

CITY OF OCEAN CITY PRELIMINARY INVESTIGATION

August 18, 2025

This report provides an evaluation and recommendation as to whether Block 3306, Lot 1 qualifies as an “area in need of rehabilitation” pursuant to the Local Redevelopment and Housing Law (NJSA 40A:12A-14).

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)

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Prepared by

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Randall Scheule, PP, AICP

NJ Professional Planner License No. LI003666

The original of this Preliminary Investigation
has been signed and sealed as required by NJSA 45:14A-12.

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)

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City of Ocean City

Preliminary Investigation

INTRODUCTION.

The City of Ocean City seeks to determine whether the redevelopment process as described in the NJ Local Redevelopment and Housing Law (LRHL), NJSA 40A:12A et seq. could be the most effective planning and implementation strategy to accomplish the revitalization of Block 3306, Lot 1. The primary purpose for designating a Rehabilitation Area is to arrest deterioration and encourage improvement and reinvestment, not likely to be accomplished privately, and requiring responsible public intervention.

On August 8, 2025 via email from the City of Ocean City Clerk, a request was made for the Planning Board to review and provide recommendations regarding City Council Resolution 25-62-462, attached as Appendix A. The ultimate purpose of this resolution is to document whether Block 3306, Lot 1 qualifies as an area in need of rehabilitation.

NJSA 40A:12A-14a. Prior to adoption of the resolution, the governing body shall submit it to the municipal planning board for its review. Within 45 days of its receipt of the proposed resolution, the municipal planning board shall submit its recommendations regarding the proposed resolution, including any modifications which it may recommend, to the governing body for its consideration.

Thereafter, or after the expiration of the 45 days if the municipal planning board does not submit recommendations, the governing body may adopt the resolution, with or without modification. The resolution shall not become effective without the approval of the commissioner pursuant to section 6 of P.L.1992, c.79 (C.40A:12A-6), if otherwise required pursuant to that section.

City Council Resolution 25-62-462 describes the history of development at the subject property, including its original construction as a hotel, its conversion to a condominium, deferred maintenance/repairs, and subsequent structural issues culminating in the building being 'red tagged' as an unsafe structure in 2024.

CONDITIONS FOR DETERMINATION OF NEED FOR REHABILITATION.

NJSA 40A:12A-14 specifies that, a delineated area may be determined to be in need of rehabilitation if the governing body of the municipality determines by resolution that a program of “rehabilitation”, as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent further deterioration and promote the overall development of the community; and that there exist in that area any of the following conditions such that:

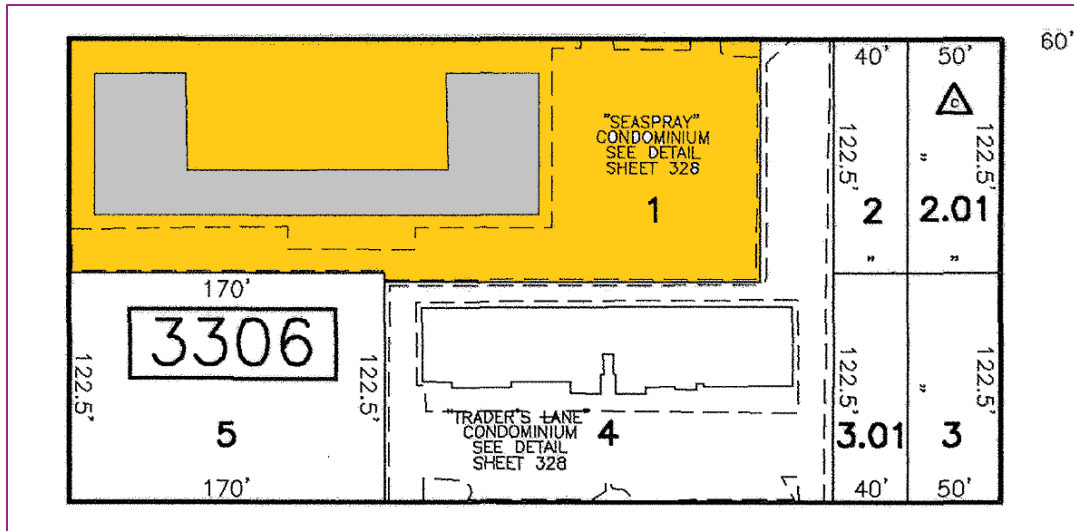
- (1) a significant portion of structures therein are in a deteriorated or substandard condition;
- (2) more than half of the housing stock in the delineated area is at least 50 years old;
- (3) there is a pattern of vacancy, abandonment or underutilization of properties in the area;
- (4) there is a persistent arrearage of property tax payments on properties in the area;
- (5) environmental contamination is discouraging improvements and investment in properties in the area; or
- (6) a majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance.

According to the LRHL, “rehabilitation” means an undertaking, by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been determined to be in need of rehabilitation or redevelopment, to eliminate substandard structural or housing conditions and arrest the deterioration of that area.

PROPERTY DESCRIPTION.

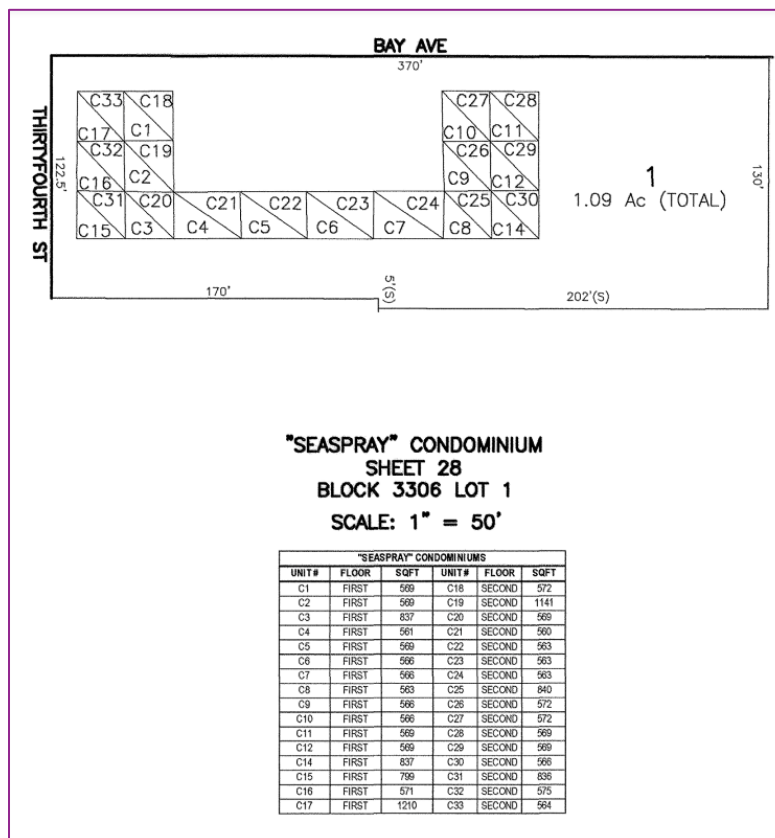
Figure 1 displays the relative location of the subject property and building.

Figure 1 - P/O Tax Map 28



The tax map in Figure 2 notes the subject property is 1.06 acres in size, and provides additional detail regarding the location of individual units on the first and second floor.

Figure 2 - P/O Tax Map 328



City of Ocean City
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Review of 2025 tax assessment records indicates the building on Block 3306, Lot 1 constructed in 1960, contains thirty-one individually-owned residential units, with total assessed value of \$2,922,900. Table 1 also indicates the distribution of unit sizes.

Table 1 - 2025 Tax Assessment Data

Block	Lot	Address	Year Built	Owners	Real Property Class Code	Unit Sizes	Total Assessment
3306	1	3315-17 Bay Avenue	1960	31	Class 2 Residential	560 SF (6) 570 SF (18) 800 SF (1) 836 SF (2) 840 SF (2) 1,140 SF (1) 1,210 SF (1)	\$2,922,900

Figure 3 - Google Earth Aerial Image



Figure 4 – Google Earth Street View (11/2022)



ZONING ANALYSIS.

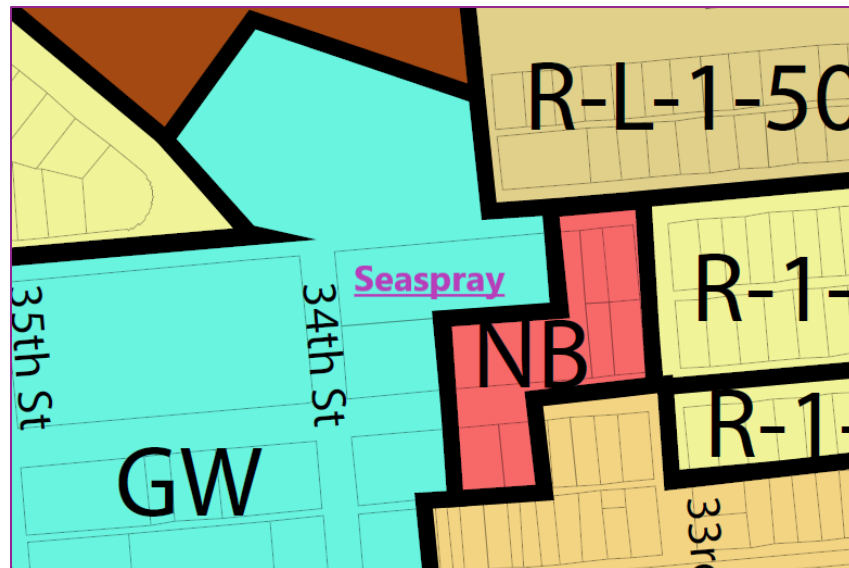
Under Ocean City’s current zone plan, the subject parcel is located within the 34th Street Gateway Zone. The 34th Street Gateway Zone “is intended to accentuate this entry into the City by encouraging development that is compatible in terms of use, scale and appearance for this location.”¹

Principal uses permitted in the 34th Street Gateway Zone include: retail sales, retail services, professional offices, restaurants, sidewalk cafes, bicycle rentals, recreation facilities, medical complexes, health-care centers, shopping centers, sports centers, entertainment facilities, banks, and other fiduciary institutions.

Neither the prior hotel or the current residential condominium are permitted uses in the 34th Street Gateway Zone.

¹ § 25-205.10.1 Purpose.

Figure 5 – Ocean City Zoning Map



STRUCTURAL EVALUATION.

Kipcon Incorporated (“Kipcon”) was retained by the Seaspray Condominium Association to perform a review of previous engineering reports, and conduct a Structural Integrity Inspection. The purpose of this work is to provide a preliminary engineering assessment of the building’s Primary Load Bearing System (“PLBS”) in conformance with the legislative requirements which were signed into law on January 8, 2024. Inspections were performed by Kipcon on June 4, July 11, and August 15, 2024

Kipcon issued their report “Structural Integrity Report – Preliminary Analysis” on September 16, 2024. This report provides the initial analytical data for estimating the condition of the building’s primary load bearing system and for establishing the need and priority for a Detailed Assessment. The Kipcon report provides the following insight.

Property Layout - The condominium is composed of a single, two-story residential building containing a total of thirty-one (31) dwelling units. The residential portion of the property consists of five (5) structurally independent building sections connected by exterior walkway balconies and breezeways with all spaces covered by a common low-slope roof structure. Vertical circulation between residential floors is achieved solely by exterior open stairs at three remote locations. There are no interior stairs or elevators. The building sections are arranged in a U-shape fronting Bay Avenue with an outdoor inground swimming pool and courtyard situated in the center of the U-shape. Building common spaces

include a laundry room and storage rooms located in a one-story accessory building at the rear of the main building. On the south side of the main building there is an appended one-story structure housing another storage room. The roof of this building section is low-slope and is being used as a contiguous terrace for the three south facing units. The property has minimal topographic variation with no known drainage issues. There are onsite surface parking lots for the residents and guests located at the front, rear, and north side of the property. According to property records, the building was constructed in 1958. The one-story structure appended to the south end of the building was added in 1960.

Flood Zone - The Seaspray property is situated in Flood Zone "AE" with a Base Flood Elevation ("BFE") of 9 feet AMSL according to FEMA FIRM Flood Maps. Based on visual inspections, the first floor of the building appears to be below the BFE but this is unconfirmed.

Using the previous engineering reports as a guide, Kipcon was able to locate and observe the evidence of differential settlement, damaged precast members and masonry walls/piers, and other issues noted by the previous engineers as they have not been remediated to date.

Severe Conditions - Deep Foundation System: There is conclusive evidence of the progressive deterioration of the untreated timber piles supporting the reinforced concrete grade beams which has resulted in visible differential settlement of and between building sections. Kipcon observed the results of the differential settlement throughout the building and noted deterioration of piles in one of the more accessible building section crawl spaces.

This condition is well documented in several of the previous engineering evaluations and was first noted in the 1980 conversion survey report by Michael W. Hyland Associates. To date, only one building section (D) has received any remediation of the piles which occurred in 1997. The untreated timber piles above the ground water level have been subjected to damage from insects and/or dry rot.

Useful Life Span - The anticipated useful life of a precast concrete structure is between 50 to 100 years with routine maintenance. The actual useful life of the structure is dependent on several factors such as the durability of the precast installed, environmental conditions, and maintenance. Seaspray has endured a

harsh coastal environment, differential settlement of foundations, and non-existent preventative maintenance. Cracks that form in the precast from structural movement allow water to penetrate and cause oxidation (rust) of the reinforcing steel. The corroding steel will form scale and expand which is referred to as “rust jacking”. The expanding rust exerts significant internal pressure to crack the concrete further until it completely dislodges, which is called “spalling”. Because of the harsh environmental conditions and lack of care, Seaspray has reached the end of its useful life and will need either a complete restoration project or be demolished. This sentiment has been expressed in multiple engineering reports.

Relative Probable Cost of Remediation - Kipcon has reviewed the various cost estimates in the engineering reports. Based on the above cost adjustments for escalation, \$5.63 million is the average probable cost for a comprehensive restoration project in 2024 dollars. This equates to approximately \$181,613 per unit, not adjusted for unit size.

City Council Resolution 25-62-462 states that, “repairs to make the building at the Property safe for occupation have not been undertaken and appear beyond the financial capability of the condominium association.”

Substantial Improvement Requirements - In January of 2013, New Jersey adopted emergency amendments to their Flood Hazard Area Control Act rules (NJAC 7:13). The rule applies to new construction and those properties “substantially damaged” which is defined in terms of the restoration cost that equals or exceeds 50 percent of the market value of the structure prior to the damage. Ocean City has an ordinance which aligns with this requirement.

Ocean City may require the Seaspray building to be elevated above the BFE based on the cost of the repairs. In Kipcon’s opinion, this would be cost prohibitive and may be technically infeasible for a number of reasons including how to raise the multiple building sections with a common roof structure, how to drive new piles under the building to replace the untreated piles, and how to lift the damaged channel beams safely.

City Council Resolution 25-62-462 states that, “the cost to repair the building at the Property could exceed 50% of the value of the building so that the building would be required to be elevated to comply with the current flood elevation standards, a process which would likely be cost-prohibitive.”

Kipcon has reviewed structural assessments from six (6) independent professional engineering firms spanning a 44-year period dating back to the initial 1980 conversion study, see Section 2.0 References for a list of the engineering reports reviewed. A common theme with all of the engineering reports is the observed progressive deterioration of the building's primary load bearing system and the lack of remediation to correct the deficiencies. The only reported substantive repairs made were in 1997 when a small portion of the pile foundation was addressed.

Based on previous engineering estimates, Kipcon opines that the probable cost to stabilize the PLBS would be in the range of \$2.7 million to \$3.6 million or \$83,871 to \$116,129 per unit, non-prorated.

CONCLUSION.

This Preliminary Investigation has been prepared to assist the Planning Board in its consideration of City Council Resolution 25-62-462, which requests the Planning Board review and provide recommendations as to whether Block 3306, Lot 1 qualifies as an area in need of rehabilitation pursuant to NJSA 40:12A-14.

It is my professional opinion that the current condition of the subject property is having a detrimental impact upon the surrounding businesses, residents and city as-a-whole. It is also my professional opinion, that the information and materials in this report, provide the necessary justification for the Planning Board to find that Block 3306, Lot 1 qualifies as an area in need of rehabilitation pursuant to NJSA 40A:12A-14 for the following reasons:

- A significant portion of structures therein are in a deteriorated or substandard condition. The deteriorated and substandard condition of the Seaspray building is clearly documented by virtue of the 'Notice of Unsafe Structure' (Appendix B), and analysis contained in the above-cited Kipcon report.
- More than half of the housing stock in the delineated area is at least 50 years old. Although Seaspray may not be considered 'housing stock' in the traditional sense, the age of the building contributes to its deteriorated/substandard condition.

- There is a pattern of vacancy, abandonment or underutilization of properties in the area. City Council Resolution 25-62-462 states, “. . . the building at the Property remains red tagged as an unsafe structure and has remained unoccupied and surrounded by construction fencing since spring 2024.”

Implementing a program of rehabilitation is expected to prevent further deterioration of the subject site and promote the overall development of the community. An affirmative finding by the Planning Board that Block 3306, Lot 1 qualifies as an area in need of rehabilitation is hereby recommended.

Designation of the subject property by City Council as “an area in need of rehabilitation” does not confer any additional development rights to the property owner/developer. The 34th Street Gateway Zone remains in effect until such time as City Council approves a developer’s agreement and adopts a redevelopment plan for the subject property.

APPENDIX A - OCEAN CITY RESOLUTION No. 25-62-462

CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY
RESOLUTION
No. 25-62-462

FINDING THAT BLOCK 3306, LOT 1, LOCATED AT 3313 BAY AVENUE, MAY BE AN AREA IN NEED OF REHABILITATION AND SHOULD, THEREFORE, BE REVIEWED BY THE OCEAN CITY PLANNING BOARD

WHEREAS, Block 3306, Lot 1 (hereinafter, "the Property"), which is located at 3313 Bay Avenue and is in the 34th Street Gateway Zone, was constructed in or about 1955 as a hotel and has been operated as a 32-unit residential condominium since in or about 1999; and,

WHEREAS, in 2023, the building at the Property was declared to be structurally unsafe, and occupancy at the building was prohibited until an engineering report was received by the city opining that the structure was safe, though in need of repairs; and,

WHEREAS, on April 17, 2024, the building at the Property was again declared to be an unsafe structure after concrete from a stair landing fell off the building, and it was discovered that repair work had not been undertaken; and,

WHEREAS, the building at the Property was thereafter surrounded by construction fencing while litigation by and among unit owners regarding, *inter alia*, whether repairs could be made, proceeded; and,

WHEREAS, the building at the Property remains red-tagged as an unsafe structure and has remained unoccupied and surrounded by construction fencing since spring 2024; and,

WHEREAS, repairs to make the building at the Property safe for occupation have not been undertaken and appear to be beyond the financial capability of the condominium association; and,

WHEREAS, the cost to repair the building at the Property could exceed 50% of the value of the building so that the building would be required to be elevated to comply with current flood elevation standards, a process which would likely be cost-prohibitive; and,

WHEREAS, the Property is located at the 34th Street gateway to Ocean City and, in its current distressed condition, fails to accentuate this entry into the city; and,

WHEREAS, the building at the Property is in a deteriorated or substandard condition, and the property has been vacant due to the condition of the building at the Property; and,

WHEREAS, the current condition of the Property has a detrimental impact upon the surrounding business and residences, and upon the city as a whole; and,

WHEREAS, based upon the foregoing facts, it appears that a program of rehabilitation for this site would prevent further deterioration of the Property and promote the overall development to the community; and,

WHEREAS, N.J.S.A. 40A:12A-14 provides that prior to declaring an area to be in need of rehabilitation, the governing body shall request that its municipal planning board review and submit recommendations regarding such a declaration.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ocean City, County of Cape May, New Jersey as follows:

The Ocean City Planning Board be and is hereby requested to review the Property, its condition and its impact on neighboring properties and the city in general and make a recommendation to City Council in accordance with N.J.S.A. 40A:12A-14 with respect to whether it is in the best interests of the citizens of the City of Ocean City to declare the Property to be an area in need of rehabilitation.


