to protect the Carillon Association, the Carillon Association's property, the common elements, and the Carillon Condominium's property that is required to be insured, specifically, failing to maintain windstorm insurance, in violation of section 718.111(11)(d), Florida Statutes. Furthermore, the Notice to Show Cause directed the Carillon Association to show cause why the Department should not enter a cease and desist order, impose civil penalties, and take such other affirmative action as deemed necessary by the Department to carry out the purposes of chapter 718, Florida Statutes. The Carillon Association filed a petition for an administrative hearing, disputing the material

allegations of fact and requesting a hearing. On July 28, 2010, this matter was referred to the Division of Administrative Hearings.

Prior to hearing, the parties filed a Joint Pre-Hearing Stipulation and memorandum of law on their respective positions. At hearing, the Department presented the testimony of three witnesses and entered 27 exhibits (Petitioner's Exhibits numbered 1 through 27) into evidence. The Carillon Association presented no witnesses to testify and entered 40 exhibits (Respondent's Exhibit numbered 1 through 40) into evidence.

A transcript of the hearing was not ordered. At the request of the parties, the time for filing post-hearing submissions was set for more than ten days following the conclusion of the final hearing. The parties timely filed their post-hearing submissions, which have been considered in the preparation of this Recommended Order.[2]

After the filing of post-hearing submissions, Carillon Association filed Exceptions to the Department's post-hearing submission. In response, the Department filed a Motion to Strike the Exceptions and requested attorney's fees. The Carillon Association immediately filed a Motion to Withdraw the Exceptions. The Motion to Withdraw Exceptions is granted; the Motion to Strike Exceptions is denied as moot; and the request for attorney's fees is denied.

FINDINGS OF FACT

1. The Carillon Association is a Florida not-for-profit corporation organized in 1966.

2. Carillon Condominium consists of eight units. The units are owned by seven unit owners and controlled by the Carillon Association.[3]

3. Carillon Condominium is located in Miami Beach, Florida. During its existence of more than 40 years, Carillon Condominium has survived Florida's tropical storms, depressions, hurricanes, and other forms of wind and rain.

4. At the time of the hearing, the Carillon Association was governed by a three-member board, consisting of a president, secretary, (who is also the legal counsel), and treasurer.

5. Section XXVI of the Carillon Condominium's Declaration of Restrictions, Reservations, Covenants, Conditions and Easements (Declaration), titled "Casualty Insurance," provides in pertinent part:

> (1) Purchase of Insurance: The association shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance insuring all of the insurable improvements within the condominium, together with such other insurance as the association deems necessary in and for the interest of the association, all unit owners, and their mortgagees, as their interests may appear, in a company, Triple A - best rating or better, in an amount which shall be equal to the maximum insurable replacement value as determined

annually; and the premiums for such coverage and other expenses in connection with said insurance shall be assessed against the unit owners as part of the common expenses.

* * *

(4) Loss Less than "Very Substantial": Where a loss or damage occurs to more than one unit, or to the common elements, or to any unit or units, and the common elements, but said loss is less than "very substantial" (as hereinafter defined), it shall be obligatory upon the association and the unit owners to repair, restore and rebuild the damage caused by said loss. Where such loss or damage is less than "very substantial":

* * *

(f) In the event the insurance proceeds are sufficient to pay for the cost of restoration and repair, or in the event the insurance proceeds are insufficient but additional funds are raised by special assessment within forty-five days after the casualty, so that sufficient funds are on hand to fully pay for such restoration and repair, then no mortgagee shall have the right to require the application of insurance proceeds to the payment of its loan; provided, however, that this provision may be waived by the Board of Directors in favor of any institutional first mortgages upon request thereof at any time. To the extent that any insurance proceeds are required to be paid over to such mortgagee, the unit owner shall be obliged to replenish the funds so paid over, and said unit owner and his unit shall be subject to special assessment for such sum.

(g) Notwithstanding the foregoing provision, any institutional mortgagee shall have the right to require payment to it, and

apply against the mortgage, any insurance funds to the extent of its interest therein.

