

MARCON

FORENSICS & ENGINEERING

JUPITER BAY CONDOMINIUM

JUPITER, FLORIDA

PEER EVALUATION REPORT



Created for

PAUL ST. CLAIR

on behalf of the

CONCERNED OWNERS COMMITTEE

August 19, 2025

I. GENERAL

A. PEER EVALUATION SCOPE OF WORK

The contracted scope of work includes the following:

1. Review all documents provided by the current Engineer of Record (EOR) and Owners Representative (OR) related to the project, including the following, but not limited to:
 - a. Reports (*Start with West A, West B & West C Buildings*)
 - i. Milestone Inspection Reports - Phase 1
 - ii. Milestone Inspection Reports - Phase 2
 - iii. Separate Concrete Inspection Reports
 - b. Repair Contracts
 - i. Custom Group AIA Contract A 101
 - ii. Custom Group AIA Contract A 201
 - iii. Exhibits to Custom Contract Docs (West A, B & C)
 - c. Photographs
 - i. EOR photos from initial inspection(s).
 - d. Engineering calculations of defects identified.
 - i. Included in Concrete Inspection & Custom Spreadsheets
 - e. City/County permits, reports, and/or notices.
 - f. Scope of work and conditions.
 - i. Payment Applications.
 - ii. Change Orders.
2. Conduct site inspections, including physical inspections of a selected number of units where owner access can be provided to assess the project's current conditions and progress.
3. Prepare a detailed report that includes the following:
 - a. An assessment of the validity of the existing scope of work and protocols by the EOR.
 - b. Statement of reasonable engineering judgment regarding the validity of the current scope of work.
 - i. If deemed invalid, provide substantial proof to support the claim.
 - c. Recommendations for corrective actions, if necessary.
 - d. Meeting/Interviews (*not to exceed 2 hours per meeting*) for the following:
 - i. Initial meeting with the Concerned Owners' Group to discuss and review past work completed on the building's structure.
 - ii. Meet with EOR to clarify information before submission of deliverables.

B. PROPERTY DESCRIPTION

The Jupiter Bay Condominium Association is a residential condominium development in South Florida. It is located South-East of the intersection between US-1 and E. Indiantown Rd., in Jupiter, Florida less than one (1) mile from the Atlantic Ocean.

The development has fourteen (14) buildings with a total of three hundred and fifty-nine (359) units built between 1983 and 1990. The buildings reviewed (West A-B-C) four-stories tall and feature one- and two-bedroom units ranging from 850 to 1,250 square feet.

Construction consists of cast-in-place concrete with concrete masonry in-fill walls. Roof construction consists of wood trusses and shingle covering. Exterior catwalks provide the main walkways for each level. Individual units feature exterior screened in balconies.

C. PRIOR HISTORY

Marcon Forensics, LLC (Marcon) has not performed any work at the Property prior to the involvement for this Project.

Through the interview process, it has been noted that various minor restoration projects have been performed throughout the life of the building(s).

D. RELEVANT PARTIES

1. **Condominium Association (“Owner”)**: Jupiter Bay Condominium Association, Inc.
2. **Engineer of Record (“EOR”)**: Swaysland Professional Engineering Consultants
3. **General Contractor (“GC”)**: Custom Group, Inc.
4. **Property Management (“PM”)**: Triton Community Association Management

II. METHODOLOGY AND LIMITATIONS

Our assessment and evaluation of the existing conditions found during construction, along with **ALL** communication and review of EOR provided documents was primarily left out of the performance of the Peer Evaluation due to the following:

- EOR refusal to communicate without Association authorization.
- Property Management refusal to communicate without Association authorization.
- No communication made with the Board of Directors.
- Rejection for Peer Review letter issued to Marcon by the Associations attorney (*Rosenbaum PLLC.*) on July 15, 2025.

Marcon conducted all observations upon request by the Concerned Owners Committee and was granted access to residential units, where approved by the owners. Limited “Sounding” of existing concrete members was performed. “Sounding” consists of tapping the surfaces of existing concrete members using a metal sounding device. Areas which respond with a hollow or dull sound indicate areas of potentially spalled or otherwise deteriorated concrete or masonry.

Due to the litigious nature of the Work described herein, it is worth noting that Marcon did NOT access any scaffolding or utilize any GC owned equipment during the performance of the observations.

At the time of this writing, no sampling and testing of existing materials were conducted for this assessment. Also, at the time of this writing, no exploration (removal of existing building materials) has been authorized or conducted for this assessment.

III. EVALUATION & ASSESSMENT

A. DOCUMENT REVIEW

Marcon reviewed the following documents as they pertain to the Project's scope of work. Due to the nature of the project, not all documents typically available were provided. The Client was required to submit formal document requests, which took additional days' worth of time for the Association to comply.