Terry Crowley, Jr., Council President

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the City Council of the City of Ocean City, New Jersey at a Council Meeting held on Thursday, August 7, 2025, with the voting record as indicated below.

NAME	MOTION	SECOND	AYE	NAY	ABSENT	ABSTAINED
Barnes			<input checked="" type="checkbox"/>			
Crowley			<input checked="" type="checkbox"/>			
Hartzell			<input checked="" type="checkbox"/>			
Levchuk			<input checked="" type="checkbox"/>			
Madden	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			
Paloni		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Winslow			<input checked="" type="checkbox"/>			


Melissa G. Rasner, City Clerk

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)

CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

No. 25-62-xxx

**FINDING THAT BLOCK 3306, LOT 1, LOCATED AT 3313 BAY AVENUE, IS AN
AREA IN NEED OF REHABILITATION.**

WHEREAS, Block 3306, Lot 1 (hereinafter, "the Property"), which is located at 3313 Bay Avenue in the 34th Street Gateway Zone, was constructed in or about 1955 and has been operated as a 32-unit residential condominium since in or about 1999; and,

WHEREAS, in 2023, the building at the Property was declared to be structurally unsafe, and occupancy at the building was prohibited until an engineering report was received by the city opining that the structure was safe though in need of repairs; and,

WHEREAS, on April 17, 2024, the building at the Property was again declared to be an unsafe structure after concrete from a stair landing fell off the building, and it was discovered that repair work had not been undertaken; and,

WHEREAS, the building at the Property was thereafter surrounded by construction fencing while litigation by and among unit owners regarding, *inter alia*, whether repairs could be made, proceeded; and,

WHEREAS, the building at the Property remains red-tagged as an unsafe structure and has remained unoccupied and surrounded by construction fencing since spring 2024; and,

WHEREAS, repairs to make the building at the Property safe for occupation have not been undertaken and appear to be beyond the financial capability of the condominium association; and,

WHEREAS, the cost to repair the building at the Property could exceed 50% of the value of the building so that the building would be required to be elevated to comply with current flood elevation standards, a process which would likely be cost-prohibitive; and,

WHEREAS, the Property is located at the 34th Street gateway to Ocean City and, in its current distressed condition, fails to accentuate this entry into the city; and,

WHEREAS, even if the building at the Property were repaired, it would not be in compliance with current flood elevation standards; and,

WHEREAS, the Property is located at the 34th Street gateway to Ocean City and, in its current distressed condition, does not reflect the prosperity and vibrance of the balance of the island; and,

WHEREAS, the building at the Property is in a deteriorated or substandard condition, and the property has been vacant due to the condition of the building at the Property; and,

WHEREAS, the current condition of the Property has a detrimental impact upon the surrounding business and residences, and upon the city as a whole; and,

WHEREAS, based upon the foregoing facts, it appears that a program of rehabilitation for this site would prevent further deterioration of the Property and promote the overall development to the community; and,

WHEREAS, by Resolution ____ dated _____, the City Council of the City of Ocean City referred the Property for review by the Ocean City Planning Board pursuant to N.J.S.A. 40A:12A-14; and,

WHEREAS, the Ocean City Planning Board conducted a review of the Property at its meeting of _____ in accordance with N.J.S.A. 40A:12A-14 and by resolution of the same date recommended that City Council declare the Property to be an area to be in need of rehabilitation; and,

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)

CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

No. 25-62-xxx

WHEREAS, the City Council believes the neighborhood in which the Property is located, and the City as a whole, would benefit from a program of rehabilitation for the Property;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ocean City, County of Cape May, New Jersey as follows:

The real property shown on the tax map as Block 3306, Lot 1, located at 3313 Bay Avenue is hereby declared to be an area in need of rehabilitation.

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the ___ day of ____, 2025.

Terry Crowley, Jr.
Council President

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the City Council of the City of Ocean City, New Jersey at a Council Meeting held on Thursday, September 25, 2025, with the voting record as indicated below.

NAME	MOTION	SECOND	AYE	NAY	ABSENT	ABSTAINED
Barnes						
Crowley						
Hartzell						
Lerchuk						
Madden						
Palcini						
Winslow						

Melissa G. Rasner, City Clerk

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)

DESIGNATION OF A PROPERTY AS AN AREA IN NEED OF REHABILITATION

I. Is The Property in Question an "Area in Need of Rehabilitation"?

A. Criteria Set Forth in N.J.S.A. 40A:12A-14

1. A significant portion of structures therein are in a deteriorated or substandard condition;
 2. More than half of the housing stock in the delineated area is at least 50 years old;
 3. There is a pattern of vacancy, abandonment or underutilization of properties in the area;
 4. There is a persistent arrearage of property tax payments on properties in the area;
 5. Environmental contamination discouraging improvements and investment in properties in the area; or
 6. A majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance.
7. Where warranted by consideration of the overall conditions and requirements of the community, a finding of need for rehabilitation may extend to the entire area of a municipality

B. Procedure for Council to Declare a Property to be an Area in Need of Rehabilitation

1. City Council adopts a resolution (the "Referral Resolution") referring to the Planning Board a proposed form of resolution declaring the property to be an area in need of rehabilitation (the "Declaration Resolution").
2. Planning Board reviews the proposed Declaration Resolution and submits its recommendations to City Council within 45 days of receipt of the Referral Resolution. If the Planning Board does not submit its recommendations to City Council within 45 days, City Council may adopt the Declaration Resolution with or without modification, or may decline to adopt it.
3. If City Council adopts the Declaration Resolution, the property is thereby designated an Area in Need of Rehabilitation.

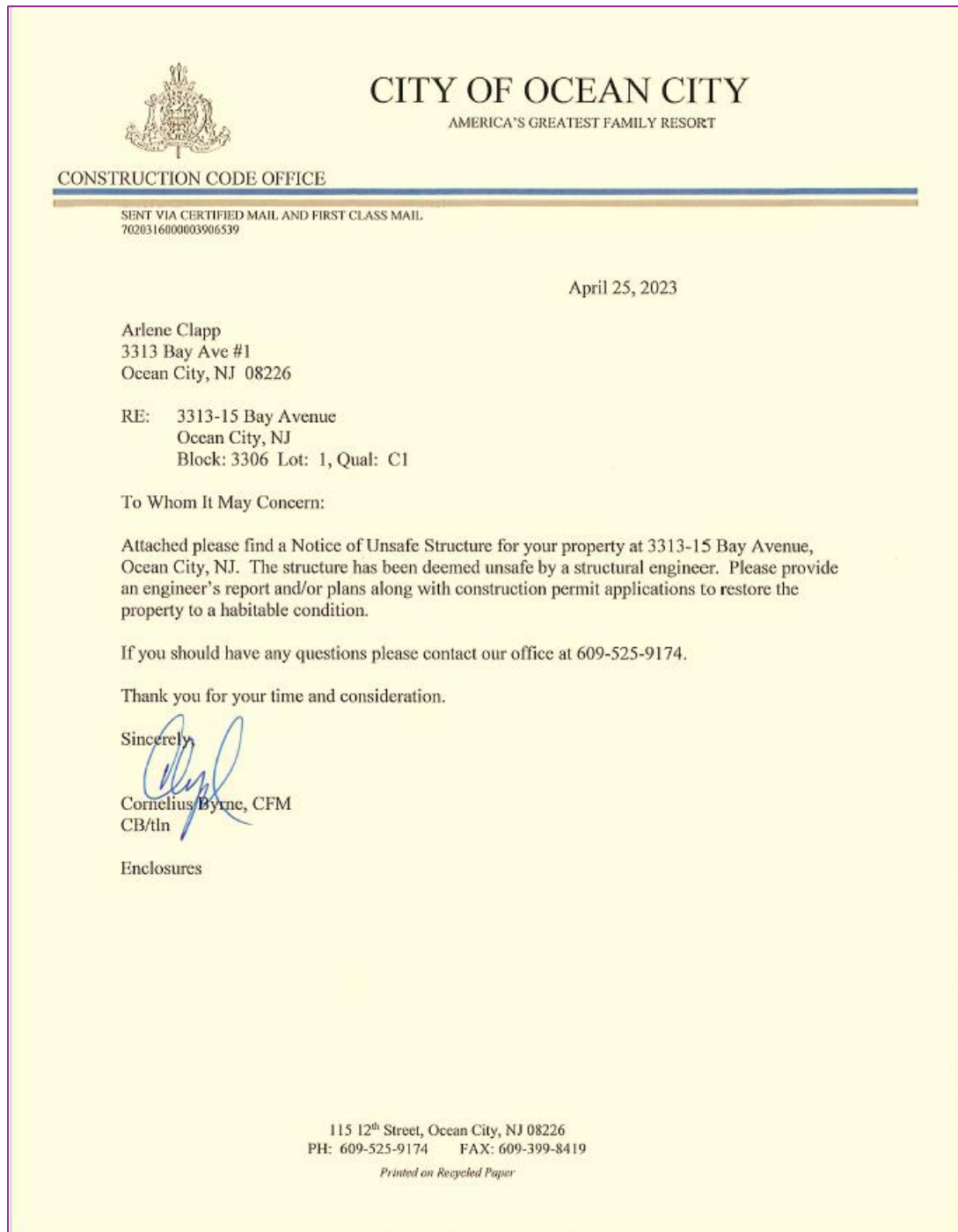
Note: The designation as an Area in Need of Rehabilitation does not approve any specific project or development for the property, nor does it change the zoning requirements for the property. If City Council does not approve a Redevelopment Plan for this Area, any development on the site must comply with the Zoning Ordinance unless variances are granted.

THE NEXT STEP: ADOPTION OF A REDEVELOPMENT PLAN

Adoption of a "Redevelopment Plan" by ordinance establishes the land use controls for the Area in Need of Rehabilitation. In essence, the Redevelopment Plan becomes the Zoning Ordinance for the Area. The ordinance adopting the Redevelopment Plan can be considered after a consistency review by the Planning Board.

This is the plan which reflects the specific development or project to be constructed in the Rehabilitation Area.

APPENDIX B – NOTICE OF UNSAFE STRUCTURE (4/25/23)²



² April 25, 2023 letter from Construction Code Office and Notice of Unsafe Structure sent to all unit owners.

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)



NOTICE OF UNSAFE STRUCTURE

Permit/Control #: _____
Date Issued: 4/25/2023
Violation #: V-23-00036

IDENTIFICATION

Work Site Location: 3313-15 BAY AVE Ocean City, NJ 08226
Block: 3306 Lot: 1 Qualification Code: C1
Owner in Fee: CLAPP ARLENE
Owner Address: 3313 BAY AVE, UNIT 1 OCEAN CITY NJ 08226
Agent/Contractor: _____
Address: _____
To: ☒ Owner ☐ Other:
☐ Agent/Contractor

DATE OF INSPECTION: 4/25/2023 DATE OF THIS NOTICE: 4/25/2023

ACTION

Take NOTICE that as a result of the inspections conducted by this agency on 4/25/2023 on the above property, an unsafe condition has been found to exist pursuant to N.J.S.A. 52:27D-132 and N.J.A.C. 5:23-2.32.
The building or structure or portion thereof, deemed an unsafe condition is described as follows:
(NONE)
STRUCTURE HAS BEEN DEEMED UNSAFE REFERENCING A RECENT DOCUMENT SENT TO THE CONSTRUCTION OFFICE BY A STRUCTURAL ENGINEER. PENDING A FULL STRUCTURAL ANALYSIS.
PERMITS WILL BE REQUIRED TO BEGIN WORK

You are hereby **ORDERED** to:

- [X] Vacate the above structure by 4/25/2023
[] Demolish the above structure by _____, or correct the above noted unsafe conditions by no later than _____.

Failure to correct the unsafe condition or refusal to comply with this **ORDER** will result in this matter being forwarded to legal counsel for prosecution and assessment of penalties up to \$1,000.00 per week per violation. You must immediately declare to the Construction Official, your acceptance or rejection of the terms of this **ORDER**.

Any building or structure vacated pursuant to this **ORDER** shall not be reoccupied unless and until a certificate of occupancy is issued by the Construction Official.

If you wish to contest this **ORDER**, you may request a hearing before the Construction Board of Appeals of the Cape May County within 15 days of receipt of this **ORDER** as provided by N.J.A.C. 5:23A-2.1. The Application of the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in question, the specific sections of the Uniform Construction Code in question and the extent and nature of your reliance on them. You may include a brief statement setting forth your position and the nature of the relief sought by you, and you may also append any documents that you consider useful.

The fee for an appeal is \$100.00 and should be forwarded with your application to the Construction Board of Appeals Office at: 4 Moore Road
Cape May Court House, NJ 08210

If you have any questions concerning this matter, please call: (609) 525-9173

By Order of _____ Date: 4/25/23
Construction Official

APPENDIX C - NOTICE OF UNSAFE STRUCTURE & PENALTY (5/8/24)



CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

CONSTRUCTION CODE OFFICE

SENT VIA CERTIFIED MAIL AND FIRST CLASS MAIL
70203160000039066560

May 8, 2024

Simeone & Raynor, LLC
Attorneys at Law
Harvard Law Building
1522 Route 38
Cherry Hill, NJ 08002

RE: Seaspray Condominium Association
3313-15 Bay Avenue
Ocean City, NJ
Block: 3306 Lot: 1

To Whom It May Concern:

Attached please find an AMENDED Notice of Unsafe Structure for your property at 3313-15 Bay Avenue, Ocean City, NJ. The building shall remain unsafe due to continued deterioration of the structural elements. In addition to repairs of the northside egress steps, all required repairs as detailed in the November 10, 2023 Plan of Repair and the August 2023 Structural Assessment Report by Tadco Engineering will be necessary before the building can be re-occupied.

Additionally, attached please find a Notice of Penalty for failure to respond to the previous Order to vacate the property. This \$2,000 penalty will continue to accumulate at \$2,000 per week until all residents have vacated the premises.

If you should have any questions please contact our office at 609-525-9174.

Thank you for your time and consideration.

Sincerely,

Cornelius Byrne, CFM
CB/tln

Enclosures

115 12th Street, Ocean City, NJ 08226
PH: 609-525-9174 FAX: 609-399-8419

Printed on Recycled Paper

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)



NOTICE OF UNSAFE STRUCTURE

Permit/Control #:
Date Issued: 5/8/2024
Violation #: V-24-00049

IDENTIFICATION

Work Site Location: 3313-15 BAY AVE Ocean City, NJ 08226
Block: 3306 Lot: 1 Qualification Code: C1
Owner in Fee: SEASPRAY CONDOMINIUM ASSOCIATION
Owner Address: 3313 BAY AVE OCEAN CITY NJ 08226
Agent/Contractor:
Address:
To: ☐ Owner ☐ Other:
☒ Agent/Contractor

DATE OF INSPECTION: 4/17/2024 DATE OF THIS NOTICE: 5/8/2024

ACTION

Take NOTICE that as a result of the inspections conducted by this agency on 4/17/2024 on the above property, an unsafe condition has been found to exist pursuant to N.J.S.A. 52:27D-132 and N.J.A.C. 5:23-2.32.

The building or structure or portion thereof, deemed an unsafe condition is described as follows:

(NONE)

AMENDED MAY 8, 2024 - BUILDING SHALL REMAIN UNSAFE DUE TO CONTINUED DETERIORATION OF STRUCTURAL ELEMENTS. IN ADDITION TO REPAIRS OF THE NORTHSIDE EGRESS STEPS, ALL REQUIRED REPAIRS AS DETAILED IN THE NOVEMBER 10, 2023 PLAN OF REPAIR AND THE AUGUST 2023 STRUCTURAL ASSESSMENT REPORT BY TADCO ENGINEERING WILL BE NECESSARY

You are hereby ORDERED to:

☒ Vacate the above structure by 5/8/2024

☐ Demolish the above structure by _____, or correct the above noted unsafe conditions by no later than _____

Failure to correct the unsafe condition or refusal to comply with this ORDER will result in this matter being forwarded to legal counsel for prosecution and assessment of penalties up to \$2,000.00 per week per violation. You must immediately declare to the Construction Official, your acceptance or rejection of the terms of this ORDER.

Any building or structure vacated pursuant to this ORDER shall not be reoccupied unless and until a certificate of occupancy is issued by the Construction Official.

If you wish to contest this ORDER, you may request a hearing before the Construction Board of Appeals of the Cape May County within 15 days of receipt of this ORDER as provided by N.J.A.C. 5:23A-2.1. The Application of the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in question, the specific sections of the Uniform Construction Code in question and the extent and nature of your reliance on them. You may include a brief statement setting forth your position and the nature of the relief sought by you, and you may also append any documents that you consider useful.

The fee for an appeal is \$100.00 and should be forwarded with your application to the Construction

Board of Appeals Office at: 4 Moore Road
Cape May Court House, NJ 08210

If you have any questions concerning this matter, please call: (609) 525-9173

By Order of

Construction Official

Date: 5/8/24

City of Ocean City
Preliminary Investigation (Block 3306, Lot 1)



NOTICE AND ORDER OF PENALTY

Permit/Control #:
Date Issued: 5/8/2024
Violation #: V-24-00050

IDENTIFICATION

Work Site Location: 3313-15 BAY AVE Ocean City, NJ 08226
Block: 3306 Lot: 1 Qualification Code: C1
Owner in Fee: SEASPRAY CONDOMINIUM ASSOCIATION
Owner Address: 3313 BAY AVE OCEAN CITY NJ 08226
Agent/Contractor: _____
Address: _____
To: ☐ Owner ☐ Other:
☐ Agent/Contractor

ACTION

- ☒ On 4/17/2024, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder. A ☐ Notice of Violation and Order to Terminate, ☒ Notice of Unsafe Structure, ☐ Notice of Imminent Hazard was issued. Reinspection of the work site on 5/8/2024 revealed the following violation(s) remain:
YOU FAILED TO COMPLY WITH A NOTICE ISSUED BY THIS AGENCY IN VIOLATION OF NJAC 5:23-2.31(e) FAILURE TO COMPLY WITH THE UNSAFE STRUCTURE NOTICE DATED APRIL 17, 2024 REQUIRING THAT THE PROPERTY BE VACATED
V-23-00036, Notice Date: 4/25/2023(NONE)
V-24-00015, Notice Date: 4/17/2024(NONE)
V-24-00049, Notice Date: 5/8/2024(NONE)
- ☐ On _____, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder, in that you ☐ made a false or misleading written statement, or omitted required information in an application or request for approval; or ☐ failed to obtain a construction permit; or ☐ failed to request required inspections; or ☐ allowed occupancy prior to receiving a certificate of occupancy.
- ☐ On _____, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder. A **Stop Construction Order** was issued. Reinspection of the work site on _____ revealed a failure to comply with that **Stop Construction Order**.