6. The Carillon Condominium's By-Laws provides in pertinent part:

> Article II
>
> Directors
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> * * *
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> Section 5. Powers: The property and business of the corporation shall be managed by the Board of Directors, which may exercise all corporate powers not specifically prohibited by statute, the Certificate of Incorporation, or the Declaration to which these By-Laws are attached. The powers of the Board of Directors shall specifically include, but not be limited to, the following:
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> A. To make and collect assessments and establish the time within which payment of same are due;
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> B. To use and expend the assessments collected to maintain, care for and preserve the units and condominium property, except those portions thereof which are required to be maintained, cared for and preserved by the unit owners;
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> * * *
>
> E. To insure and keep insured said condominium property in the manner set forth in the Declaration, against loss from fire and/or other casualty, and the unit owners against public liability, and to purchase such other insurance as the Board of Directors may deem advisable . . . .
>
> * * *

Section 7. Meetings:

* * *

B. Special meetings shall be held whenever called by the direction of the President or a majority of the Board. The Secretary shall give notice of each special meeting either personally, by mail or telegram, at least three (3) days before the date of such meeting, but the directors may waive notice of the calling of the meeting;

C. A majority of the Board shall be necessary and sufficient at all meetings to constitute a quorum for the transaction of business, and the act of the majority present at any meeting at which there is a quorum shall be the act of the Board. . . .

* * *

Article VII

Finances

* * *

Section 3. Determination of Assessments

A. The Board of Directors of the corporation shall fix and determine from time to time the sum or sums necessary and adequate for the common expense of the condominium property. Common expenses shall include expenses for the operation, maintenance, repair or replacement of the common elements . . . all insurance premiums and expenses relating thereto, including fire insurance, and any other expenses designated as common expense from time to time by the Board of Directors of the corporation. . . Funds for payment of common expenses shall be assessed against the unit owners in the proportions or percentages of sharing common expenses provided in the Declaration . . . Special assessments,

> should such be required by the Board of Directors, shall be levied and paid in the same manner as heretofore provided for regular assessments. . . .

7. At all times material hereto, John Hillman was president of the Carillon Association. He has served as president for the past ten years. Additionally, he owns two units and has owned one of his two units for approximately 20 years.

8. At all times material hereto, Lily Carico was treasurer of the Carillon Association.

9. At all times material hereto, except from March 2010 forward, Peter Neofotistos was vice president of the Carillon Association. In March 2010, he resigned as vice president.

10. At the end of each year for the past 20 years, the treasurer prepared a financial statement, i.e., an Annual Report, setting forth the annual budget based upon credits and debits, which was provided to each unit owner. The next year's budget was determined based upon the previous year's, resulting in essentially last year's budget becoming the next year's budget, and was financed by each of the owner's respective quarterly maintenance payments.

11. For the past ten years, no annual budget meetings were noticed and held.

12. Any extraordinary expenses for the past 20 years

resulted in a special assessment to each unit owner, based upon each unit owner's ownership interest in the Carillon Condominium.

13. For the past 20 years, the Carillon Association never charged or collected reserves for repair or replacement of items. Furthermore, for that same period of time, none of the unit owners requested a meeting to establish a reserve account. No evidence was presented as to whether, during the 20-year period or prior thereto, a majority of the unit owners voted to have no reserves.

14. At all times material hereto, the Carillon Association purchased and maintained general premises liability coverage and all-risk coverage, including, but not limited to, fire, theft vandalism, vehicle, collapse, lightning, terrorism, and equipment breakdown coverage on the Carillon Condominium.

15. The insurance premium for the all-risk policy in 2009 was $2,390.00 and in 2010 was $2,331.37.

16. Sometime in 2006, Mr. Neofotistos suggested to Mr. Hillman the obtaining of insurance, covering wind and flood damage, by the Carillon Association in light of the recent hurricane activity. Mr. Hillman agreed in principle and that such insurance coverage might be something to explore.

17. In 2006, unit owner Peter Neofotistos elected to use his one unit as collateral to secure a bank loan. He advised

Mr. Hillman that his lender required a wind and flood insurance policy for the Carillon Condominium and that he (Mr. Neofotistos) acquired a master wind and flood insurance policy covering the Carillon Condominium at a cost of $3,740.00. Subsequently, Mr. Neofotistos made a demand for reimbursement of the $3,740.00. Mr. Hillman refused to reimburse Mr. Neofotistos mainly because the directors of the Carillon Association had not authorized and approved for Mr. Neofotistos to obtain the coverage for the Carillon Association.

18. In 2009, unit owner Mario Sesma elected to use his one unit as collateral to secure a bank loan. The Carillon Association agrees that Mr. Sesma advised Mr. Hillman (a) that his lender was requiring a windstorm insurance policy for the loan; (b) that he (Mr. Sesma) was unable to pay for the windstorm insurance coverage; and (c) that the coverage would be considerably less if the Carillon Association had a master windstorm policy. Mr. Sesma advised Mr. Hillman further that the lender obtained a lender-placed flood insurance policy at a cost of $3,090.00 to Mr. Sesma.

