



ROSENBAUM PLLC
ATTORNEYS AT LAW

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VIA EMAIL ONLY TO:
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Re: Our Client: Jupiter Bay Condominium Association, Inc.
Your Clients: "Undetermined"

Michael,

Thank you for your most recent email. It sounds like your clients agree that concrete repairs are necessary at Buildings A, B and C West; Building D East and Villa D (2 units); Building D West, Building E and Building F West; Building A and Building B East. Rather, the point of contention is the scope of the work to be performed by the Association's general contractor.

Yes, we believe that the scope of work should be limited to units with significant concrete damage. This would enable the association to move more aggressively to address units that are in most need of repair.

Apparently, your clients do not understand that the true extent of concrete deterioration - especially in locations such as Jupiter Bay Condominium where salt exposure accelerates damage - cannot be fully known until the restoration work **actually commences.**

Not true. Many clients have lived in Florida for many years. Several are engineers who understand concrete deterioration better than current board members. In fact, one has hired contractors and engineers to perform concrete repairs and has even provided contractor oversight in a property manager role.

Once work starts, the contractor begins by chipping away the damaged concrete to

expose the underlying structure. This process will reveal the extent of the damage that needs to be repaired, which may either be less than or greater than what was initially estimated by the Engineer upon which the bids and final contract were based. As each section of concrete is opened, the contractor will measure the actual area in depth of the concrete needing repair. These measurements will be documented and verified by the engineer of record. Pricing will be adjusted based on the unit pricing fixed in the contract documents.

Agreed, this is how it's done. But why chip away concrete on unit balconies where the inspection determined that there is no damage. Also, why cut holes in the concrete adjacent to patio doors instead of starting at the outside edge?

Ironically, while your clients are contending the scope of the work needed is less than what has been estimated by the Engineer, historically in communities that are so close to the ocean as Jupiter Bay Condominium, the likelihood of hidden damage due to salt intrusion and corrosion of reinforced steel, is higher **making underestimation of repair quantities more common than over estimation**. Just by way of example, enclosed is a photograph of a balcony in the C West Building where there is visual evidence of concrete erosion on the balcony.

Four months after the current Board began their term, and nearly four (4) years before the latest concrete inspection, on December 4th, 2020, Swaysland performed a major concrete inspection of all 14 of the association's residential buildings. This inspection reported three (3) "severely damaged" balconies and twenty-one (21) "moderately damaged" balconies in the West C building.

Based on the 2020 inspection report, the association spent \$159,482 in 2022 on Swaysland and Daniello's repairing of the West C balconies with concrete damage. Less than two (2) years later, on August 28th Swaysland's inspection of the East C building reported no balconies with "severe" damage and seven (7) balconies with moderate damage. **They recommended visiting and remediating all 48 balconies at a cost of \$672,656, even those repaired in 2022.**

I believe that the photographs attached to your letter show C402's balcony. This balcony was reported to have "moderate" damage in both the 2020 and last year's inspection. The photo indicates that someone either dug holes in the concrete or pulled up concrete when removing floor tiles. Swaysland must have underestimated damage, both in 2020 and 2024, hidden under the tile floor.

The Board of Directors has the lawful right to rely upon its hired engineer

professional (originally engaged by the Association when Paul St. Claire was president of the Association) to proceed with a concrete restoration project. The Board's exercise of its business judgment to proceed with this project particularly in light of the requirements of Section 553.899, Florida Statutes, and other applicable law in the post-Champlain Towers collapse environment is both prudent and appropriate under the circumstances.

Differences in Swaysland's 2020 and 2024 concrete inspection reports prove that concrete inspection and repair is a continuous process that must be revisited every four (4) to eight (8) years. The idea that all balconies can be "repaired" at once, keeping them from needing additional work for 15-20 years is unrealistic. As the Swaysland engineer said in his January 24th East C inspection report "Concrete deterioration is an on-going process and will not be corrected by a single repair program. You should be prepared to make additional repairs and paint within the next seven (7) to ten (10) years."

Engaging a second engineer to perform an analysis similar to the one that Swaysland Engineering performed will simply result in another estimate of anticipated quantities of concrete that require repair, **which will not truly be known until the work is actually commenced.** This is a well-documented fact.

A second engineer would not be repeating the Milestone and concrete inspections that Swaysland performed. Instead, he or she would be performing a peer review of Swaysland's work, examining inspection documents as well as contractor repair estimates to determine if the recommended work coincides with the report's conclusions. Additionally, several units would be visited to confirm inspection report findings.

Therefore, it appears the true end goal of your unnamed clients is simply to delay the project. This has been the historical approach of Jupiter Bay for concrete repairs. In fact, no one can seem to recall the last time the Association performed a community wide concrete restoration project within the last 20 years.

The association has utilized four (4) different engineering firms and five (5) contractors over the past 15 years, spending \$2.9 million to inspect and repair the buildings as needed. No one can recall a community-wide concrete restoration project because that's not the way it's typically done and not the way that it should be done. Each year over the last 30 years, unit owners have contributed to concrete restoration reserve accounts, and each year the association has used these reserve funds to remediate units with spalling issues, minimizing the need for special assessments.

The current board will not go back to a methodology of spot repairs, so as to kick the proverbial can down the road to avoid the cost of properly preserving the condominium property so that the owners may continue to rent and profit from their units at the expense of the structural integrity of the condominium property. This approach, at least in part, led to the collapse of at least one second story balcony and the hiring of an unlicensed contractor from out of state to perform concrete work without engineering supervision, which we understand is what led to the initial engagement of Swaysland Engineering in February of 2017. See enclosed Agreement.

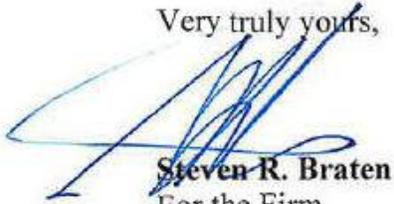
To the best of our knowledge, no unlicensed contractor was ever hired by Jupiter Bay and no construction work was performed without engineering supervision. Engineers have been utilized every year since 2010 to inspect buildings and oversee construction work. Again, Swaysland was just one of many engineering firms used at Jupiter Bay.

Since its initial engagement, Swaysland Engineering has acquired a depth of knowledge of the community over the past eight years, which no doubt explains why it has continued to be retained by the Association notwithstanding the multiple changes in the makeup of the Board over that same period. This not only speaks to the overwhelming confidence the community has in Swaysland Engineering's judgment, but also further negates the need for a second opinion to provide another estimate of work that unquestionably is needed, but the actual scope of which will remain unknown until work commences.

There is a difference between providing quality engineering work and providing erroneous conclusions and recommendations. An engineering firm should know the inspection reporting requirements mandated by Florida law, the difference between a concrete inspection and a Milestone Inspection, the requirements for Phase Two inspections, and that reporting "no severe damage" doesn't mean "substantial structural damage" when interpreted by another engineer.

The Association rejects your request for a second engineering opinion. Further, the Association will not continue to engage in a correspondence exchange on the need for the project.

Very truly yours,



Steven R. Braten
For the Firm
SRB/cml

Enclosure: as noted

cc: Jupiter Bay Condominium Association, Inc.

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