PENALTY

Therefore, you are hereby **ORDERED** to pay a penalty in the amount of \$2,000.00 for each violation for a total penalty of \$2,000.00.

Further, take **NOTICE** that for each ☒ week ☐ day that any of the said violations remain outstanding after 5/15/2024 an additional penalty of \$2,000.00 per ☒ week ☐ day shall result

If you wish to contest this **ORDER**, you may request a hearing before the Construction Board of Appeals of the Cape May County within 15 days of receipt of this **ORDER** as provided by N.J.A.C. 5:23 A-2.1. The Application of the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in question, the permit number, the specific sections of the Regulations in question, and the extent and nature of your reliance on them. You may include a brief statement setting forth your position and the nature of the relief sought by you. You may also append any documents that you consider useful

The fee for an appeal is \$100.00 and should be forwarded with your application to the Construction

Board of Appeals Office at: 4 Moore Road
Cape May Court House, NJ 08210

If you have any questions concerning this matter, please call: (609) 525-9173

NOTICE and ORDER of PENALTY: _____

Construction Official

Date: 5/8/24

CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY

RESOLUTION

No. 25-62-462

FINDING THAT BLOCK 3306, LOT 1, LOCATED AT 3313 BAY AVENUE, MAY BE AN AREA IN NEED OF REHABILITATION AND SHOULD, THEREFORE, BE REVIEWED BY THE OCEAN CITY PLANNING BOARD

WHEREAS, Block 3306, Lot 1 (hereinafter, “the Property”), which is located at 3313 Bay Avenue and is in the 34th Street Gateway Zone, was constructed in or about 1955 as a hotel and has been operated as a 32-unit residential condominium since in or about 1999; and,

WHEREAS, in 2023, the building at the Property was declared to be structurally unsafe, and occupancy at the building was prohibited until an engineering report was received by the city opining that the structure was safe, though in need of repairs; and,

WHEREAS, on April 17, 2024, the building at the Property was again declared to be an unsafe structure after concrete from a stair landing fell off the building, and it was discovered that repair work had not been undertaken; and,

WHEREAS, the building at the Property was thereafter surrounded by construction fencing while litigation by and among unit owners regarding, *inter alia*, whether repairs could be made, proceeded; and,

WHEREAS, the building at the Property remains red-tagged as an unsafe structure and has remained unoccupied and surrounded by construction fencing since spring 2024; and,

WHEREAS, repairs to make the building at the Property safe for occupation have not been undertaken and appear to be beyond the financial capability of the condominium association; and,

WHEREAS, the cost to repair the building at the Property could exceed 50% of the value of the building so that the building would be required to be elevated to comply with current flood elevation standards, a process which would likely be cost-prohibitive; and,

WHEREAS, the Property is located at the 34th Street gateway to Ocean City and, in its current distressed condition, fails to accentuate this entry into the city; and,

WHEREAS, the building at the Property is in a deteriorated or substandard condition, and the property has been vacant due to the condition of the building at the Property; and,

WHEREAS, the current condition of the Property has a detrimental impact upon the surrounding business and residences, and upon the city as a whole; and,

WHEREAS, based upon the foregoing facts, it appears that a program of rehabilitation for this site would prevent further deterioration of the Property and promote the overall development to the community; and,

WHEREAS, N.J.S.A. 40A:12A-14 provides that prior to declaring an area to be in need of rehabilitation, the governing body shall request that its municipal planning board review and submit recommendations regarding such a declaration.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ocean City, County of Cape May, New Jersey as follows:

The Ocean City Planning Board be and is hereby requested to review the Property, its condition and its impact on neighboring properties and the city in general and make a recommendation to City Council in accordance with N.J.S.A. 40A:12A-14 with respect to whether it is in the best interests of the citizens of the City of Ocean City to declare the Property to be an area in need of rehabilitation.

Terry Crowley, Jr., Council President

I HEREBY CERTIFY THAT the foregoing resolution was duly adopted by the City Council of the City of Ocean City, New Jersey at a Council Meeting held on Thursday, August 7, 2025, with the voting record as indicated below.

NAME	MOTION	SECOND	AYE	NAY	ABSENT	ABSTAINED
Barnes						
Crowley						
Hartzell						
Levchuk						
Madden						
Polcini						
Winslow						

Melissa G. Rasner, City Clerk

DESIGNATION OF A PROPERTY AS AN AREA IN NEED OF REHABILITATION

I. Is The Property in Question an “Area in Need of Rehabilitation”?

A. Criteria Set Forth in N.J.S.A. 40A:12A-14

1. A significant portion of structures therein are in a deteriorated or substandard condition;
2. More than half of the housing stock in the delineated area is at least 50 years old;
3. There is a pattern of vacancy, abandonment or underutilization of properties in the area;
4. There is a persistent arrearage of property tax payments on properties in the area;
5. Environmental contamination discouraging improvements and investment in properties in the area; or
6. A majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance.
7. Where warranted by consideration of the overall conditions and requirements of the community, a finding of need for rehabilitation may extend to the entire area of a municipality

B. Procedure for Council to Declare a Property to be an Area in Need of Rehabilitation

1. City Council adopts a resolution (the “Referral Resolution”) referring to the Planning Board a proposed form of resolution declaring the property to be an area in need of rehabilitation (the “Declaration Resolution”).
2. Planning Board reviews the proposed Declaration Resolution and submits its recommendations to City Council within 45 days of receipt of the Referral Resolution. If the Planning Board does not submit its recommendations to City Council within 45 days, City Council may adopt the Declaration Resolution with or without modification, or may decline to adopt it.
3. If City Council adopts the Declaration Resolution, the property is thereby designated an Area in Need of Rehabilitation.

Note: The designation as an Area in Need of Rehabilitation does not approve any specific project or development for the property, nor does it change the zoning requirements for the property. If City Council does not approve a Redevelopment Plan for this Area, any development on the site must comply with the Zoning Ordinance unless variances are granted.

THE NEXT STEP: ADOPTION OF A REDEVELOPMENT PLAN

Adoption of a “Redevelopment Plan” by ordinance establishes the land use controls for the Area in Need of Rehabilitation. In essence, the Redevelopment Plan becomes the Zoning Ordinance for the Area. The ordinance adopting the Redevelopment Plan can be considered after a consistency review by the Planning Board.

This is the plan which reflects the specific development or project to be constructed in the Rehabilitation Area.

October 27, 2021

Monica Green
Action Management Group
180 Tuckerton Road, Suite 42
Medford, NJ 08055

Reference: Sea Spray Condominium – 3313 Bay Avenue, Ocean City, NJ
Structural Condition Assessment
Becht Engineering Proposal Number: 21-0776

Dear Ms. Green:

On Monday, October 4, 2021, and Tuesday, October 5, 2021, we made field observations of visually accessible structural systems at the above referenced development for the purpose of preparing a Property Condition Report (PCR) specific to these components.

The following pages utilize the PCR outline recommended in ASTM Standard E 2018-08 for the respective sections of the Property Condition Assessment (PCA) performed by our office.

Thank you for the opportunity to provide our consulting engineering services. If you have any questions, please feel free to call.

Sincerely,

Becht Engineering BT, Inc.



Richard Lee Burke, PE, VP
Structural Division Manager
Professional Engineer
Principal

1. **Executive Summary**

1.1 General Description

The Seaspray Condominium complex consists of four structurally independent modules connected by walkways, with a common continuous roof plane over the connected modules. The modules are arranged in a “U” or “C” shape, with a swimming pool and surrounding deck centrally located among the residential structures.

The walls are covered with two different types of stucco finish – a troweled application on the rear and side walls and a formed textured finish on the interior walls.

1.2 General Physical Condition

The building structures are generally in poor condition, exhibiting widespread cracking in the CMU walls, deterioration of floor planks, cracking of the grade beams and indications of differential settlement.

1.3 Opinion of Probable Cost

We estimate a minimum probable cost for the basic repair program recommended to be approximately \$3,600,000. A detailed cost estimate based on a schematic design is beyond the scope of this report.

1.4 Deviations from the Guide

This Property Condition Report follows the format recommended in ASTM Standard E 2137-08. The requested services are limited to the structural elements of the building, therefore sections of the Standard relating to mechanical, electrical, plumbing, fire-protection and building envelope (roofing and facade) components are not included in this report.

1.5 Recommendations

The building is in need of very near-term extensive repairs or the site should be considered for redevelopment. A review of previous engineering reports reveals that similar recommendations have been provided dating back to 2002.

Any superficial repair projects implemented without first stabilizing the

foundations should be considered temporary cosmetic repairs, as cracking of the masonry superstructures will continue until the foundations are stabilized. Should the Association elect to move forward with a repair program, we recommend the following scope of work as a minimum to stabilize and repair the structure before implementing a finish restoration project.

- Stabilization of the foundation system.
- Repair of foundation wall damage.
- Repair of damaged floor planks.
- Repair of damaged walls.
- Replacement of damaged stairway components.

2. **Purpose and Scope**

Our understanding is that the purpose of the Property Condition Assessment is to communicate the current conditions of the structures to the property owners so that a plan for repair or redevelopment of the property can be developed.

The scope of this report is limited to the structural elements visible during non-invasive inspections and inspections from within accessible areas of the crawlspaces beneath the modules.

3. **Systems Description and Observations**

3.1 Overall General Description

The residential modules are constructed of pre-cast reinforced concrete planks supported on walls constructed of concrete masonry units (CMUs). Along the elevations containing entrance doors and large windows, the second floor and roof planks are supported on pre-cast concrete lintels supported on CMU piers. At the roof and second floor level the planks cantilever beyond the lintel supports, creating second-floor entrance walkways and roof overhangs covering these walkways.

The planks at the roof and second-floor level are pre-cast hollow-core planks. The planks at the first-floor level are inverted-"U" beams, similar to double-T pre-cast beams without cantilevered edge flanges. The first-floor beams are supported on CMU foundation walls that are in turn supported on pile-supported concrete grade beams.

The support conditions for the swimming pool and surrounding concrete deck are unknown. The areas under the pool deck and first-floor level walkways connecting building modules are inaccessible.

Along the south side of the complex, there is a single-story module that includes at least some timber-framed flooring. There is limited access to the crawlspace beneath the timber-framed floor and the roof and wall framing are obscured by finishes. The roof over the single-story module is flat and covered by both an indoor/outdoor carpeting material and a sun deck comprised of synthetic deck boards supported on timber sleepers laid on the carpeting material. The roof membrane beneath the carpeting is inaccessible.

There is a single-story accessory structure at the rear of the residential building that houses laundry facilities for the complex. The walls are constructed of CMUs.

3.2 Foundation

The foundations were accessed by entering crawlspaces through narrow (approximately 12" x 24") access panels at each module. Access at 3 modules was limited to the area immediately adjacent to the access panel due to obstructions from utilities (water supply, electrical, A/C lines, etc.). Within the crawlspaces there is approximately 2 feet of clearance between the grade within the crawlspace and the bottom of framing. The foundation system for the residential building consists of CMU foundation walls supported on concrete grade beams supported by timber piles.

We observed multiple cracks in the grade beams throughout the complex. At several locations the cracks exhibit relative vertical and horizontal movement across the crack surfaces. Several of the grade beam cracks occur where utilities penetrate the foundation walls. At most locations the utility penetrations are through partially demolished areas of foundation walls, rather than drilled or cut openings sized to accommodate the utilities.

There are at least two areas in separate modules where we observed partial failures of the foundation walls. The CMUs in these areas are cracked and spilt, with pieces of the CMUs having fallen into the crawlspaces. Both areas are at walls parallel to the span of the first-floor planks, therefore not providing structural support of the floor framing. However, exterior first and second story masonry walls are aligned immediately above the areas of

failure.

We observed several areas where the soil beneath the grade beams has either eroded or subsided, creating voids beneath the grade beams and exposing the timber piles to an aerobic environment.

3.3 Building Frame

The wall construction consists of CMUs and pre-cast concrete lintels. The floor and roof framing consists of pre-cast concrete planks, with inverted “U”-planks at the first floor and rectangular hollow-core planks at the second floor and roof levels.

We observed significant spalling of the first floor “U”-planks, typically at the bottom of the vertical flanges. The embedded reinforcing bars exhibit moderate corrosion where exposed. Approximately 10% of the flanges exhibit spalling and exposed, corroded reinforcing bars along the span of the plank. Approximately 15-20% of the planks exhibit such spalling and corrosion at the bearing for the plank.

We observed significant spalling of several cantilevered second-floor hollow-core planks. The most severe deterioration was observed where an exterior steel staircase attaches to the second-floor walkway along the north side of the building. The second-floor walkways include a concrete topping over the planks that requires moderately steep localized “ramps” to accommodate the relative vertical offsets between adjacent modules.

We observed indications of significant differential settlement between modules. The lintels between modules that support the planks for the second-floor walkways between modules are visibly out-of-level, with up to 3 inches of elevation difference over approximately 6 feet. Steel columns were installed at some point to provide support for the lintels connecting the modules along the east side of the development. The first-floor walkways between modules exhibit similar differential settlement, though the support conditions were not accessible as described above.

The CMU walls exhibit cracks throughout all modules. We observed older cracks that were visible through the stucco finish, cracks that had re-developed in the stucco finish, and cracks that had re-developed through what appears to be a relatively recent superficial repair attempt that has not been painted.

3.4 Mechanical, Electrical, Plumbing and Fire Protection Systems

Not included in the scope of this report.

4. **Additional Considerations**

None.

5. **Document Review and Interviews**

We reviewed the following reports and documents in preparation of this report.

- September 30, 1980 report titled "Engineering Survey of Seaspray Condominium" prepared by Michael W. Hyland Associates.
- May 17, 2000 letter report from Edward P. Ryan Consulting Engineering to Joe Gallagher, Property Manager.
- January 22, 2002 letter report from Edward P. Ryan Consulting Engineering to Jean Beeson, Property Manager.
- July 12, 2002 letter report from Becht Engineering to Ms. Jean Beeson, Property Manager
- July 14, 2006 letter report from the Hyland Design Group to Raymond D. Lukas, Board President.

The 1980 Hyland report includes descriptions of various property site and structural elements, along with narrative descriptions of improvements to be implemented by the developer. Opinions assessing the conditions of some elements are provided, but not for all elements. Specific to issues raised in the current report, the following quotes are of interest.

"All buildings at the site are supported by pile-supported grade beams. The underside of the grade beams is visible in some areas due to settlement of soils at the site and some piling(s) are exposed. The piling(s) are in fair condition; some deterioration due to insects and/or rot is visible. The piling(s) are not treated with any wood preservative and will continue to deteriorate above the ground water level as time goes by. The developer, however, proposes to construct concrete pile extensions from the underside of the grade beams down to below the lowest seasonal ground water level which will effectively repair the deteriorated portion of the piles."

"The building structure shows little if any signs of foundation settlement. Cracking of exterior walls is slight and is likely the result of thermally induced stresses."

The 2000 Ryan letter report describes “a great deal of movement throughout the three buildings causing a numerous number of cracks, upheavals, dislocations, settlements and distortions of the concrete floors, walls, stairways, walkways, roof structure, concrete slabs and “T”-beams.” Ryan did not observe any piles and described the voids under the grade beams as “erosion of bearing soil under the footings.” Ryan also noted the concrete spalling and corrosion of the reinforcing of the pre-cast first floor beams along the span. Ryan opines that the lack of adequate ventilation of the crawlspaces is a contributing factor to the observed spalling and corrosion. Ryan recommended various repairs and provided an opinion of probable costs to repair of \$116,640.00, including painting of the entire building.

The 2002 Ryan letter report repeats many of his observations from the 2000 report, with additional observations of degradation of the accessible timber piles. He describes the nature and extent of the corrosion-related damage to the first floor planks in more detail and explains how deterioration of the bearing ends of the plank leads to differential settlement of the floor. Unfortunately, the 9th page of the 10-page report is missing, which likely includes conclusions and recommendations.

The Becht letter report from 2002 notes many of the same observations in the Ryan reports regarding differential settlement, cracking and spalling of pre-cast floor elements, and cracking of grade beams and foundation walls. Corrections of the observed deficiencies were recommended.

The 2006 Hyland letter report provides a summary of the reports described above as well as a November 17, 2005 report from J.E. Rosenkrantz, P.E. Based on his review of the previous reports and his long-term involvement at the building, Hyland presents the following conclusions:

“Foundations are unstable due to ongoing rotting of piling. This instability constitutes a threat to the stability of supported walls, columns and beams. The magnitude and timing of future incremental foundation subsidence cannot be predicted with any degree of certainty. It is possible that additional settlements may be of sufficient magnitude to precipitate a condition of instability in a wall, column or beam within the structure. Localized sudden collapse is possible. Such localized sudden collapse may cause injury or death to visitors or occupants.”

“Based on my education, training and experience, it is my professional opinion that unless planning, to include fundraising, of

comprehensive structural remediation is commenced by August 1, 2006 and unless construction of such remediation is commenced by January 2007 and completed by January of 2008, the buildings should be declared unfit for continuing use and occupancy, and demolished."

Hyland's 2006 report includes a brief cost estimate for "minimal" structural stabilization and weatherproofing of \$1,260,000 using pricing values from 2008.

6. Opinions of Cost to Remedy Physical Deficiencies

We estimate a minimum probable cost of \$1,500,000 to stabilize the foundation and repair damaged foundation walls.

We estimate a minimum probable cost of \$800,000 to repair damaged first-floor pre-cast planks.

We estimate a minimum probable cost of \$350,000 to repair the masonry walls and provide a new stucco finish.

We estimate a minimum probable cost of \$75,000 for the replacement of the deteriorated steel staircase at the north end of the building and the replacement of the two concrete stairways between building modules.

Because the total cost of the repair project would likely exceed 50% of the value of the buildings, upgrades to the current Code for the entire development will be required. This will require eliminating cross-slopes in the walkways and eliminating trip hazards that have resulted from the differential settlement. We estimate an allowance of an additional \$400,000 for Code upgrades.

7. Out of Scope Considerations

Consideration should be made to conduct a comprehensive stormwater management study to address stormwater flow into the crawlspace areas.

8. Qualifications

The structural Field Observer for this Property Condition Assessment was Richard Burke, PE. The Curriculum Vitae for Mr. Burke is attached in Section 10; Exhibits.

9. Limiting Conditions

Observations were made on October 4 and 5, 2021. Weather conditions on both

days were warm and dry, with temperatures in the low to mid 80's (degrees F).

The lack of access to items concealed by building finishes limited the observations made. Utility crossings limited access to some crawlspace areas.

10. **Exhibits**

The following pages include photographs representative of conditions described in Section 3 above.

The CV of the Field Observer is attached after the photo pages.



Corrosion of reinforcing and spalling of concrete in first-floor beams.



Corrosion of reinforcing and bearing support of first-floor beams. Note difficult access and obstruction of repair area by utilities.



Undermining of soil beneath foundation grade beams.



Foundation wall failures.



Foundation wall and grade beam failure.



Foundation wall and grade beam failures



Typical corrosion-related spalling of cantilevered pre-cast planks for elevated walkway. Note cracking at lintel bearing that has developed since last painting.



Differential settlement between modules readily visible at cantilevered walkway intersection, creating potential tripping hazard.



Differential settlement between adjacent modules. Note sloped walkways, cracks in masonry walls at lintel bearing.



East elevation of northern- and southern-most modules. Extensive cracking of masonry exterior wall with indications of numerous previous superficial repairs.