Swaysland Professional Engineering Consultants:

- Revised Milestone Inspection Report – Bldg. A West
- Phase 2 Milestone Inspection Report – Bldg. A West
- Concrete Report – Bldg. A West
- Milestone Inspection Report – Bldg. B West
- Phase 2 Milestone Inspection Report – Bldg. B West
- Concrete Report – Bldg. B West
- Milestone Inspection Report – Bldg. C West
- Phase 2 Milestone Inspection Report – Bldg. C West
- Concrete Report – Bldg. C West

Custom Group, Inc.:

- AIA Document A101 – Dated April 24, 2025
- AIA Document A201
- Exhibits to the Contract
- Payment Application 001
 - Bldg. A West
 - Bldg. B West
 - Bldg. C West
- Payment Application 002
 - Bldg. A West
 - Bldg. B West
 - Bldg. C West
- Payment Application 003
 - Bldg. A West
 - Bldg. B West
 - Bldg. C West

Concerned Owners Group:

- West A-B-C Inspection Results Change
- Rosenbaum PLLC. – Multiple Letters

B. ON-SITE OBSERVATIONS

Marcon performed visual inspections at units under construction, units not under construction, common areas under construction, and common areas not under construction on the following dates:

- July 8, 2025
- July 23, 2025

Based on the on-site observations, Marcon observed locations where concrete repairs are expected to be required, and locations where concrete repairs were in progress.

Common area walkways, primarily at locations for railing post pockets, were observed to show signs of pocket failure and, as a result, are commonly presenting with spalling concrete. At locations where the slab edges have been removed, corrosion is observed at the steel reinforcement.

Unit C404 in particular has been referenced on various occasions. During the observations made on July 8th, the balcony was open for access. Marcon observed clean rebar and sound concrete at the locations removed at the threshold for the sliding glass doors. At this location, Marcon is unable to determine the EOR/GC reasoning for making the request for the removal of the sliding glass door which results in additional costs to the Association, delays in the time of construction, and unnecessary hardship for the owner. No engineering rationale was provided by the EOR/GC to Marcon to constitute the reasoning for this requirement. It is Marcon's understanding that these locations have since been repaired without entering into the unit as originally determined.

C. ANALYSIS

As mentioned above, documents typically made available or pertinent to the performance of a peer-review analysis were withheld and/or made difficult to obtain in a timely manner by the Association and EOR. With that said, the documents that were obtained were analyzed for the typical processes used for a project of this scope of work. The following items were flagged as potential issues (**Please note that due to the lack of correspondence through the Association's refusal for meetings, clarifying information is not able to be obtained*):

1. Bid Quantities:

Through the review of the above-listed "Concrete Report(s)" and "Exhibits to the Contract", Marcon observed variances in the observed quantities when compared to the bid quantities. For example, in the Building C "Public Walkway Summary Sheet and Inspection Report", a total of 394 Linear Feet were observed for Crack and/or Spall at Slab Edge. Within the Bid Form, and subsequently the schedule of values on the contract, a total of 350 square feet was used as the bid quantity.

Typically, for concrete restoration projects, observed conditions only constitute a portion of the actual damage. Contingency is added to capture the estimated increased damage based on experience and/or testing of locations. Change orders are likely to be issued if the bid quantities do not capture the observed amount with additional contingency. Change orders have the potential to burden the Association unnecessarily, and if the potential is not discussed at the earliest time, it can lead to project delays due to funding issues.

2. Timeline(s):

Through interviews with the Owners, it appears that the issuance of documents such as the Phase 2 Milestone Inspection was done as a reactive measure to correspondence sent by the Owners.

On 5/16/25, the Owners' attorney sent a letter to the Association's attorney saying that:

"As you are aware, Section 553.899(7)(b) Florida Statutes requires a Phase Two inspection if "any substantial structural deterioration is identified during phase one." Given the Board's decision, it appears that they believe that there is substantial structural deterioration. We are also under the understanding that the Board feels that the milestone report is incorrect and that there is substantial structural deterioration necessitating the expenditure despite not completing a phase two inspection."

The Association's attorney responded on 5/28/25 as follows:

"In consultation with the Engineer of Record, Swaysland Professional Engineering Consultants, Inc. (SPEC), SPEC performed a more intensive inspection than the minimum required for the Phase One inspection; therefore, no further inspections were required to identify the best course of action to repair the distressed and damaged portions of the building."

One day after their attorney sent this letter, the Association posted nine (9) Phase Two Inspection Reports that were alleged to have been performed in 2024 along with the Phase One inspections. Despite the earlier completion dates shown in these reports, they were prepared and signed by Swaysland V-P Stanley Swaysland on 5/29/25.

This condition, where the Association's Attorney states information that is different from what is provided by the EOR, leads to confusion within the community.