19. In April 2009, the roof at the Carillon Condominium required replacing due to leaks and age (ten years old). The unit owners were given notice of a special assessment in the amount of $15,285.70 for replacement of the roof.

20. In 2009, Ms. Carico contacted the Carillon Association's long-time and current insurance agent for a quote on windstorm and hail insurance for the Carillon Association. She contacted the insurance agent upon learning of Mr. Sesma's request for the Carillon Association to obtain windstorm insurance.

21. In September 2009, the insurance agent advised Carillon Association that one of the eligibility requirements for the insurance was an appraisal of the Carillon Condominium. Mr. Hillman requested the unit owners, who had forced-coverage by the lending institutions, to provide a copy of their appraisal in an effort to save money on the appraisal. The unit owners did not respond to his request.

22. Additionally, in September 2009, the insurance agent provided a quote for the insurance coverage--the total estimated cost of the insurance was $4,012.00. However, he advised the Carillon Association that the estimate would fluctuate up or down depending upon the appraisal.

23. The Carillon Association did not obtain an appraisal on the Carillon Condominium's common property.

24. The Carillon Association's legal counsel, Jill Hillman, who was the daughter of Mr. Hillman and also a unit owner, advised the Carillon Association that windstorm insurance was not mandated by law.

25. Ms. Carico conducted an informal poll of unit owners as to whether they wished the Carillon Association to purchase windstorm insurance for the Carillon Condominium. She did not want to purchase the insurance and was aware that Mr. Hillman and Ms. Hillman did not. Also, Ms. Carico asked two other unit owners, who indicated that they, too, did not want to purchase the insurance. As a result, five of the seven unit owners (also equating to six of the eight units), a majority, did not want to purchase windstorm insurance for the Carillon Condominium.

26. After consultation with Ms. Hillman, acting as the Carillon Association's legal counsel, and the insurance agent, Mr. Hillman and Ms. Carico decided not to purchase the windstorm insurance quoted by the insurance agent.

27. At all times material hereto, the Carillon Association did not have sufficient funds to purchase windstorm insurance. Moreover, the majority of the unit owners were unwilling to pay an assessment to purchase the windstorm insurance.

28. The issue as to whether to purchase the windstorm policy quoted by the insurance agent or a windstorm policy from any other source was never brought to a formal board meeting as an agenda item at a duly called board of directors meeting or to a unit owner meeting.

29. In or around June 2010, the water heater at Carillon Condominium required replacing on an emergency basis. The

replacement cost was $5,200.00, which was funded with a special assessment upon all of the unit owners. Due to the immediacy of the situation, no board meeting and no unit owner's meeting was held; the replacement decision was made by the Carillon Association's president and treasurer.

30. On or about July 29, 2010, Mr. Hillman sent a notice and the 2009 Annual Report to unit owners. The notice indicated, among other things, that three unit owners were in arrears, with two of the unit owners being Messrs. Neofotistos and Sesma. Mr. Neofotistos' arrearage was in the amount of $3,219.74, and Mr. Sesma's arrearage was in the amount of $2,586.40.

31. Three board members of the Carillon Association own, cumulatively, four of the eight units. Only their units are free and clear of any mortgage.

CONCLUSIONS OF LAW

32. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and the parties thereto pursuant to sections 120.569 and 120.57(1), Florida Statutes (2011).

33. Section 718.111, Florida Statutes (2010), provides in pertinent part:

> (11) Insurance.--In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure

consistency in the provision of insurance coverage to condominiums and their unit owners, this subsection applies to every residential condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this subsection.

(a) Adequate property insurance, regardless of any requirement in the declaration of condominium for coverage by the association for full insurable value, replacement cost, or similar coverage, must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every 36 months.

1. An association or group of associations may provide adequate property insurance through a self-insurance fund that complies with the requirements of ss. 624.460-624.488.

2. The association may also provide adequate property insurance coverage for a group of at least three communities created and operating under this chapter, chapter 719, chapter 720, or chapter 721 by obtaining and maintaining for such communities insurance coverage sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Projection Methodology. A policy or program providing such coverage may not be issued or renewed after July 1, 2008, unless it has been reviewed and approved by the Office of Insurance Regulation. The review and approval must include approval of the policy and related forms pursuant to ss. 627.410

> and 627.411, approval of the rates pursuant to s. 627.062, a determination that the loss model approved by the commission was accurately and appropriately applied to the insured structures to determine the 250-year probable maximum loss, and a determination that complete and accurate disclosure of all material provisions is provided to condominium unit owners before execution of the agreement by a condominium association.
>
> 3. When determining the adequate amount of property insurance coverage, the association may consider deductibles as determined by this subsection.
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> * * *
>
> (d) An association controlled by unit owners operating as a residential condominium shall use its best efforts to obtain and maintain adequate property insurance to protect the association, the association property, the common elements, and the condominium property that must be insured by the association pursuant to this subsection.