RICHARD L. BURKE, PE

Principal/Structural Division Manager

Over thirty years of experience as a consulting engineer in the fields of civil/structural design and forensic investigation. Design of new and corrective structures for educational, residential, commercial, and industrial projects. Experience with wood, masonry, reinforced concrete, structural steel and aluminum. Inspection of deteriorated or damaged structures to determine causation and reusability. Preparation of technical reports on structural deficiencies for private and governmental agencies.

Provided project and construction management services for a wide range of construction projects including new residential buildings, asphalt paving, retaining walls, and drainage systems. Preparation of contract documents including design drawings and specifications. Interfaced with owners, architects, attorneys, and contractors throughout all phases of projects, from initial conception through final approvals. Oversight of work during construction, preparation of punch lists, and performance of final inspections for payment approval. Coordination of trades in multi-discipline construction projects.

Performed technical investigations in support of legal actions for individuals, insurance companies, private companies, and governmental agencies. Preparation of demonstrative exhibits, including computer animation, for courtroom presentations. Provided expert testimony in support of presentations. Served as Adjunct Professor at University of Turabo School of Engineering in Gurabo, Puerto Rico. Taught courses in Engineering Graphics and Introduction to Engineering. Provided guidance and support for University of Puerto Rico, Mayaguez Campus, solar car project. Performed technical study of railroad accidents for U.S. Department of Energy's Sandia National Laboratory.

PROJECT EXPERIENCE

- Property Condition Assessment for the structural systems for the building located at 45 Bleeker Street in Newark, NJ for Rutgers University.
- Condition assessment and development of foundation and framing repairs for an early 19th century barn conversion project. Alport Residence, Pottersville, NJ.
- Condition assessment of office building located at 248 North Avenue in Elizabeth, NJ.
- Structural Property Condition Assessment at 15 Corporate Drive in Wayne, NJ. The property includes a commercial 1-story building.
- Property Condition Assessment for the structural systems at 10 Broad Street in Red Bank, NJ. The property consists of a 3-story, 26,000 SF building with retail and office occupancies.
- Property Condition Assessment for the structural systems at 60 E. Halsey Road in Parsippany, NJ. The property includes a single story warehouse structure with a small office area.
- Property Condition Assessment for the structural systems for the building located on O'Brien Street in Kearny, NJ. The building was a manufacturing facility.
- Assessment of the condition of the structural systems for the Lodi Board of Education Administrative Building located at 8 Hunter Street in Lodi, NJ.
- Condition assessments of 10 fire escapes on Raymond Hall East and West, Casino Building, Hamilton Hall, Lake House, Mercedes Complex and Kings Cote for Georgian Court University in Lakewood, NJ.
- Structural Property Condition Assessment for the NJSEA Office Building and Meadowlands Environment Center as well as the bridge structure that connects them at the second floor in Lyndhurst, NJ.
- Facility assessment study of Building 18 and 18A at the NJ Department of Transportation Ewing Headquarters Complex to identify the cost to upgrade the buildings and utility systems.
- Structural condition assessment of a single-family residence in Mantoloking, NJ. The residence experienced flooding during tropical storm Sandy.
- Structural condition assessment of single-family residence in Lavallette, NJ. The residence experienced significant damage during tropical storm Sandy.
- Condition assessment of existing structural elements at residence on Berta Place in Basking Ridge, NJ.

- Structural condition assessment of an existing single family residence in Millington, NJ.
- Condition Assessment and development of repair designs for early 20th century waterfront and offshore industrial buildings and platforms. Bayway Refinery, Linden, NJ.
- Condition assessment and development of repair designs for one early 19th century church building and one late 19th century church building. First Presbyterian Church, Hackettstown, NJ.
- Structural condition assessment of the below grade parking garage for Continental Parc in Hackensack, NJ.
- Structural condition assessment at the below-grade garage of the multiple-unit residential building located at 33 Barker Avenue in White Plains, NY.
- Structural inspection of the commercial building at 3 Bohnert Place in Waldwick, NJ for Heuer & Company.
- Structural inspection of a new dunnage steel frame installation at 200 Connell Drive in Berkeley Heights, NJ.
- Structural investigation of floor framing at Woodbridge Corporate Plaza in Woodbridge, NJ.
- Inspection of concrete waffle slab at the Blue Hill Plaza in Pearl River, NY.
- Structural investigation of the commercial condominium facility located at 1500 Liberty Place in Sicklerville, NJ.
- Invasive inspection of the roof framing at Juicy Couture, 860 Madison Avenue, NYC.
- Roof framing over front and side entrances of McDonalds restaurant in Westport, CT.
- Analyzed roof framing for Sleepy's in Brick, NJ.
- Floor investigation at Ann Taylor Loft store at Atlantic Station in Atlanta, GA.
- Structural engineering assessment and design services for renovations to the existing laboratory and office spaces on the first and second floors at the Givaudan facility in Cranbury, NJ.
- Analysis and design of structural systems for The Vault located at 55 Broad Street in Red Bank, NJ.
- Structural evaluation of the existing trapeze supporting existing electrical conduits to confirm the trapeze can support a proposed feeder at SHI's facility in Somerset, NJ.
- Structural feasibility study for the vertical additions to Montclair State University's Life Hall, Memorial Auditorium, and Fox Theater in Montclair, NJ.
- Structural assessment of the condition of framing and the analysis of the structure under the load from a proposed organ to be installed on the altar platform at Rutgers University's historic Kirkpatrick Chapel in New Brunswick, NJ.
- Structural inspection services of structural steel beams and integrated plate lintels at Broad Street Elementary School in Bridgeton, NJ.
- Investigation of the concrete encased lintels at the penthouse level of the Ann Street School in Newark, NJ.
- Structural evaluation of the condition of the stage structures at Fort Lee High School, Elementary School #1, Elementary School #3, and Elementary School #4 in Fort Lee, NJ.
- Structural inspection services for renovations at the Bergen County Arts and Science Charter School in Paterson, NJ.
- Structural inspection services for Asbury Park Convention Hall restoration project in Asbury Park, NJ.
- Façade investigation at 850 Howard Avenue, Staten Island, NY for the NYC Department of Buildings under Local Law 11.
- Inspection and evaluation of abandoned structures under a contract with the City of Newark's Department of Neighborhood Services.
- Inspection and evaluation of abandoned structures at a U.S. Army testing facility. Aberdeen Proving Grounds, Aberdeen, MD.
- Inspection and evaluation of 14 abandoned structures containing toxic waste residue at United States Army weapons research and manufacturing post.
- Inspection of proposed brick façade anchoring system on Glen Ridge Municipal Building in Glen Ridge, NJ.

- Inspection of 85 balconies at the Fountainview Gardens Condominium complex in Fort Lee, NJ.
- Evaluation of elevated wood decks at the Stonybrook complex in Hillsdale, NJ.
- Inspection services for the evaluation and assessment of the condition of the existing timber framed decks at the Westwood Village Condominium in Danbury, CT.
- Exterior stairway assessment and repair design at The Neapolitan in Hoboken, NJ.
- Conducted an extensive study of foundation wall problems at a condominium complex with over 200 dwelling units. Provided technical reports and legal support for potential litigation against a large developer.
- Local Law 11 inspection of the existing masonry façade at the Highview Condominium II building in Staten Island, NY.
- Inspection of attics trusses over the breezeways at 26 condominium buildings at Society Hill at Bernards I in Basking Ridge, NJ.
- Investigation of existing conditions of structural elements impacted by proposed modifications at a residence in Basking Ridge, NJ.
- Analysis of the connection between a post base and a timber-framed deck structure at The Crossings Condominiums in Fairfax, VA.
- Preliminary non-invasion inspection of a two-story, timber-framed residential structure, supported on a concrete masonry foundation above grade in Seaside Park, NJ.
- Inspection of a concrete retaining wall at the Beverly Arms Condominium in Fort Lee, NJ.
- Inspection of the timber and Allan Block retaining walls throughout the Sixty Acres Reserve Condominium complex in Jackson, NJ.
- Inspection of the timber retaining walls of the Cedar Hill Condominium complex in Wyckoff, NJ.
- Condition assessment of the retaining walls of the Foxwood Condominium complex in Morris Plains, NJ.
- Inspections of the site retaining walls at the Condominiums at the Ridge in Owings Mills, MD.
- Investigation of the retaining wall adjacent to the outdoor swimming pool area at the Claremont Cove development in Jersey City, NJ.
- Engineering investigation of roof framing of a warehouse for Supermedia in Martinsburg, WV.
- Inspection of the St. Peter's Church in Point Pleasant Beach to determine damage resulting from a tree fall.
- Engineering report regarding the feasibility of constructing a second story addition on the existing concession facility structure at the Liberty Island National Monument.
- Inspection of damage to existing in-ground pool at Edinburgh Village in Gaithersburg, MD.
- Inspection of garages for several units at the Regency Club in Livingston, NJ after a reported vehicle accident.
- Inspection of the detached garage structure for the 26 Locust Drive apartment complex in Summit, NJ.
- Inspection and assessment of the steel framing and concrete slab supporting the parking/loading area on the north side of 2600 John F. Kennedy Boulevard condominium building in Jersey City, NJ.
- Structural investigation of parking garage for Admiralty Condominium Association in Monmouth Beach, NJ.
- Structural investigation of parking garage for Mayflower COA in Bryn Mawr, PA.
- Evaluation of existing roof structure for proposed solar energy installation at 9 Finderne Avenue in Bridgewater, NJ.
- Structural analysis of existing roof framing systems of two buildings at Allgrind Plastic's facility in Asbury, NJ. New solar panels to be installed directly on the roofs.

EDUCATION

Georgia Institute of Technology, Bachelor of Aerospace Engineering, 1990

RICHARD L. BURKE, PE ■ PAGE 4

University of Puerto Rico, Mayaguez - Graduate studies in Mechanical Vibrations, Robotics, and
Advanced Engineering Mathematics, 1992

REGISTRATIONS/CERTIFICATIONS

Professional Engineer – NJ

AFFILIATIONS

New Jersey Commercial Real Estate Alliance (NJCREA), Corporate Division



Sent Via Email

September 16, 2024

Andrea Saper
Seaspray Condominium Association
c/o Action Management Group
180 Tuckerton Road, Suite 2
Tuckerton, New Jersey 08055

Reference: **Structural Integrity Report
Preliminary Analysis
Seaspray Condominium Association
3313-15 Bay Avenue, Ocean City, NJ 08226
Block 3306, Lot 1
Kipcon Project No. 14161-05**

Dear Andrea,

Enclosed please find Kipcon's Structural Integrity Report for the above referenced location pursuant to the requirements set forth by New Jersey legislation (S2760/A4384) which mandates condominium associations to undertake structural inspections of their existing structures by or under the direction of a New Jersey licensed professional engineer.

Once you have had an opportunity to review the report, please contact me with any questions you may have. Kipcon will submit a copy of this report directly to the local municipality as required by the legislation.

Very truly yours,

KIPCON INCORPORATED

Mark Yanchuk, PE, AIA, LEED AP BD+C
Vice President, Engineering and Architecture
NJ Registered Architect License No. 21A100891600
NJ Professional Engineer License No. 24GE03669900

Kipcon NJ Certificate of Authorization No. 24GA27932000

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Enclosure: Report

Cc: Ocean City Construction Code Division

KIPCON

**Seaspray C.A.
Structural Integrity Report
Preliminary Analysis**

Engage.

Envision.

Engineer.



Engage. Envision. **Engineer.**



Structural Integrity Report Preliminary Analysis Seaspray Condominium Association

Prepared for:

Seaspray Condominium Assoc.
c/o Action Management Group
180 Tuckerton Road, Suite 2
Tuckerton, New Jersey 08055

Kipcon Project No. 14161-05

September 16, 2024

Prepared by:

Kipcon Incorporated
1215 Livingston Ave. – Suite 200
North Brunswick, NJ 08902



Mark Yanchuk, PE, AIA, LEED AP^{BD+C}



NJ Registered Architect License No. 21AI00891600
NJ Professional Engineer License No. 24GE03669900

NJ Certificate of Authorization No. 24GA27932000

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1.0 Introduction

Kipcon Incorporated ("Kipcon") was retained by the Seaspray Condominium Association ("Association") located at 3313-15 Bay Avenue in Ocean City, Cape May County, New Jersey to perform a review of previous engineering reports as outlined in Kipcon's proposal #14161-06, as well as to conduct a Structural Integrity Inspection as outlined in Kipcon's proposal #14161-05. The purpose of these scopes of work is to provide a preliminary engineering assessment of the building's Primary Load Bearing System ("PLBS") in conformance with the legislative requirements of the State of New Jersey as described within S2760/A4384 which was signed into law on January 8, 2024. For the purposes of this report, the definition of the PLBS as included within the legislation, "means the assemblage of structural components within a building comprised of columns, beams or bracing that by contiguous interconnection form a path by which the external and internal forces applied to the building are delivered to the foundation. The foundation as well as any connected or attached balconies shall be included as part of the primary load bearing system evaluation." The scope of Kipcon's assignment included visual observations of the accessible portions of the PLBS and preparation of a written report prepared to meet the requirements of the legislation in a format to reflect a Preliminary Analysis in accordance with the American Society of Civil Engineers (ASCE) Manuals and Reports on Engineering Practice No.158, Structural Condition Assessment of Existing Buildings: A Guideline, as required by the statute. The inspection and report were performed by and/or under the direction of a licensed professional engineer in the State of New Jersey and who has signed and sealed this report.

Inspection Information

Inspection Dates:	June 4, July 11, & August 15, 2024
Type of Inspection:	Visual Observations of Accessible Areas
Structural Inspector:	Mark Yanchuk PE (NJ PE License No. 24GE03669900)
Assistant Inspector:	Luis Sanchez RS, Sr. Project Manager
Previous Inspections:	See Section 2.0 References

2.0 References

Kipcon relied on the following documents and testimony in the preparation of this report:

- ASCE Manuals and Reports on Engineering Practice No.158, Structural Condition Assessment of Existing Buildings: A Guideline
- Building Structural Drawings: None Available
- Previous Structural Reports:
 - Stair Top Landing Collapse Assessment report prepared by Tadco Engineering & Environmental Services LLC, Lyndhurst, New Jersey dated May 2, 2024.



- Stair Landing Restoration Drawing prepared by Tadco Engineering & Environmental Services LLC, Lyndhurst, New Jersey dated April 29, 2024.
- Seaspray Condominiums Structural Remediation Drawings (Set of 7 Sheets) prepared by Tadco Engineering & Environmental Services LLC, Lyndhurst, New Jersey with revision date 11/10/2023.
- Limited Structural Assessment report prepared by Tadco Engineering & Environmental Services LLC, Lyndhurst, New Jersey dated May 23, 2023.
- Seaspray Condominiums Structural Report prepared by Endicott Engineering, Port Republic, New Jersey dated April 17, 2023.
- Structural Repairs Bids Comparison prepared by Tadco Engineering & Environmental Services LLC, Lyndhurst, New Jersey dated January 8, 2023.
- Structural Condition Assessment report prepared by BECHT Engineering BT, Inc., Basking Ridge, New Jersey dated October 27, 2021.
- Capital Reserve Study for the Seaspray Condominium prepared by BECHT Engineering BT, Inc., Basking Ridge, New Jersey dated September 15, 2021.
- Seaspray Condominium Study prepared by Hyland Design Group, Ocean City, New Jersey dated July 14, 2006.
- Design Review Report for Seaspray Redevelopment prepared by Taylor Design Group, Mount Laurel, New Jersey dated September 1, 2004.
- Seaspray Proposal to Redevelop the Site prepared by Michael W. Hyland Associates PA, Ocean City, New Jersey dated September 17, 2002.
- Seaspray Condominium – Structural Repair Feasibility Report prepared by BECHT Engineering Co., Inc., Liberty Corner, New Jersey dated July 12, 2002.
- Seaspray Condominium Structural Report & Follow-up Letters prepared by Edward P. Ryan Consulting Engineering, Linwood, New Jersey dated January 22, 2002, January 28, 2002, & March 14, 2002, respectively.
- Structural Inspection, Evaluation, and Recommendations report prepared by Roy M. Benjamin PE, Brigantine, New Jersey dated May 17, 2000.
- Engineering Survey of Seaspray Condominium report prepared by Michael W. Hyland Associates, Ocean City, New Jersey dated September 30, 1980.
- RS Means Construction Cost Data – Historical Indexes
- Testimony from Andrea Saper, Action Management Group.

3.0 Methodology

A structural condition assessment of an existing building can be undertaken for a number of purposes. These purposes may include developing a performance report, establishing building serviceability, planning for maintenance or repair, code compliance, life safety, durability, historic preservation, or a number of special purposes based on the specific building and its current or proposed occupancy or function.¹

As buildings age, the typical purpose of a structural condition assessment becomes less about, for example, code compliance, as would be typical if an assessment was solicited when a building was first constructed, and more about durability and life safety. As the structural components of a building deteriorate due to age, so do their structural performance characteristics. Periodic assessments, such as this, are necessary to evaluate the structure's capability of continuing to perform to the required standards.

The process of assessing the structural condition of an existing building consists of assembling and systematically analyzing information and data regarding the building or portions thereof in order to determine structural adequacy. Due to the potential cost of a comprehensive structural assessment for an existing building, a multilevel approach is generally recommended. The basic process entails a Preliminary Analysis followed by a Detailed Assessment if necessary, as described within the ASCE Standard referenced in Section 2.0 of this report which has been used as the general guideline in conducting this evaluation.

This report is intended to satisfy the legislative requirements for a mandatory structural integrity inspection in the State of New Jersey. Following the ASCE Manuals and Reports on Engineering Practice², the Preliminary Analysis is defined as a "walk-through of a structure or facility to identify visually discernable conditions of distress, damage, deterioration, or instability... It includes document review, a limited site reconnaissance, and a verbal or written report." This report provides the initial analytical data for estimating the condition of the building's primary load bearing system and for establishing the need and priority for a Detailed Assessment.

The general steps in performing a preliminary assessment are as follows:

1. Review available documents.

Review documents related to the subject building including but not limited to design or as-built drawings, soil investigations, prior structural inspection reports or any other reports relating to the building's physical components and any other information as provided by the Association.

2. Perform a site inspection to observe the accessible portions of the building's structural elements.

¹ ASCE/SEI Manuals and Reports on Engineering Practice No. 158, Section 1.2

² ASCE/SEI Manuals and Reports on Engineering Practice No. 158, Section 1.2.1.1

At the time of the building inspection, meet with a representative familiar with the building who will provide access, describe functional requirements, and point out any known areas of modification, deterioration, and/or damage. As part of this onsite investigation, the Structural Inspector will visually observe all accessible portions of the building's primary load bearing system. Full access to the building's common areas must be granted by the Association. No invasive or destructive investigations are included with these preliminary observations.

3. Perform a Preliminary Analysis of the information collected.

Prepare a written report signed and sealed by a New Jersey licensed professional engineer. The report will be prepared to meet the requirements of the approved legislation and presented in a format to reflect a Preliminary Analysis as described within the above referenced ASCE standard.

As outlined within the legislation as well as the ASCE standard, the report will include:

- a. An introductory description of the purpose, scope of investigation, methodology, and inspection information.
- b. A description of the structure's primary load bearing system (PLBS).
- c. A discussion of the preliminary observations documenting the observed condition of the primary load bearing system. The only portion of the exterior facades required to be observed by this legislation are exterior balconies. If the building does not have exterior balconies, no façade investigation is required unless the exterior wall is part of the PLBS.