3. Change Order(s):

As of Payment Application #003, it is already observed that throughout Buildings A, B, and C, change orders (*excluding permit submittal fees*) amount to \$54,026.76 for "ADDTL QTY/SCOPE" for finish removal at the public walkways and electrical work.

Marcon does not have any information as to the reasoning for the additional quantities required, and it should be noted that at the time of Marcon's inspection, finish removal was still in progress after the issuance of the Payment Application #003 where the Change Order is applied. This is likely indicative that additional change orders may be issued.

Further investigation is required to determine the extent of the potential for additional change orders.

4. Changes in Reporting:

Marcon was provided a document from the Owners detailing the inspection results from an apparent inspection performed by the EOR in 2020 and compared it to the 2024 Milestone inspection results. In this document, it is noted that various units that were noted as Moderate or Severe (*i.e., requiring repair*) in 2020, were not noted within

the 2024 report(s). It does not provide any information of these specific units were repaired or not repaired during the years from 2020 to 2024.

Additionally, in the Phase 1 Milestone Inspection Report(s), most conditions for structural systems are identified as "Good". Per the definitions provided on the Structural BSIP (*Milestone*) Inspection Form, the condition for Good is defined as "No Substantial Structural Deterioration and No Dangerous Condition Observed." However, in multiple follow-up instances, the EOR notes that repairs are required in line with the Substantial Structural Deterioration.

D. FINAL OPINION

With reasonable engineering judgement, Marcon **partially agrees** with the EOR that concrete repairs are required to complete the Milestone Inspection. **However**, Marcon also opines that the scope of work presented exceeds the minimum inspection requirements for the Milestone Inspection Program. The reports provided by the EOR clearly state that the screen enclosure replacement is a recommended repair instead of a required repair. Additionally, the cost associated with the removal and replacement of sliding glass doors (*inclusive of demo of interior finishes, weather wall installation, and replacement of additional quantities of concrete/drywall*), care should be taken by the GC and EOR to ensure that the decision to proceed in this manner is required.

It is also worth noting that, while the most recent Payment Application (#003) made available to Marcon during the Peer Review process has an application date of 6/25/2025, there were no concrete repair items yet billed as a part of Balcony Concrete Repair or Public Walkway Repair. Based on the level of ongoing repairs identified, it appears that the concrete repair portion of the project at the Public Walkways started on or after Marcon's on-site observations made on 7/8/2025. Based on the information reviewed at the time of this Report, Marcon believes that the quantities referenced in the schedule of values will not be sufficient to capture the full scope of work and will result in change orders (*either additional costs or costs to be reconciled*) by the end of the project.

The lack of substantiating evidence and backup information from the Relevant Parties does not allow for a genuinely independent or complete review of all necessary information.

E. RECOMMENDATIONS

Repairs that are required per the Minimum Requirements for the Mandatory Milestone Inspections shall be completed by a licensed General Contractor and overseen by a licensed Professional Engineer. It is the decision of the Association to proceed, or not to proceed, with the existing Design and Construction team.

As cost is generally a driving factor for the issues presented at the Property, value engineering is recommended for the continued work at the Property, along with the reduced scope to meet the minimum criteria for the Milestone Inspection Program. However, if the Association chooses to perform the work in excess of the minimum requirements, they are entitled to do so.

Value engineering/scope reduction items can include:

- Alternate cost-conscious waterproofing options.
- Removal of screen enclosure replacement.

- Removal of slab-on-grade cementitious coating/painting (*if applicable*).

As this project is phased for completion of different buildings, but the Contract for the Project has been signed based on the information and bidding package in the Exhibits, Marcon strongly suggests that prior to the start of the subsequent phases, the bid quantities be re-evaluated based on the final quantities repaired versus what was estimated to ensure the Contract Sum(s) are as accurate as possible to prevent any undue hardship that Change Orders may cause. This can be done under new Parties depending on the decision of the Association.

As an alternative to the above recommendation, and using the inspection results, a more feasible option may be to perform repairs to areas of immediate concern as identified by spalling concrete, for example. With the new regulations and requirements, the Association will be funding their Structural Integrity Reserve Study ("SIRS") account for repair items including structural repairs, waterproofing, and paint to name a few. The Association also has a record of maintaining and performing concrete repair throughout the history of the building. As repairs arise, the funds from the SIRS can be utilized to pay for these repairs as needed. While long term, the total repair costs may be increased, the effects of the payments are typically lessened on the unit owners which is sometimes viewed as a favorable option as opposed to the larger method of assessing the owners to do all work at one time, even if it is not necessarily required to meet the minimum requirements of the Milestone Inspection.

Finally, transparency is always recommended on behalf of the EOR, GC, and the Community as a whole.

Best Regards,

Marcon Forensics, LLC