The 2010 version took effect on July 1, 2010. As a result, the 2010 version is not applicable to the instant case.

34. Section 718.111, Florida Statutes (2009),[4] provides in pertinent part:

> (11) Insurance.--In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, this subsection applies to every residential condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable

insurance premiums for associations described in this subsection.

(a) Adequate hazard insurance, regardless of any requirement in the declaration of condominium for coverage by the association for full insurable value, replacement cost, or similar coverage, shall be based upon the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The full insurable value shall be determined at least once every 36 months.

1. An association or group of associations may provide adequate hazard insurance through a self-insurance fund that complies with the requirements of ss. 624.460-624.488.

2. The association may also provide adequate hazard insurance coverage for a group of no fewer than three communities created and operating under this chapter, chapter 719, chapter 720, or chapter 721 by obtaining and maintaining for such communities insurance coverage sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Projection Methodology. No policy or program providing such coverage shall be issued or renewed after July 1, 2008, unless it has been reviewed and approved by the Office of Insurance Regulation. The review and approval shall include approval of the policy and related forms pursuant to ss. 627.410 and 627.411, approval of the rates pursuant to s. 627.062, a determination that the loss model approved by the commission was accurately and appropriately applied to the insured structures to determine the 250-year probable maximum loss, and a determination that complete and accurate

disclosure of all material provisions is provided to condominium unit owners prior to execution of the agreement by a condominium association.

3. When determining the adequate amount of hazard insurance coverage, the association may consider deductibles as determined by this subsection.

* * *

(d) An association controlled by unit owners operating as a residential condominium shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property that is required to be insured by the association pursuant to this subsection.

* * *

(f) Every hazard insurance policy issued . . . on or after January 1, 2009, for the purpose of protecting the condominium shall provide primary coverage for:

1. All portions of the condominium property . . .

2. All alterations or additions made to the condominium property or association property . . . .

* * *

(g) Every hazard insurance policy issued . . . on or after January 1, 2009, to an individual unit owner must contain a provision stating that the coverage afforded by such policy is excess coverage over the amount recoverable under any other policy covering the same property. . . .

35. In the instant case, the Department seeks, among other things, to impose a civil fine against the Carillon Association in the amount of $5,000.00. See § 718.501(d)6. Such a fine is penal in nature. Consequently, in order to prevail in the instant case, the Department must prove the allegation in the Notice to Show Cause by clear and convincing evidence. Dep't of Banking & Fin., Div. of Sec. & Investor Prot. v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

36. Regarding hazard insurance, section 718.111 contains no definition for hazard insurance. Further, section 718.111 does not specifically address windstorm insurance. But, section 718.111(11)(a)2. provides, among other things, that an association "may" provide "adequate hazard insurance coverage" for a group of no fewer than three communities to cover a probable maximum loss for the communities for a 250-year "windstorm" event.

37. The undersigned is persuaded that hazard insurance includes windstorm insurance under section 718.111(11)(a)2. However, the undersigned is also persuaded that the obtaining of windstorm insurance coverage is not mandated, but is an option for associations.

38. Additionally, noteworthy to the instant case is chapter 719, Florida Statutes (2009), which concerns

"Cooperatives." The Department also has authority over Cooperatives. Section 719.103(3)(a), concerning insurance coverage for Cooperatives, specifically addresses windstorm insurance coverage, but not hazard insurance coverage, for Cooperatives. The undersigned is persuaded also that the Florida Legislature would have specifically addressed windstorm insurance in section 718.111, as in section 719.103(3)(a), had the Legislature wanted to.

39. Consequently, adequate hazard insurance may include windstorm coverage at the option of the Carillon Association.

40. The Carillon Association is required to use its "best efforts" to obtain and maintain "adequate insurance." Chapter 718 provides no definition for "best efforts." The parties agree that no established definition for "best efforts" is found in court decisions. However, the case of Faith v. Faith, 709 So. 2d 600 (Fla. 3rd DCA 1998), provides some guidance. Faith involved a property settlement agreement wherein it was clear that the former husband was to use his "best efforts" in closing a real property deal. The court determined that the former husband had used his best efforts to close the real property deal where the course of action, remaining to him, was not economically viable and was through no fault of his own.