The report will be formatted in such a way to be used for future evaluations if progressive deterioration is observed to be occurring. This would include photographic documentation of all conditions along with the locations in which they occur. A standardized rating system will be used to identify each location along with a description of the severity of the observed condition along with a description and recommendation for further investigation and/or repair.

4. Provide preliminary findings and recommendations.

Provide a conclusion with the following information:

- A description of any required maintenance or repairs needed to the PLBS.
- A description of any necessary corrective maintenance of the PLBS along with a reasonable detail of the required corrective maintenance.
- A summary of all observed areas of concern, their rating as described above.
- A timeframe for when the next subsequent inspection should be performed which is not in excess of the statutory requirements.

- If available, a review of all prior inspection reports as well as any other reports relating to the building structure provided by the client noting any new or progressive deterioration.
- Specific recommendations of the need for a Detailed Assessment as described within the ASCE standard along with the locations and timing for this to take place. If an unsafe condition is identified, the client shall be notified within 24 hours.
- Provide a copy of this report to the local municipality's construction official as required by the statute.

This report is intended to serve as the mandated preliminary structural assessment for the Seaspray Condominium Association building located at 3313-15 Bay Avenue, Ocean City, New Jersey. A description of the building, investigation findings, conclusions, and recommendations are provided herein. Photographic records of specific and representative accessible areas are included in this report.

Most importantly, the photographic records in this preliminary assessment serve to establish the baseline conditions of the building's structure for future inspections. As the building continues to age and further periodic evaluations are performed, this document will be instrumental in understanding how the conditions of the structural elements have changed over time and will inform any future decisions as to the structure's performance capabilities.

While the ASCE Guideline for Structural Condition Assessment of Existing Buildings was used as a reference in the preparation of this evaluation, the specific requirements are based on the legislative requirements in the statute.

Kipcon used the following rating system when evaluating the PLBS of the subject building:

Severity	Description	Recommendations
Severe	Deterioration of the visually observable structural elements of the PLBS which is indicative of a potential for strength reduction and possible inadequacy based on the applied loads.	Requires a Detailed Assessment and remediation of the deteriorated areas in the immediate future. The Preliminary Analysis report will specify the timeframe. A brief description of the basic repair scope may be provided if known.
Moderate	Visual observation of conditions which are indicative of rapid progressive deterioration that will require short term monitoring.	Requires corrective maintenance if the scope can be defined, or a Detailed Assessment to define further depending on the condition and projected rate of progressive deterioration. The Preliminary Analysis report will specify a timeframe.
Minor	Visual observation of conditions which are indicative of progressive deterioration that requires monitoring over a longer period.	Does not require immediate action. Areas should receive corrective maintenance or be periodically re-inspected to evaluate progression, if any. The Preliminary Analysis report will specify the direction and timeframe.

4.0 Building Information



(Source: Google Earth)

Community Name:	Seaspray Condominium Association
Community Type:	Condominium
Community Location:	3313-15 Bay Avenue, Ocean City, NJ 08226
Block/Lot:	Block 3306 / Lot 1
Number of Buildings:	1
Building Height:	2 Stories
Total No. of Dwelling Units:	31
Approximate Age:	Built 1958, 66 years old
Primary Load Bearing System:	Piles, CMU Bearing Walls, Precast Floors/Roof
Exterior Balconies:	Yes, Walkway Balconies & Breezeways
Structured Parking:	No
Date of Prior Inspections:	Various, see Section 2.0
Architectural Drawings:	None Available
Structural Drawings:	None Available
Orientation:	Front Faces West

5.0 Findings

BACKGROUND INFORMATION

The Seaspray Condominium Association is located at 3313-15 Bay Avenue in the City of Ocean City, Cape May County, New Jersey. The property is at the northeast corner of the intersection between Bay Avenue and 34th Street. The community is composed of a single, two-story residential building containing a total of thirty-one (31) dwelling units. The residential portion of the property consists of five (5) structurally independent building sections connected by exterior walkway balconies and breezeways with all spaces covered by a common low-slope roof structure. Vertical circulation between residential floors is achieved solely by exterior open stairs at three remote locations. There are no interior stairs or elevators. The building sections are arranged in a U-shape fronting Bay Avenue with an outdoor inground swimming pool and courtyard situated in the center of the U-shape. Building common spaces include a laundry room and storage rooms located in a one-story accessory building at the rear of the main building. On the south side of the main building there is an appended one-story structure housing another storage room. The roof of this building section is low-slope and is being used as a contiguous terrace for the three south facing units. The property has minimal topographic variation with no known drainage issues. There are onsite surface parking lots for the residents and guests located at the front, rear, and north side of the property. According to property records, the building was constructed in 1958. The one-story structure appended to the south end of the building was added in 1960. (See Figure #1)



Figure #1 – Aerial View of the Seaspray C.A.
(Source: Google Earth)



The Seaspray building was originally constructed as a resort motel and converted to condominiums in the early 1980s. The building is currently classified as Occupancy Group R-2 residential with incidental uses for the common utility and storage spaces. The Construction Type is most likely IIB (non-combustible) per the International Building Code, but since New Jersey did not have a Uniform Construction Code when this structure was built the classification could not be confirmed by Kipcon.

The property is rectangular in shape, 130.00' x 371.22' comprising 1.10 acres. The building has a U-Shaped footprint with overall dimensions approximately 230 ft wide x 80 ft deep and a 97' x 49' pool courtyard fronting Bay Avenue³.

According to the New Jersey statute, only "Covered Buildings" require mandatory structural inspections. The statute further defines the term "Covered Building" as meaning a residential condominium or cooperative building that has a primary load bearing system comprised of a concrete, masonry, steel, or hybrid structure including, without limitation, heavy timber. The statute also includes podium deck construction but not any excluded structure above the podium deck. An "Excluded Structure" encompasses buildings categorized as International Standardization Organization ISO Type 1 construction or frame-built construction with combustible walls or roofs, but not including a podium deck on which the frame-built construction is situated.

The Seaspray Condominiums has a primary load bearing system composed of timber piles supporting reinforced concrete grade beams, precast channel beams (or slabs), load bearing masonry walls, and hollow core precast floor/roof slabs. Therefore, the Seaspray Condominiums qualifies as a "Covered Building". Currently, the building is "red tagged" meaning that the City of Ocean City Code Enforcement Division has declared the structure unsafe for human occupancy and it cannot be re-occupied until rendered safe and secure.

Subsurface Conditions

According to the Soil Survey of Cape May County, New Jersey, subsurface soils vary from poorly graded to loose organic silt up to depths of 60' with ground water approximately 2' to 3' deep with seasonal variations. The buildings have a deep foundation system composed of untreated timber piles supporting reinforced concrete grade beams. As reported in 1980, the piles were exposed above the ground water level due to subsidence of the soils in the crawl spaces which resulted in visible deterioration of the wood due to insects and/or dry rot. The pilings were rated as in fair condition at that time and there were plans to construct pile extensions from the grade beams down to below the lowest seasonal ground water level. To Kipcon's knowledge, this remediation work was only partly completed in one building section.⁴

³ Survey of Premises, Michael W. Hyland Associates, 10/7/1980.

⁴ Engineering Survey of Seaspray Condominiums, Michael W. Hyland Associates, 09/30/1980.

Flood Zone

The Seaspray property is situated in Flood Zone "AE" with a Base Flood Elevation ("BFE") of 9 feet AMSL according to FEMA FIRM Flood Maps for the City of Ocean City (See Figure #2). An Elevation Certificate was not provided for Kipcon to review. However, based on our visual inspections, the first floor of the building appears to be below the BFE but this is unconfirmed. The elevation of the building will be a factor when considering the cost to repair any damage and will be discussed later in this report.



Figure #2 – Flood Map for Seaspray C.A.
(Source: FEMA)

Primary Load Bearing System (PLBS)

The Primary Load Bearing System of all five Seaspray building sections consists of pile supported reinforced concrete grade beams supporting concrete masonry unit (CMU) bearing walls. For the first floor level, the CMU walls support 12" deep precast concrete C-channel beams. At the second floor level and roof, the bearing walls support 8" deep precast hollow core slabs. There are CMU piers supporting precast lintels over window and door openings. The construction method utilizes the platform technique. The C-channel beams are nominal 24" wide and installed side-by-side and fitted with a topping slab. The hollow core slabs are 16" wide installed side-by-side and fitted with a topping slab. Both the channel beams and hollow core slabs appear to be conventionally reinforced based on our observations of exposed flexure reinforcing where the concrete cover has spalled. This would be consistent with the fabrication practices circa 1958 when the building was constructed.

The CMU load bearing walls on the grade beams are plain masonry (unreinforced and ungrouted) and appear to be lightweight cinder blocks. In addition, the top course bearing surface of the CMU walls is ungrouted. Above the first floor, there is a combination of CMU bearing walls and CMU piers supporting precast lintels. There is a small amount of structural steel used as follows:

- Steel I-beams in the appended one-story structure at the rear of the building.
- Steel I-beams and round columns in the appended one-story structure at the south end of the building.

- The all-steel northern staircase.
- Steel shoring for the precast lintels at the two stair breezeways.

The second floor has exterior walkway balconies and breezeways covered by the common roof structure. The hollow core roof slabs cantilever over the full width of the walkway balconies. All condominiums are entered directly from these exterior walkways. There is one entrance per dwelling unit except for the one double unit. The pool courtyard is elevated but the construction is unknown and inaccessible. Figure #3 below shows the basic arrangement of the Seaspray PLBS components.

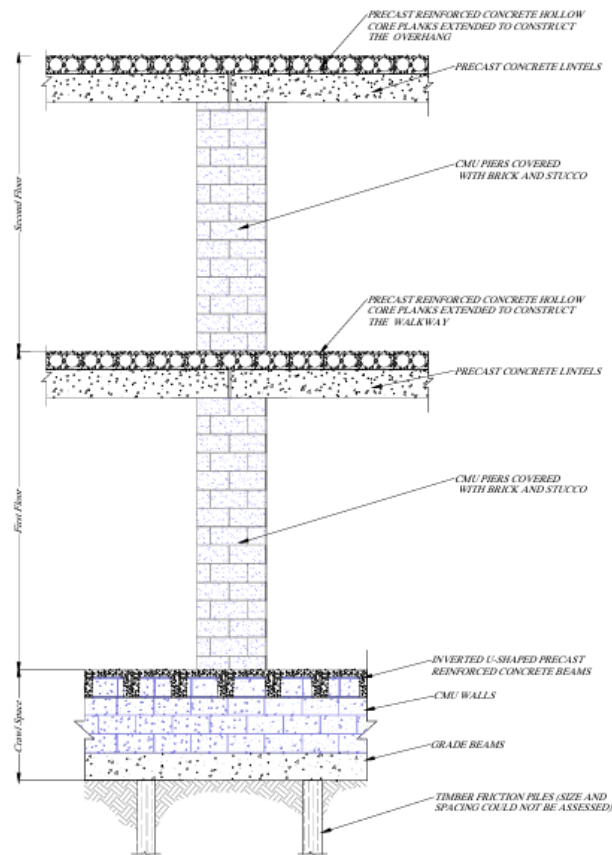


Figure #3 – Example Section of the Seaspray PLBS.

(Source: Excerpt from Tadco Engineering Plan of Repair, Sheet S-3)

The following information is presented as a reference to provide a general understanding of the various structural elements comprising the Seaspray's PLBS.

Deep Foundation System

In areas where in situ soils are inadequate to support a structure resulting in extensive differential settlement, a deep foundation system will be employed. These systems utilize driven or drilled piles to extend deep into the ground in order to achieve adequate bearing capacity. Piles extend to depths necessary to support the design capacities of the building. The piles are then tied together by means of a pile cap and/or grade beams. Seaspray has a deep foundation

consisting of untreated timber piles capped by reinforced concrete grade beams. The original pile layout and pile logs were not provided to Kipcon for review.

Precast Concrete C-Channel Beams

Precast Channel Beams are similar to channel slabs but deeper which affords longer spans. In the period from the mid to late 1950s, channel beams were mostly conventionally reinforced because prestressing techniques for bridge construction were not widely used until later in the 1970s. The channel beams at Seaspray are conventionally reinforced with deformed steel rebar used as the primary flexure reinforcing. An additional note is that many of these beams during that era were fabricated without any shear reinforcement which typically controlled the failure mode. It has not been confirmed by Kipcon, or by any previous engineering report, whether the Seaspray channel beams have any shear reinforcement. (See Figure #4)

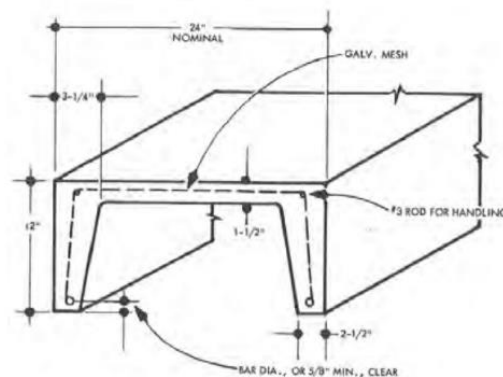


Figure #4 – Example of Precast Channel Beam.
(Source: Rackle Precast)

Hollow Core Slabs

Hollow core slabs or planks are precast concrete slabs with a series of continuous voids oriented longitudinally to reduce the slab's self-weight. The Seaspray planks are conventionally reinforced with deformed steel rebar. In today's practice, these slabs are reinforced with pretensioned steel strands running parallel to the voids. For prestressed slabs the strands are located near the bottom of the slab in tension where their eccentricity creates a bending moment resulting in an upward deflection called camber. The amount of camber is reduced when the slab is installed due to the downward deflection of the slab from its own weight. The bottoms of the precast planks are typically left either unfinished or coated with a finishing material such as paint or a spray-applied textured coating. The upper surface of the planks receives a concrete topping slab which is non-structural and intended to provide an even subfloor for the application of a finished floor or coating. Hollow core planks have several advantages for multi-family buildings, i.e. long spans, reduced material, reduced floor assembly thickness, strength, durability, non-combustible, fire-resistant, and reduced sound transmission. Seaspray has the older version of these hollow core slabs with conventional reinforcement at the bottom of the slab in tension. The Seaspray slabs span from front to rear for each building section with a cantilevered overhang to create the roof over the exterior walkway balconies. (See Figure #5)



Figure #5 – Examples of Hollow Core Slabs.
(Source: Structural Prestressed Industries, Inc.)

Structural Steel Frame

Seaspray has a small amount of structural steel as noted previously in this report. A structural steel frame is composed of various shapes and grades of steel components used as beams, columns, plates, etc. that are assembled to form a primary load bearing system. Assemblage is achieved by either bolting or welding the steel components together. To complete the load path, the steel frame is supported by, and anchored into, the building's foundation. The most widely used steel shape for commercial and multi-family structures is the wide flange section (W-Shape) which is used for both beams and columns. Structural steel is manufactured in accordance with ASTM Standards and graded based yield strength. W-Shape sections are produced using hot rolling techniques. The final steel components typically have a protective coating applied such as galvanization when exposed to the environment, primer if located on the interior of a building, or a sprayed-applied fire-resistive material ("SFRM") when a fire rating is required. (See Figure #6)

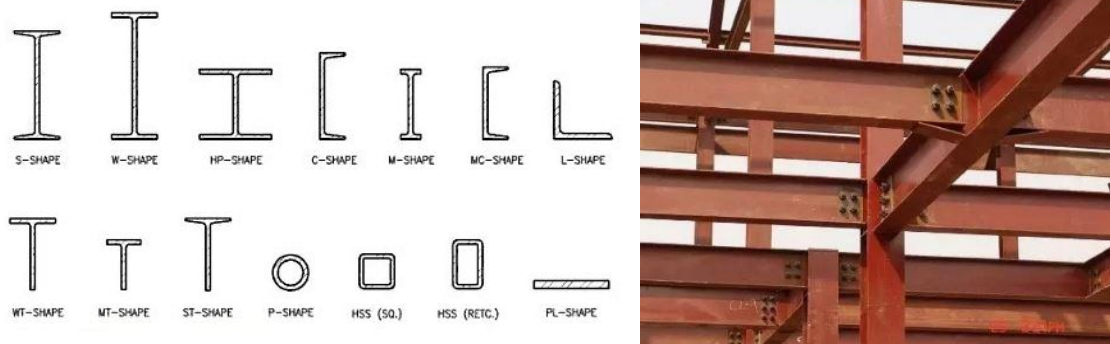


Figure #6 – Examples of Structural Steel Components.
(Source: The Constructor)

To recap, the load path starts at the precast roof and floors which transmit the imposed gravity and lateral loads by means of the bearing walls, lintels, steel beams, columns, and bracing to the building's deep foundation system which is composed of timber piles capped by concrete grade beams. The imposed gravity and lateral loads include dead, live, snow, wind, and seismic. All other components of the building are considered non-bearing with respect to the PLBS. The Preliminary Analysis of this report follows the legislation and will only address the PLBS. Kipcon does provide additional information in Section 9.0 for other non-PLBS items that may have been observed during the course of our investigation which may pose a safety concern.

INSPECTION OBSERVATIONS

Also, refer to the photos in Section 8.0 *Photo Log* for additional information.

On the inspection dates noted in Section 1.0, Kipcon observed those areas of the primary load bearing system ("PLBS") that were accessible for viewing. The C-channel beams were observed by accessing the crawl spaces at the hatch locations indicated in Figure #7 below. The crawl spaces for Building Sections C, D, & E had limited accessibility due to small, below grade hatches and numerous utility pipes hanging from the channel beams and blocking passage near the entrance. For these crawl spaces, observations were performed from the hatch area.

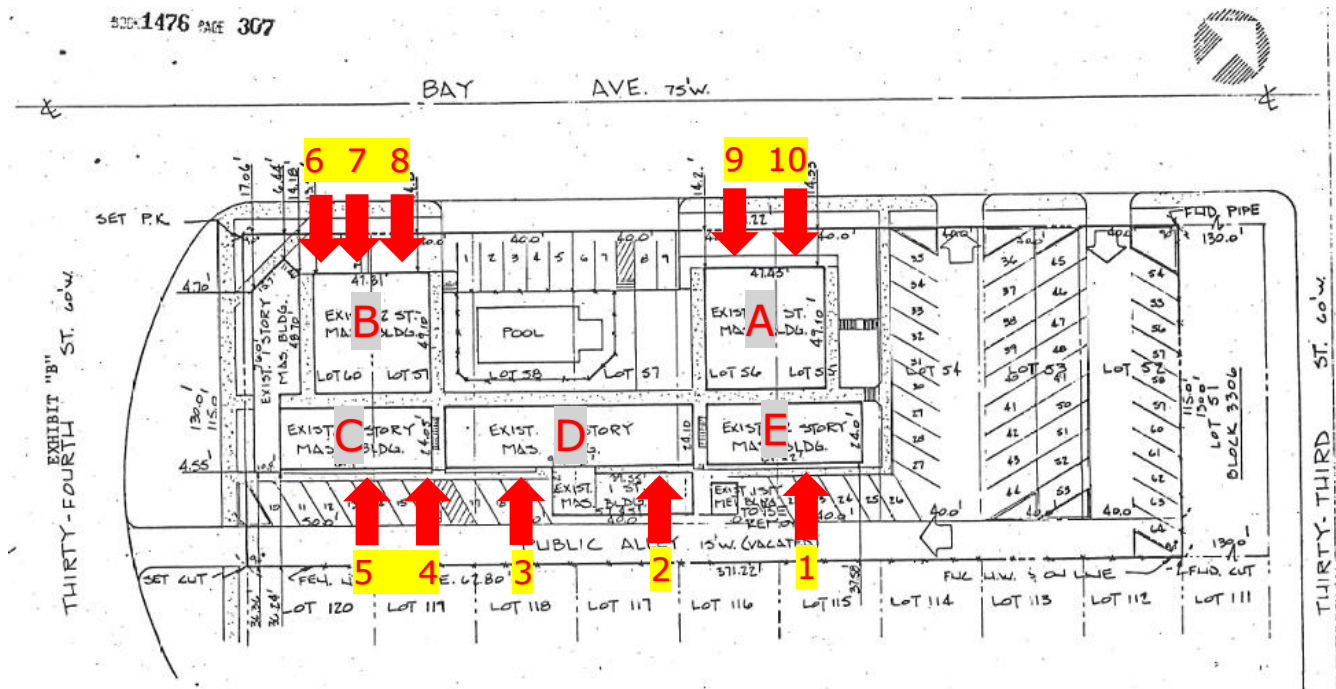


Figure #7 – Seaspray Layout with Crawl Space Access Points Noted.
(Building Plan: Layout Michael W. Hyland Survey of Premises)

Using the previous engineering reports as a guide, Kipcon was able to locate and observe the evidence of differential settlement, damaged precast members and masonry walls/piers, and other issues noted by the previous engineers as they have not been remediated to date. Our observations were consistent with the findings of these engineers. Kipcon reviewed the condition in ten (10) crawl spaces, eight (8) dwelling units, the laundry room, three (3) storage rooms, and all exterior walkway balconies and breezeways. The dwelling units entered were Units 2, 4, 10, 14, 15, 16, 20, & 24 where finish materials concealed the PLBS. Two of the storage rooms were in the one-story structure at the rear of the building behind section D, and the other storage room was in the one-story structure at the south end of the building. The one-story structures had considerable damage due to differential settlement and upheaval similar to the main building. The one-story accessory structures are not constructed like the main building and may not be fully supported on piles.



SUMMARY OF FINDINGS

(Refer to the Severity Rating System in Section 3.0 of this report.)

Kipcon performed visual observations of the accessible portions of the PLBS in conformance with the ASCE Standard listed in Section 2.0. Our findings were similar to those reported by previous engineers as outlined below using the prescribed rating system for this report. In accordance with the New Jersey statute, this report will only focus on the condition of the PLBS.

Structural collapse, whether localized or catastrophic, is typically sudden and unpredictable. However, signs of progressive deterioration of the PLBS provide us with a warning that structural failure may be near. The Seaspray building is currently “red tagged” by Ocean City as an unsafe structure and not suitable for occupancy due to the recent collapse of the north stair’s mid-level landing combined with the historical lack of performing recommended corrective maintenance by several engineers. Because of the sudden chain of events that led to the restrictions, most residents have personal property in their units and possessions in the common storage rooms. The City of Ocean City Construction Code Division will not lift the unsafe status until remediation is completed and a New Jersey licensed professional engineer certifies that the building is safe for occupancy. This may or may not take place depending on the results of the current financial analysis being performed by the Association. A controlled personal property retrieval plan for the residents may be appropriate with limited access by residents and an indemnity agreement signed by all who enter the premises.

Severe Conditions:

- **Deep Foundation System:** There is conclusive evidence of the progressive deterioration of the untreated timber piles supporting the reinforced concrete grade beams which has resulted in visible differential settlement of and between building sections. Kipcon observed the results of the differential settlement throughout the building and noted deterioration of piles in one of the more accessible building section crawl spaces.

This condition is well documented in several of the previous engineering evaluations and was first noted in the 1980 conversion survey report by Michael W. Hyland Associates. To date, only one building section (D) has received any remediation of the piles which occurred in 1997. The untreated timber piles above the ground water level have been subjected to damage from insects and/or dry rot.

Edward P. Ryan Consulting Engineering’s report of January 22, 2002, reported the following:

"Visual inspections of each of the building sections were performed from their respective crawlspaces. It was found that the tops of the timber piling under the concrete grade beams were deteriorated, and in many cases disintegrated, in almost every location observed."

In their reports, some of the engineers have opined that soil erosion has caused the timber piles to be exposed to the atmosphere which has caused the decay. However, erosion is highly unlikely because the single access hatch for each crawl space is below grade and would only allow water to enter. Kipcon observed at least one roof downspout



adjacent to one of the access hatches which would allow the roof runoff to enter the crawl space. Kipcon agrees with the Hyland Design Group's explanation of the soil subsiding alongside the grade beams instead of erosion.

The Hyland Design Group's report of July 14, 2006, best describes the soil subsidence issues being experienced at Seaspray:

"... What actually has taken place is long term subsidence of the soils that originally surrounded the grade beams. The subsidence is caused by consolidation (shrinking) of deep, organically rich supersaturated silty soils lying between the original marsh upon which fill was placed to build the original motel, and the dense basal sands that underlie the site, probably at a depth of 35 to 50 feet or even deeper. This subsidence takes place over many years at a rate that decreases with the passage of time. The result of the subsidence is the emergence of a void where the grade beams were when they were cast in trenches in the original site fill soils. The sides of the trenches then slough into the bottom. There is movement of water from runoff, groundwater and floodwaters that all contribute to soils displacement, but the soils are moving principally into the trenches resultant from the subsidence of site soils."

Kipcon performed visual observations in each of the crawl spaces but did not perform any invasive activities such as excavating along the grade beams to determine the extent of the pile damage. Kipcon did note evidence of the rotted piles in Building Section B which was visible. Since this structural deterioration of Seaspray's PLBS is well-documented and there is widespread evidence of the differential settlement, it is reasonable to conclude that a majority of the piles (or even all of the piles) are experiencing some degree of deterioration above the ground water table. To date, none of the engineering companies involved (including Kipcon) have performed a detailed and comprehensive assessment of all the piles as this would be an extensive and costly investigation with the end result not providing much more additional information that would be beneficial to the Association.

- Recommendations: If the Association elects to proceed with repairs, this will require a Detailed Assessment and Rehabilitation Study to survey all of the piles. This study would include engaging a contractor to excavate along each grade beam so that an engineer could inspect the condition of each pile.
- Timeframe: Contingent on the Association's decision regarding the future of the property.
- Corrective Maintenance (Basic Scope): Remove the decayed portion of the timber pile until sound material is reached. Install dowels into the top of the pile then form and pour a high-performance, non-shrink grout to fill the void between the pile and grade beam. Re-grade the soil along the grade beam to cover and protect the piles.

Note that the crawl spaces provide only limited working space which will make these repairs very difficult to perform and inspect. There are numerous low hanging utilities that obstruct access to an already low headroom confined space in the rear building sections. Some utilities may need to be disconnected to allow proper working space.

- **Cracked Grade Beams:** Localized stress cracking of the load bearing CMU wall supported on the grade beams was observed. The grade beams in these areas may be deflecting and will need to be strengthened.
 - **Recommendations:** If the Association elects to proceed with repairs, this will require a Detailed Assessment and Rehabilitation Study to survey all of the grade beams. It is anticipated that this study would be in conjunction with the pile survey.
 - **Timeframe:** Contingent on the Association's decision regarding the future of the property.
 - **Corrective Maintenance (Basic Scope):** Stabilize the grade beams by installing steel angles secured to the lower corners of the beam to bridge any excessive deflection. The steel should be hot-dipped galvanized for better corrosion protection.

Note: This repair may not be necessary if capping the piles will achieve the same result. This would need to be evaluated further during the pile survey.

- **First Floor C-channel Beams:** Exposure to the chronic moisture in the crawl spaces and lack of adequate cross ventilation has progressively rusted the primary flexure steel reinforcing of the channel beams causing the concrete cover to spall. This condition is more prevalent under the three rear building sections (C, D, & E). Kipcon estimates that at least 25% of the channel beams are affected but this would need to be confirmed. The building section at the front of the building (A & B) have more headroom and one of the crawl spaces even has a vapor retarder so deterioration of the channel beams is to a lesser extent.
 - **Recommendations:** If the Association elects to proceed with repairs, this will require a Detailed Assessment and Rehabilitation Study to survey all first floor C-channel beams. It is anticipated that this study would be in conjunction with the pile survey.
 - **Timeframe:** Contingent on the Association's decision regarding the future of the property.
 - **Corrective Maintenance (Basic Scope):** Depending on the loss of material, the repair would involve chipping out the concrete along the rebar until sound material is encountered. Then, clean the steel and check for section loss. If within acceptable limits, coat the rebar with a corrosion inhibitor and the concrete with a bonding agent before applying a high performance vertical and overhead patching mortar. If there is material loss, the beam would need to be strengthened to increase its flexure capacity. A strengthening method would need to be developed appropriate for the condition being repaired.
- **CMU Bearing Walls on the Grade Beams:** The original plain masonry construction is unreinforced and ungrouted. This has resulted in localized distress of the wall. In Building Section A there is a portion of the CMU wall where the face shell has crumbled. Even though this particular wall does not support the channel beams, there are two floors of

masonry walls above it. Kipcon confirmed and agrees with the observations reported by Edward P. Ryan Consulting Engineering in their report dated January 22, 2002.

"Inspection of the crawl spaces revealed that the foundation walls are constructed of the old style, 12" hollow cinder blocks, a lightweight and very porous form of concrete block. There are no solid or grouted block in the foundation, as even the top course, where the channel slabs bear, is hollow. Because the block is hollow, the concentrated bearing stresses from the legs of the channel slabs can cause vertical stress cracks in the CMU, and this type of cracking was observed at many locations throughout the foundations."

Kipcon has observed both the ungrouted CMU and stress cracks. No repairs to the piles and grade beams would be complete without addressing these walls.

- Recommendations: If the Association elects to proceed with repairs, this will require a Detailed Assessment and Rehabilitation Study to survey all of the CMU bearing walls in the crawl spaces. It is anticipated that this study would be in conjunction with the pile survey.
- Timeframe: Contingent on the Association's decision regarding the future of the property.
- Corrective Maintenance (Basic Scope): To strengthen the walls, a flowable, non-shrink, self-consolidating grout should be pumped into the block's hollow cores. Prior to grouting, point any cracks in the face shell with Type N mortar. This repair should only be performed after the new pile caps have been cured to design strength.
- Second Floor & Roof Hollow Core Slabs: Cracks in the slabs were never sealed allowing water infiltration to rust the steel rebar thereby cracking the slabs further.
 - Recommendations: If the Association elects to proceed with repairs, this will require a Detailed Assessment and Rehabilitation Study to survey the hollow core slabs. However, the slabs are concealed in most areas so this survey may not uncover all damages. Also, the existing roof may need to be replaced at the same time to perform repairs on the roof slabs.
 - Timeframe: Contingent on the Association's decision regarding the future of the property.
 - Corrective Maintenance (Basic Scope): The Tadco Engineering plan of repair for these slabs appears adequate. However, a possible issue that could arise will be if the repaired slabs become out of plane due to any increase in deflection from the newly imposed dead load. These slabs are conventionally reinforced so the added weight could make a difference.

USEFUL LIFE SPAN

The anticipated useful life of a precast concrete structure is between 50 to 100 years with routine maintenance⁵. The actual useful life of the structure is dependent on several factors such as the durability of the precast installed, environmental conditions, and maintenance. Seaspray has endured a harsh coastal environment, differential settlement of foundations, and non-existent preventative maintenance. Cracks that form in the precast from structural movement allow water to penetrate and cause oxidation (rust) of the reinforcing steel. The corroding steel will form scale and expand which is referred to as “rust jacking”. The expanding rust exerts significant internal pressure to crack the concrete further until it completely dislodges, which is called “spalling”. Because of the harsh environmental conditions and lack of care, Seaspray has reached the end of its useful life and will need either a complete restoration project or be demolished. This sentiment has been expressed in multiple engineering reports.

In 2002, Edward P. Ryan Consulting Engineering recommended several “band-aid” repairs so that the building could be used for that summer. He further expressed concern and stated that the building must be vacated at the end of the (2002) summer with major repairs required prior to resumption of occupancy. He presented a probable cost of \$3.30 million which included replacement of windows, doors, roof, pool, pool terrace and fence. Excluding the fenestration and pool items, the structural remediation was estimated at \$2.86 million.

In 2006, the Hyland Design Group considered 3 years to be the upper limit of occupancy and comprehensive structural remediation to be completed by January 2008, or the building should be declared unfit for continued use and occupancy and demolished. The minimum estimated cost for only the stabilization of the piles and first floor channel beams was \$1.30 million.

In 2021, Becht Engineering recommended that the building is in need of very near-term extensive repairs, or the site be considered for redevelopment. The minimum probable cost to stabilize the foundation and make necessary structural repairs was \$3.125 million and included \$400,000 for code upgrades.

In April 2023, Endicott Engineering stated that *“... the common areas and buildings of the (Seaspray) complex are no longer fit for continued use and occupancy and are structurally unsound.”*

In May 2023, Tadco Engineering & Environmental Services (“Tadco Engineering”) performed a “Limited Structural Assessment” of Seaspray building. In this report Tadco Engineering states reviewing only the Becht Engineering 2021 report and Endicott Engineering 2023 report. Tadco Engineering conclude that *“... Given the damage and the cracks on the observed grade beams. CMU walls, and walkways in one or more crawlspaces, repair and restoration is needed for these areas. Engineering plans and selection of qualified contractors in the respective trades must be sought. However, even at observed condition, these are localized and are not in immediate risk of collapse or harm to human life...”*

⁵ National Precast Concrete Association.



Tadco Engineering was then hired by Seaspray to prepare and bid a plan of repair based on these observations. Kipcon will discuss this plan later in the report.

Notwithstanding the Tadco Engineering report, the above opinions from four previous engineers indicate that the Seaspray building was at the end of its useful life decades ago and no substantial repairs have been completed to extend its life. The recommendations of multiple engineers were ignored and deterioration of the PLBS progressed. Kipcon does not believe a progressive collapse or catastrophic collapse is likely because of the structurally independent building sections. However, a building section could sustain a localized collapse suddenly and without warning that could injury or be fatal for residents and guests. The Association has deferred the much-needed repairs until the point now where there is no option but to repair or demolish the building.

RELATIVE PROBABLE COST OF REMEDIATION

Kipcon has reviewed the various cost estimates in the engineering reports. The costs described in the more recent reports are more credible and will be used to analyze the potential cost impact on the Association. The following minimum probable costs have been collected for analysis:

- 1997, Hyland Design Group⁶
Building D pile restoration: \$75,000 (\$55,000 for piles & \$20,000 for engineering)
Note: There are 39 piles are under Building D, approx. 19% of the building total.
- 2002, Edward P. Ryan Consulting Engineering
Structural Remediation Costs: \$2.86 million (excludes non-PLBS items)
- 2006, Hyland Design Group
Minimum Stabilization Repairs: \$1.3 million
Substantial Rehabilitation: \$3.30 million
- 2021, Becht Engineering BT Inc.
Structural Remediation Costs: \$3.125 million
- 2023, Tadco Engineering & Environmental Services LLC
Minimum Stabilization Costs: \$318,255 on Unit Price Basis
(Kipcon's Opinion: This cost is not reliable as the scope of work is incomplete.)

To evaluate these costs in today's (2024) dollars, Kipcon utilized the RS Means Construction Cost Data – Historical Indexes. Kipcon uses this cost data service for our Capital Reserve Studies and considers it to be an industry standard and authoritative source.

⁶ Hyland Design Group, July 2006 Engineering Report.

- Pile Restoration (extrapolated for Buildings A, B, C, & E): \$1,214,000
- Edward P. Ryan Consulting Engineering
Structural Remediation Costs: \$6.63 million
- Hyland Design Group
Minimum Stabilization Repairs: \$2.55 million
Substantial Rehabilitation: \$6.48 million
- Becht Engineering BT Inc.
Structural Remediation Costs: \$3.79 million

Based on the above cost adjustments for escalation, \$5.63 million is the average probable cost for a comprehensive restoration project in 2024 dollars. This equates to approximately \$181,613 per unit, not adjusted for unit size. The engineers' estimates take into account the requirement for code-compliant updates which would include additional stairs, modifications to existing stairs (tread size, riser height, headroom clearance & handrails), provisions for accessible routes, new guardrails, possible updates to electrical and mechanical system, etc. The estimates do not consider the impact if the extent of repairs exceeds the 50% threshold of the structure's market value thereby requiring elevating the structure above the Base Flood Elevation ("BFE"). The cost to lift the building has not been opined but any of the past engineers but Kipcon believes that Ocean City may require it and the cost would be prohibitive and may be technically infeasible. Also, any needed remediation of the pool and surrounding deck has not been addressed because they are not part of the PLBS of the building and not the focus of the previous reports or this report.

The repair plan developed in 2023 by Tadco Engineering is not included in the averaging of probable costs above because it is limited to stabilization only and in our opinion the presented cost is incomplete. For example:

- The bids are unit price based not lump sum prices. This means that the final cost of the repairs could fluctuate greatly from the prices estimated due to an increase in quantities. This may present problems for the Association if a loan is obtained, or a special assessment imposed on the residents. In our opinion the scope will creep upward as more deterioration is uncovered. An example of this is the recent collapse of the north staircase landing which was not even part of the Tadco Engineering plan of repair. Other items that may affect the price are as follows:
 - Seaspray has approximately 200+ piles. This quantity was derived from the Hyland Design Group 2006 report. The Tadco Engineering bids include up to 100 piles being remediated. There is a risk here that more than 100 piles will need to be capped, and the total could possibly double.
 - There is no line item for mobilization, temporary protections, demolition, clean up, or full-time supervision. For a remediation project of this nature, there will be a significant cost for the implementation.



- Other costs such as a sizeable contingency (25% minimum), permit fees, and engineering oversight must be included in the overall project budget.
- The bid specifications do not include stabilization repairs to the top course of the load bearing CMU walls. Also, the grouting of the existing hollow CMU blocks as specified is not controllable in our opinion based on experience. Pumping grout into a hollow block wall is problematic as the flowable grout tends to spread out into the adjoining block cores until the entire wall ends up being filled, which is not the intent of the repair or what was bid.
- The steel angles used to support the grade beams are not specified as being hot-dipped galvanized. Because of the coastal environment and the chronic moisture condition in the crawl spaces, this steel will start to corrode in a few years even with the protective paint. This then becomes a maintenance item and Kipcon does not have any confidence that the steel will receive the routine maintenance it will require based on Seaspray's history with performing repairs.
- The intent to provide adequate (code minimum) cross-ventilation for each crawl space can only be achieved if additional openings are cut into the foundation walls. This was not clearly specified, and the prices most likely do not reflect the actual cost. Also, there are no provisions in the specifications to address the subsurface entrance hatches or moving roof downspouts.
- Implementation issues may arise such as the temporary disconnection of utilities in order to fully access areas of the crawl spaces. This will increase the cost and render the dwelling units above uninhabitable for a period of time.
- Because of the lapse in time, additional repair items will need to be included such as repairing or rebuilding the north staircase. This all-steel staircase has significant deterioration along with being non-compliant with the current building code. Ocean City may require the staircase be brought up to code.