41. Applying the principle in Faith, "best efforts" takes into consideration the economic viability of undertaking a

course of action and the actor's fault in the course of action. In the instant case, "best efforts" does not require that the Carillon Association purchase an insurance policy at any cost. The evidence demonstrates that the Carillon Association did not have sufficient financial resources to purchase the casualty insurance and windstorm coverage. However, the Department contends that the Carillon Association's failure to have sufficient financial resources was its own fault.

42. Regarding the Carillon Association's financial resources, the Department argues that the lack of financial resources was the fault of the directors of the Carillon Association. The Carillon Condominium's By-Laws permit the directors to purchase insurance, in addition to casualty insurance, that the directors deem advisable. Further, the Carillon Condominium's Declaration requires that casualty insurance, as well as other insurance that the Carillon Association deems necessary, to be assessed against the unit owners as part of the common expenses. Therefore, as a common expense, the need for a special assessment is nonexistent.

43. The Department argues that the Carillon Association failed to have a reserve account. Section 718.112 requires the by-laws of an association to contain certain provisions, and, if the by-laws fail to contain the required provisions, the by-laws are deemed to include the required provisions. An association's

annual budget is required to include, among other things, reserve accounts for capital expenditures and deferred maintenance, which includes roof replacement. § 718.112(2)(f)2. However, an adopted budget is not required to include reserve accounts when the members of an association determine, by a majority vote at a duly called meeting of the association, not to provide reserves. Id. The evidence in the instant case demonstrates that the Carillon Association did not have a reserve account in any annual budget for the past 20 years, but fails to demonstrate that a majority of the unit owners of the Carillon Association decided at a duly called meeting to not have a reserve account.

44. Further, the Department argues that the Carillon Association failed to make the decision not to purchase windstorm insurance at a duly noticed meeting before the unit owners. The evidence demonstrates that the decision (a) was made after the treasurer, Ms. Carico, had conducted an informal poll in which a majority of the unit owners indicated that they did not want to purchase the windstorm coverage; (b) was made by the president, Mr. Hillman, and treasurer of the Carillon Association after consultation with the secretary and legal counsel, Ms. Hillman, and the insurance agent; and (c) was made by the directors outside of a duly noticed meeting. Additionally, the evidence demonstrates that, for a meeting to

have taken place regarding the purchase of the windstorm coverage, the meeting would have been a special meeting, not an annual meeting. The decision and voting should have taken place formally, not informally, at a duly noticed meeting. The Carillon Condominium's By-Laws provided for the directors to waive notice of the calling of such a meeting; but, the evidence fails to demonstrate that a majority of the directors made such a decision.

45. The evidence is clear and convincing that the Carillon Association failed to comply with the statutory provisions and its own By-Laws as set forth above. However, the evidence is not clear and convincing that such failures by the Carillon Association caused the financial situation of the Carillon Association, preventing it from having sufficient funds to purchase windstorm insurance.

46. To prevail, the Department must show by clear and convincing evidence that the Carillon Association failed "to use its best efforts" to obtain and maintain adequate hazard insurance, specifically windstorm insurance, to protect the Carillon Association, the Carillon Association's property, the common elements, and the Carillon Condominium's property that is required to be insured by the Carillon Association.

47. Hence, the Department failed to meet its burden of

proof as the evidence did not clearly and convincingly establish the allegation in the Notice to Show Cause.

RECOMMENDATION

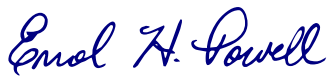
Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares and Mobile Homes enter a final order:

1. Finding that Carillon Condominiums, Inc., did not violate section 718.111(11)(d), Florida Statutes (2009); and

2. Rescinding the Notice to Show Cause.

DONE AND ENTERED this 1st day of August, 2011, in Tallahassee, Leon County, Florida.



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Filed with the Clerk of the
Division of Administrative Hearings
this 1st day of August, 2011.

ENDNOTES

[1/] Subsequent to the final hearing, Walt L. Trierweiler, Esquire, was substituted as counsel for William R. Wohlsifer, Esquire.

[2/] Both parties included in their post-hearing submissions matters that were not presented at hearing, or of which official recognition was not requested to be taken such as deposition testimony, the Federal Alliance for Safe Homes, Inc., and the Insurance Information Institute. No consideration was given to those matters.

[3/] Admitted Fact number 1 of the Joint Pre-Hearing Stipulation was that the eight units were owned by five unit owners. However, the evidence at hearing demonstrates that the eight units were owned by seven unit owners, with one unit owner owning two units.

[4/] All future references to chapter 718 will be for 2009.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.