SUBSTANTIAL IMPROVEMENT REQUIREMENTS

In January of 2013, New Jersey adopted emergency amendments to their Flood Hazard Area Control Act rules (within the Department of Environmental Protection regulations at NJAC 7:13). Among the changes are established standards for Base Flood Elevations (BFEs) issued by FEMA for a number of counties including Cape May County. The rule applies to new construction and those properties "substantially damaged" which is defined in terms of the restoration cost that equals or exceeds 50 percent of the market value of the structure prior to the damage.⁷

Ocean City has an ordinance which aligns with this requirement. The below information was taken from the Ocean City Website.

"Substantial damage means damage of any origin sustained by a structure in which the cost of restoration of the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred."

⁷ NJUCC Construction Code Communicator Volume 25, number 1, Spring 2013.

If the repairs and upgrades that you have made or plan to make to your home exceed 50% of the value of the home, you are required to bring your home into compliance with Ocean City's Flood Damage Prevention Ordinance which could include raising your home, depending on the current elevation of the structure.

The following items shall be included in the repair/upgrade costs: All structural elements (spread or continuous foundation footings and pilings, monolithic or other types of concrete slabs, bearing walls, tie beams, trusses, floors, and ceilings), attached decks and porches, interior partition walls, exterior wall finishes (brick, stucco, siding, painting, and moldings), windows, doors, re-shingling or re-tiling a roof, hardware, interior finishes (tiling, linoleum, stone, carpet over subflooring, drywall, painting, stucco, plaster, paneling, marble), bathroom tile and fixtures, kitchen cabinets, bathroom cabinets, utility cabinets, all utility and service equipment (HVAC equipment, plumbing and electrical services, light fixtures, ceiling fans, security systems, built in kitchen appliances, central vacuum systems, water filtration-conditioning-recirculation systems), demolition costs for storm damaged building components, labor and other associated costs associated with moving or altering undamaged building components to accommodate improvements or additions, overhead and profits.

Items excluded from the repair/upgrade costs: plans and specifications, survey costs, permit fees, post-storm debris removal and clean up, landscaping, sidewalk, fences, yard lights, swimming pools, screened pool enclosures, detached structures (garages, sheds, and gazebos), and irrigation systems."

Some key points regarding the above 50 percent rule are as follows:

- The cost basis to determine the 50 percent threshold is on the market value of the structure (excluding the land).
- The damage sustained can be from any origin.
- Demolition and moving costs are included in the cost basis.

Ocean City may require the Seaspray building to be elevated above the BFE based on the cost of the repairs. In Kipcon's opinion, this would be cost prohibitive and may be technically infeasible for a number of reasons including how to raise the multiple building sections with a common roof structure, how to drive new piles under the building to replace the untreated piles, and how to lift the damaged channel beams safely.

REDEVELOPMENT PLANS

Seaspray has a history of deferring the much-needed corrective maintenance and exploring their other options such as redevelopment of the property. Developers and realtors have been engaged at various times in the past to the extent that redevelopment site plans have even been submitted to the City of Ocean City for approvals. In reviewing the documents provided, Kipcon has identified this type of analysis taking place in 2001, 2004, 2006, & 2009. The three scenarios being studied include:

1. Sale of the property (to a Developer).
2. Redevelopment of the property by Seaspray and a Developer partner.
3. Redevelopment of the property by Seaspray.



The redevelopment options include increasing the number of units in order to subsidize the costs of the project. It is Kipcon's opinion that the sale or redevelopment of the property would be more beneficial for the residents instead of performing a comprehensive structural rehabilitation project. The value of the property as it sits today provides more equity for the residents than it would after the implementation of a remediation program. The market value of the units will not increase equal to the residents' debt from the repairs. This was explained in detail along with replacement cost scenarios in the Hyland Design Group report dated July 14, 2006. The key point to consider is that even after spending a significant amount to accomplish the PLBS repairs, the actual aesthetic and dated architectural style of the building would not change. The building will still look like a 1958 era motel. This may be acceptable if a retro like is desired.

6.0 Conclusions

The Seaspray residential building located in Ocean City, New Jersey, is a 66-year-old structure that has not aged well due to a combination of the harsh coastal environment and a lack of both preventative and corrective maintenance. Indications of structural issues have been reported since the building was converted from a resort motel to a condominium complex in the early 1980s⁸. Kipcon has reviewed structural assessments from six (6) independent professional engineering firms spanning a 44-year period dating back to the initial 1980 conversion study, see Section 2.0 References for a list of the engineering reports reviewed. A common theme with all of the engineering reports is the observed progressive deterioration of the building's primary load bearing system and the lack of remediation to correct the deficiencies. The only reported substantive repairs made were in 1997 when a small portion of the pile foundation was addressed. That repair included capping the untreated rotting timber piles under Building Section D which represents approximately 19% of the total number of piles installed to support the building⁹.

Any remediation program to address the structural issues reported will only extend the useful life of the building for several more years (3 to 5 years) until additional repairs are needed. Historically, Seaspray has not been diligent in providing routine or corrective maintenance, and Kipcon has no confidence that this mode of operation will change. The lack of preventative maintenance has exacerbated conditions by accelerating the deterioration to the degree where they are now unsafe unless a significant remediation project is initiated immediately. This is a result of deferring the maintenance which once may have been manageable from a cost perspective, but now will be prohibitive.

Another concern regarding remediation relates to constructability issues. The work to remediate the piles, grade beams, and channel beams must be accomplished in the crawl spaces which are confined spaces as defined by OSHA. The crawl spaces at the rear (east) of the building have limited headroom and are obstructed with low hanging utilities. This type of working condition is hazardous which will increase the time and cost of the repairs. Utility obstructions may need to be temporarily disconnected rendering the dwelling units above uninhabitable for time period.

⁸ Engineering Survey of Seaspray Condominiums, Michael W. Hyland Associates, 09/30/1980.

⁹ Seaspray Condominiums Report, Hyland Design Group, 07/14/2006.

Based on previous engineering estimates, Kipcon opines that the probable cost to stabilize the PLBS would be in the range of \$2.7 million to \$3.6 million or \$83,871 to \$116,129 per unit, non-prorated. This would include capping approximately 80% of the total piles, strengthening grade beam sections where needed, grouting the CMU bearing walls supporting the first floor, making repairs to the first floor channel beams, selective repair of the hollow core slabs at the second floor and roof, and rebuilding the north stair. The estimate also includes some funds for required code upgrades. Other non-critical areas of the building are not included in this estimate and would incur additional costs. Also, items in the 2021 Capital Reserve Study that are due for replacement would be another additional cost such as the roof.

All things being considered, the residents' equity in their seaside investment would be better served if the Association decided to either sell the property or redevelop it with a new building that contained more units to subsidize the cost. The residents will not be able to recoup the cost of this remediation effort in resale value. Most of the repairs are in the concealed spaces of the building and do not provide any "upgrade" value to the aesthetic appearance of the Seaspray's 1958 architectural style. Even after the repairs are accomplished, Seaspray will still be a 66-year-old building that is aging poorly and needing continued care.

To recap, the scope of Kipcon's assignment included a visual inspection of the accessible portions of the PLBS and preparation of a written report prepared to meet the requirements of the New Jersey Structural Integrity legislation in a format to reflect a Preliminary Analysis in accordance with the established ASCE Manuals and Reports on Engineering Practice No.158, Structural Condition Assessment of Existing Buildings: A Guideline. The inspection and report were performed by and/or under the direction of a Structural Inspector who is a licensed professional engineer in the State of New Jersey and has signed and sealed this report. This initial investigation is considered a Preliminary Analysis of the condition of the building's primary load bearing system.

According to the ASCE Standard Sections 2.3.3 & 2.3.3.6, respectively:

"The preliminary analysis provides the basis for (1) estimating whether the building has adequate capacity to withstand the specified structural criteria, which may include code compliance; (2) assessing property damage; and (3) identifying structural deficiencies in the building with special reference to applicable minimum life and public safety standards and codes. Engineering judgement and experience, in conjunction with simplified analysis techniques, are required to determine rational structural demands and capacities for the critical members of the building. This analysis may indicate the need for a more rigorous analysis. Environmental effects on the structure should be considered as part of the assessment."

"The design professional should integrate the information and data regarding the existing building with the results from the preliminary evaluations of critical components and connections to determine the overall structural condition of the building... If the structural evaluation identifies a marginal deficiency, a more detailed evaluation may be required. If the structural evaluation indicates significant deficiencies, a rehabilitation study is warranted, or a recommendation can be made to phase the building out of use or prohibit occupancy until remediation."

In conclusion, if the Seaspray Condominium Association elects to move forward with repairs, then a more Detailed Assessment and Rehabilitation Study will be required to fully understand the scope of the repairs to both stabilize the primary load bearing system, and upgrade certain areas of the building to current codes. Kipcon recommends the building remain unoccupied until such repairs can be accomplished. If the Association elects to either sell or redevelop the property, residents should be allowed to retrieve their personal property from their units and the common storage room, but in a controlled manner to limit the stresses on the building. An indemnification agreement must be signed by all people entering the building to relieve the Association, Action Management Group, Kipcon, and the City of Ocean City from liability for their safety.

In accordance with the New Jersey statute, the cost of any proposed corrective maintenance items and subsequent engineering inspections must be included in the Association's Capital Reserve Study.

7.0 Limitations

Kipcon's opinions, conclusions, and recommendations are made within a reasonable degree of engineering certainty based upon our field observations and a review of any documents either provided to us or researched as part of our evaluation. No material testing or invasive investigations were conducted, and no responsibility or liability is taken for any conditions which were not apparent or were concealed during our observations. The scope of this report is limited to only the primary load bearing system (also referred to as PLBS) of the structure and is not intended to be a complete and comprehensive investigation of all building components on the property, nor is this an evaluation to determine building code compliance for other than referenced herein. Specifically excluded from this report are non-bearing components, building envelope claddings, roofing systems, interior finishes, and building systems. Effects of water infiltration are included when they directly impact the primary load bearing system.

Limitations stated in Section 4 of the statute: *"A post-occupancy structural inspector who performs the duties set forth in section 3 of P.L.2023, c.214 (C.52:27D-132.4) in good faith and pursuant to the protocols adopted by the American Society of Civil Engineers, or similar protocols by another nationally recognized structural engineering association, shall not incur any civil liability for injury associated with any inspection undertaken by the structural inspector."*

Kipcon reserves the right to amend its opinions, conclusions, and/or recommendations based upon additional information becoming available. Any recommendations presented herein are not intended as specifications for the repair or remediation of any deficiencies identified. Kipcon can provide a proposal to prepare remediation specifications if requested.

Engineer's Stamp Image: This report has been transmitted electronically and the Engineer's stamp image is for demonstrative purposes. Printed copies of this report must have the Engineer's raised seal.

8.0 Photo Log

Exterior Views



Front Elevation.
(Source: Google Earth)



Rear Elevation.
(Source: Google Earth)



Photo #1 – Overview of pool courtyard looking north.



Photo #2 – Overview of cantilevered walkway balconies.



Photo #3 – Overview of pool terrace.



Photo #4 – Overview of second floor walkway.



Photo #5 – Overview of breezeway with stairs.



Photo #6 – Overview of the rear of the building.



Photo #7 – Example of uneven floors due to settlement between building sections (D & E).



Photo #8 – Example of cracked grade beam. (Building A)



Photo #9 – Example of CMU wall displacement. (Building B)



Photo #10 – Deteriorated channel at bearing wall and settlement cracks in wall. (Building B)

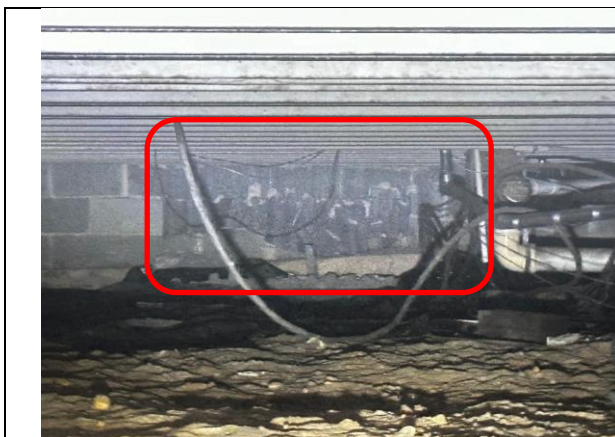


Photo #11 – Failure of CMU shell at non-bearing wall. (Building A)



Photo #12 – Spalling of concrete cover at first floor channel reinforcing. (Building D)



Photo #13 – Example of spalled concrete at first floor channel beams. (Building E)



Photo #14 – Exposed and deteriorating reinforcing steel. (Building B)



Photo #15 – Roof downspout discharging next to subgrade crawl space opening. (Building C)



Photo #16 – Failed precast lintel at crawl space opening. (Building A)



Photo #17 – Spalled concrete and rusting rebar. (Building A)



Photo #18 – Cracked second floor hollow core slab



Photo #19 – Concrete spall of second floor hollow core slab. (Building D)



Photo #20 – Concrete spall of second floor hollow core slab. (Building D)



Photo #21 – Crack in second floor hollow core slab.



Photo #22 – Differential settlement between building sections. (Building E)



Photo #23 – Out of plane roof slabs between slabs. (Unit 24)



Photo #24 – Open gaps between wall and second floor due to settlement.



Photo #25 – South breezeway with added steel shoring for precast lintel.



Photo #26 – North breezeway with added steel shoring for precast lintel.



Photo #27 – Steel shoring is supported on stair step.



Photo #28 – Added wood posts to second floor walkways, this post was leaning outward.



Photo #29 – Example of vertical cracks in exterior CMU walls. (Building B)



Photo #30 – Spalled precast lintel at crawl space opening. (Building E)



Photo #31 – Settlement cracks in non-bearing wall of the south storage room.



Photo #32 – Signs of settlement in the south storage room.

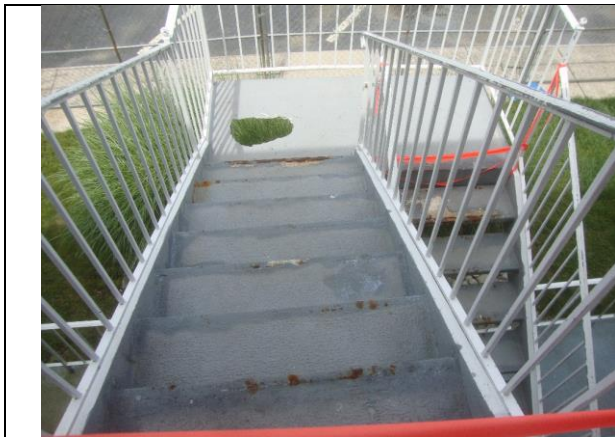


Photo #33 – North staircase mid-level landing failure.



Photo #34 – Cracked slabs at upper landing with added steel shoring.



Photo #35 – Progressive deterioration of the all steel north staircase.



Photo #36 – Staircase does not meet current building code requirements.



Photo #37 – Roof of south storage room used as a terrace.



Photo #38 – Settlement crack in laundry room exterior wall.



Photo #39 – Settlement crack in laundry room interior wall.

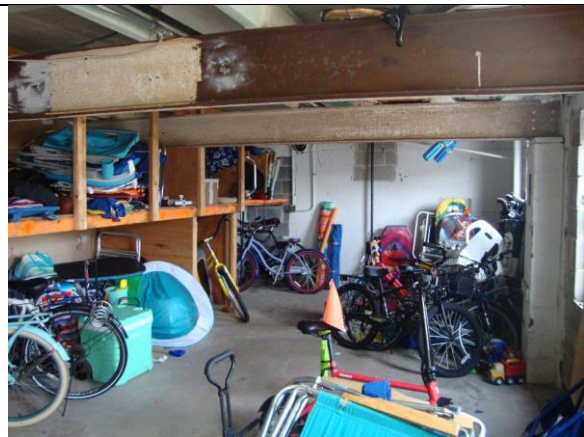


Photo #40 – Rusting structural steel beams in the middle rear storage room.



Photo #41 – Stress cracks in the roof slab of the one-story rear storage room.



Photo #42 – Cracks at cantilevered beam at Units 15 & 31.

9.0 *Supplementary Information*

The following items are not part of the PLBS but were incidental to our investigation. These items are included as supplementary to the report because they do affect the health and safety of the residents, and the Association should be made aware of them. This list is not intended to be all inclusive. There may be other items that also affect the health and safety of the residents but are not listed here.

- **Cracks in Masonry Walls:** Due to the differential settlement of the building sections, cracks have formed on the exterior building façade. These cracks are most likely full depth but could not be confirmed due to being concealed by finishes inside the dwelling units. These cracks will allow water infiltration into the wall construction and eventually inside the units. Mold and mildew could develop inside the dwelling units.
- **Uneven Walking Surfaces:** Due to the differential settlement of and between the building sections, walking surfaces are uneven in places and could lead to residents becoming injured. Corrective maintenance for these areas should only be addressed after the complete stabilization of the foundation.
- **Guardrails:** The existing second floor and stair guardrails are in poor condition. The existing guardrails are not code-compliant and according to the 2021 Capital Reserve Study had 1 useful year remaining at that time.
- **Pool & Deck:** Testimony from the property manager indicated that the pool may have a leak possibly with the underground pipes. During all of Kipcon's visits the pool was covered and unobservable. Since the pool and surrounding deck are not part of the PLBS, this area was not investigated further. The 2021 Capital Reserve Study had an estimated remaining useful life of ten (10) years for the pool coping and deck.

May 23, 2023

Seaspray Condos
3313 Bay Avenue
Ocean City, NJ 08226
c/o I. Dominic Simeone, Esq.
Harvard Law Building
1522 Route 38
Cherry Hill, NJ 08002

dsimeone@srnjlawfirm.com

Reference: Limited Structural Assessment
3313 Bay Avenue,
Ocean City, NJ 08226
TADCO ID: J-021039
Block: 3306, Lot: 1

Dear Mr. Simeone:

Pursuant to your request and in our capacity as a licensed engineering firm specialized in civil engineering and building systems, we inspected the subject 2-story condominium complex on May 9, 2023. The purpose of the evaluation is to assess and note the structural concerns as indicated on previously prepared reports which lead to declaring the structures unsafe for human occupancy by the local municipality.

The subject property is located in the Ocean City, Cape May County, New Jersey. The 2-story condominium complex is estimated to be approximately 63 years old (1960) and faces Bay Avenue in the northwesterly direction. The comments included herein are based on our observations at the site during this limited structural assessment of the property and based on reviewing reports prepared by Becht Engineering BT, INC, dated October 27, 2021 and by Endicott Engineering, dated April 17, 2023.

Description and Background:

The foundation system is constructed of reinforced concrete grade beams supported by timber friction piles. The piles specific condition, spacing or size could not be assessed at this time. There are concrete masonry walls (CMU) walls constructed above the grade beams to support the reinforced concrete channels above. The upper structural components, including the roof are

constructed of pre-cast reinforced concrete channels or planks. The second floor and roof are supported by pre-cast concrete lintels. The planks extend beyond the lintel supports, creating a cantilevered structure on the second floor that serves as a walkway for the second-floor units. The planks at the first floor are inverted U-shape (channels) while the concrete planks in the second floor are precast with circular hollow core.

The property consists of 2 story segmented buildings aligned to make a C shape facing the Bay Avenue with a pool in front of the property. A single-story structure at the rear of the residential buildings used as the laundry facility. Along the southwest of the building, there is a single-story framed building with timber floor framing. Refer to the site map in the Figure 1 for more details.

The property was thoroughly assessed to evaluate its overall structural condition, including the examination of damage and cracks in the CMU walls and the deterioration of concrete planks caused by differential settlement of the grade beams. The figures below were based on the survey of the property that was used to show the locations of access ports (hatches) into the crawl spaces and the accessed residential units. As follows:

Figure 1: designation of access hatch locations into crawlspaces;

Figure 2: accessed units, first floor level;

Figure 3: accessed units, second floor level; and

Figure 4: Areas of recommended repairs.

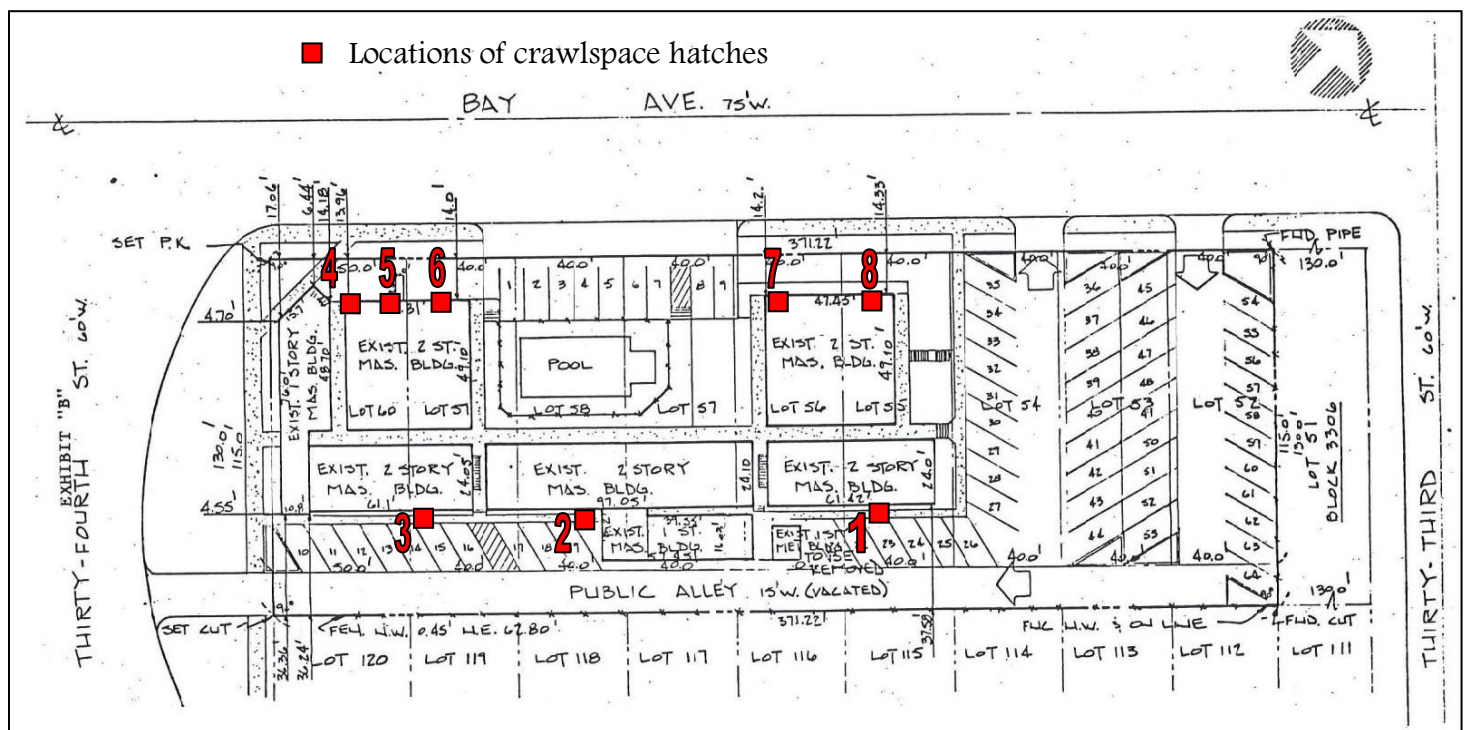


Figure 1 Site map with the locations of crawlspace hatches

Inspection and Observations:

1. The grade beams, CMU walls, and pre-cast concrete planks were, when visually accessible, inspected via crawlspace hatches located around the structures as shown and designated in Figure 1. Crawlspaces (1, 2, and 3) have very limited access due to the obstructions of utility pipes which hindered adequate visual access. See photos in Appendix A.
2. It was observed that some of the concrete channels exhibited spalling and corrosion of reinforcement in sporadic locations under the first-floor, especially at crawlspaces (1, 2, and 3). However, at the remaining crawlspace (4, 5, 6, 7, and 8) concrete spalling and reinforcement corrosion were observed to be limited to a much lesser extent; thus, the condition of the concrete channels is deemed acceptable with local repairs needed.
3. In crawlspaces 5 & 6, damaged and cracked grade beams and CMU walls were observed mostly at crawlspace 6. CMU damage was observed in crawlspace 5, some appearing to be due to intrusive forces applied during plumbing and electric pipe installation between crawlspaces 5 & 6. This is in agreement with prior reports prepared by engineering consultants, which showed severe damage to the grade beams **only** within crawlspaces 5 and 6. On the other hand, no significant cracks were detected by this firm on CMU walls or grade beams in crawlspace (4, 5, 7, and 8). Refer to the pictures at Appendix A. while the concrete grade beams appear to have been subjected to compounded blunt horizontal forces as well as loss of under support due to decay of exposed top of timber friction piles. The observed damage is specific to one grade beam. The decay of the timber friction piles, while could not be assessed, but is presumed based on the pattern of settlement in general and failure of one grade beam in specific. The degree of decay would vary with varying levels of loss of support, but total loss of support can be excluded.
4. Unit 17 (non-residential) was accessed for inspection. It is above crawlspaces 5 & 6. While the ceiling did not exhibit signs of distress, the walls and columns appeared to have minor to moderate cracking associated with uneven settlement. Other observed cracks are not associated with overloading, but rather due to alterations and displacement of point loads. None of the cracks are considered detrimental or can cause sudden catastrophic failure. Unit 1 was not accessible, but the exterior exhibited local cracking without shifting across the face of the cracks.
5. The interior of residential units (7, 17, 18, 22, 26, 32, and 33) were accessible for inspection. Sporadic cracks were observed on the walls of Unit 17 (exterior and interior), and on Units 14 and 30 (exterior only). No cracks or stress were observed on the walls of Units (7, 18, 22, 26, 32 or 33). The inspected Units are shown on first and second floor maps in Figures 2 and 3, respectively. It should be noted that none of the observed cracks appear to be associated with horizontal displacement nor they were severe in size, length

or direction. The cracks are rather associated with thermal and moisture fluctuations. More importantly, the lack of horizontal movement across the face of a crack is a strong indication of continuity of support on both sides of the crack.

6. For the second floor walkways cantilevered hollow core concrete slabs, rebounding hammer compressive strength tests were conducted on various spots on the underside face of the slabs. Readings of compressive capacity of approximately 9300 pounds per square inch (psi) were recorded for the intact planks (between units 2 and 3). When the test was conducted on the partially cracked planks (west of unit 7), an average compressive strength of approximately 4800 psi was recorded. Such readings are still considered higher than acceptable for concrete structural members. That means that the compressive capacity of concrete slabs (U-shaped beams) to be twice the acceptable strength for the intact slab sections and higher or at the acceptable strength for partially damaged slabs/beams. In one or two severely damaged slabs (between units 12 and 14), the strength was recorded to be approximately 2900 psi. The 2900 psi reading is still within acceptable limits, although our recommendation is to consider repair of these sections as previously conducted for similar areas. No immediate hazard is noted.

Summary

Inspected Parts	Notes	Action Required
Crawlspace 1	Local and sporadic concrete Spalling and surface reinforcement corrosion of the precast inverted U shape beam (lower part of the web)	Schedule repair for the spalled concrete and corroded rebars. Plan to inject grout between piles and bottom of grade beams as needed.
Crawlspace 2	Local and sporadic concrete Spalling and surface reinforcement corrosion of the precast inverted U shape beam (lower part of the web)	Schedule repair for the spalled concrete and corroded rebars. Plan to inject grout between piles and bottom of grade beams as needed.
Crawlspace 3	Local and sporadic concrete Spalling and surface reinforcement corrosion of the precast inverted U shape beam (lower part of the web)	Schedule repair for the spalled concrete and corroded rebars. Plan to inject grout between piles and bottom of grade beams as needed.
Crawlspace 4	No visible evidence of concrete cracking or spalling or reinforcement corrosion of the precast inverted U shape beam.	Inject grout between piles and bottom of grade beams as needed.
Crawlspace 5	No visible evidence of concrete cracking or spalling or reinforcement corrosion of the precast inverted U shape beam.	Inject grout between piles and bottom of grade beams as needed.
Crawlspace 6	Limited concrete spalling and reinforcement corrosion of the precast inverted U shape beam was observed. Significant damage and failure are observed in CMU walls and grade beam. Beam is resting on soil beneath.	Shoring of precast beams is required until repairs or replacement of the grade beam is completed. Inject grout between the piles and the bottom of the repaired/replaced beam.
Crawlspace 7	No visible evidence of concrete cracking or spalling or reinforcement corrosion of the precast inverted U shape beam.	Inject grout between piles and bottom of grade beams as needed.
Crawlspace 8	No visible evidence of concrete cracking or spalling or reinforcement corrosion of the precast inverted U shape beam.	Inject grout between piles and bottom of grade beams as needed.
2nd Floor Walkways	cracks are observed on several areas of cantilevered walkways especially between units 12 and 14.	Repairs damaged walkways and install end supports.
Unit 7	No cracks were observed on the walls or ceiling.	---
Unit 14	Cracks have been observed on exterior walls.	widen crack and utilize approved crack fillers
Unit 17	Cracks were observed on exterior walls.	widen crack and utilize approved crack fillers
Unit 18	No cracks were observed on the walls or ceiling.	---
Unit 22	No cracks were observed on the walls or ceiling.	---
Unit 26	No cracks were observed on the walls or ceiling.	---
Unit 30	Cracks were observed on exterior walls.	Widen crack and utilize approved crack fillers
Unit 32	No cracks were observed on the walls or ceiling.	---
Unit 33	No cracks were observed on the walls or ceiling.	---

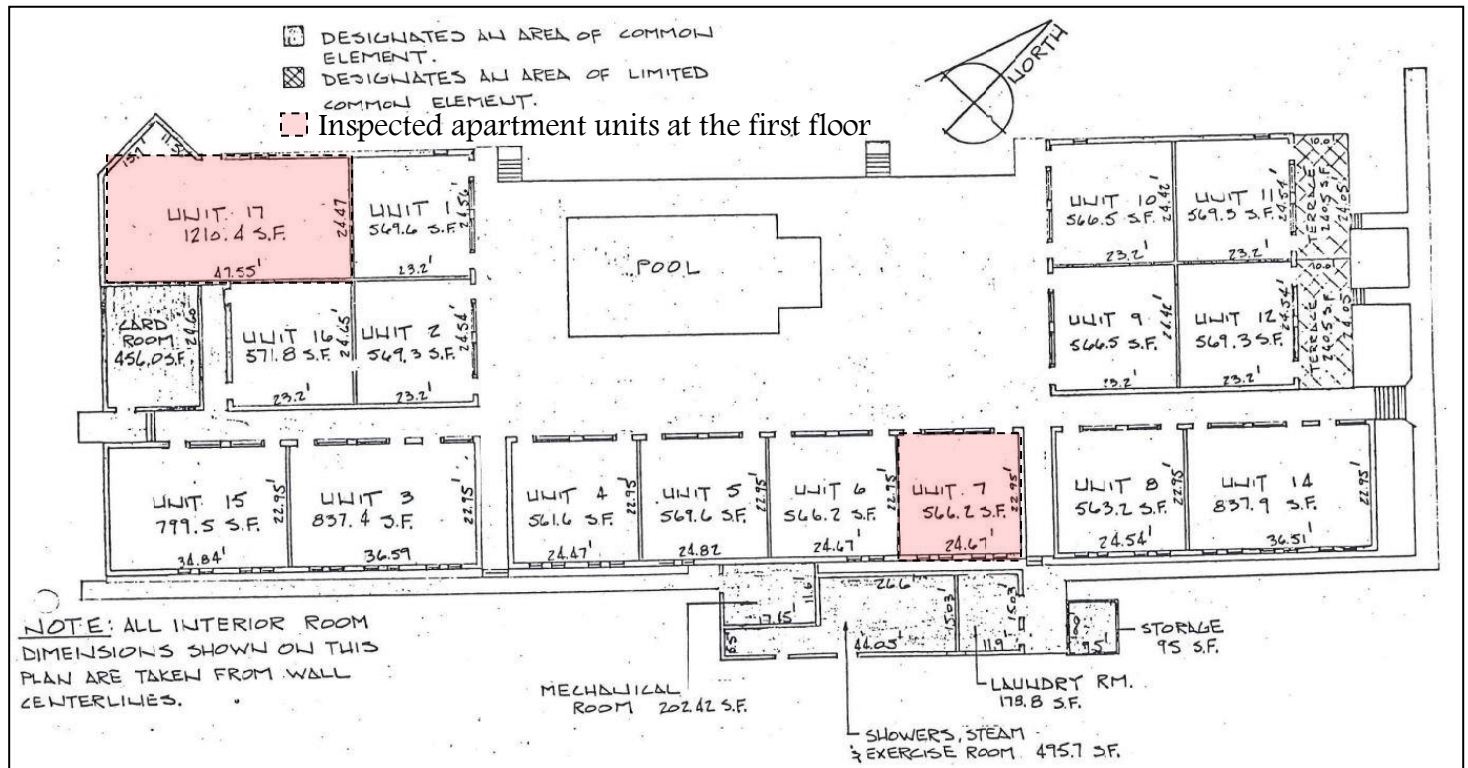


Figure 2 Apartment units of the first floor

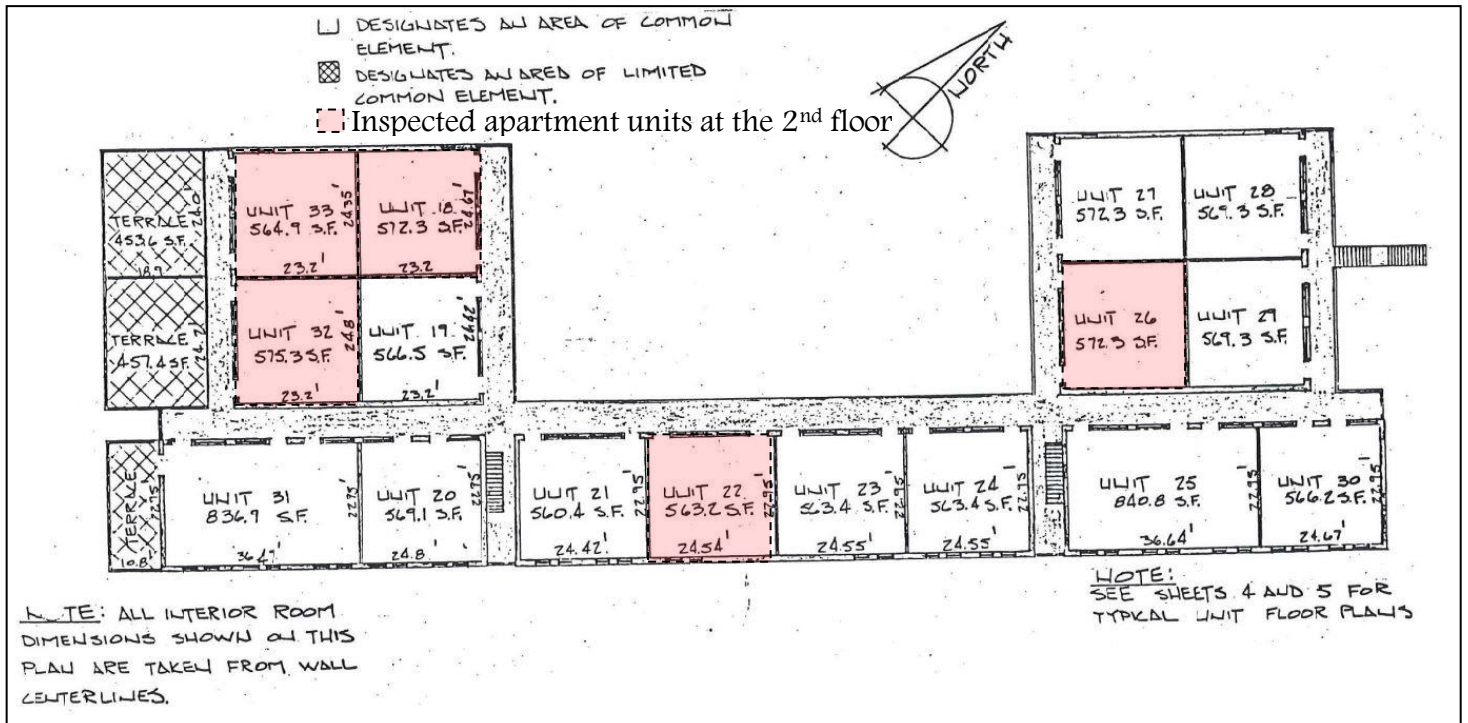


Figure 3 Apartment units of the second floor

Conclusion and Recommendations:

1. Given the damage and the cracks on the observed grade beams, CMU walls, and walkways in one or more crawlspaces, repair and restoration process is needed for these areas. Engineering plans and selection of qualified contractors in the respective trades must be sought. However, even at observed condition, these areas are localized and are not in immediate risk of collapse or harm to human life. Grade beam(s) in crawlspace 6, while failed, it is resting on the ground beneath. The concrete slabs above do not exhibit signs of abnormal stress. As such, the failure of this grade beam has a local effect on the structure above, but does not warrant fear of collapse. Absence of new cracks or expansion of cracks on the same beam from prior studies several years ago, indicate no observable incremental movement of the grade beam or structure.
2. As shown in the photos in Appendix A, it is observed that there are no signs of recent cracking or expansion thereof, or abnormal structural stress inside the residential units accessed. Absence of cracking indicates absence of movement.
3. Cracks observed on the exterior are either patched and painted over or are dusty and dark. This is an indication of lack of movement and that the cracks are historic.
4. The preliminary compressive strength assessment of the concrete slabs (consisting of U-shaped beams) was recorded as double as the acceptable compressive strength for intact sections and meet or exceed the acceptable strength for partially cracked slabs/beams. Although a few severely damaged sections exhibit slightly lower strength than the acceptable threshold, they still higher than the minimum required strength. These cracked hollow core slabs may be repaired in similar methods to successfully repaired slabs.

Therefore, based on the above, with a reasonable degree of civil and structural engineering certainty and based on my education, training, licensing, and experience with similar structures with deep foundations, that the structural elements have been partially and locally impacted and that none of the observed conditions constitute a high risk of structural collapse. It is also my opinion that the affected grade beam and the concrete beams have sufficient load-bearing capacity to carry and support the superstructure and common areas for a period not less than three (3) years and can extended based on follow up inspections and assessments.

Our recommendations for repairs entail injecting grout between the top of the timber friction piles and the bottom of the grade beam to reduce such gaps, but also to allow for water to enter as flood vents are needed. We further recommend that affected grade beam be restored or replaced upon shoring the beams above. Restoration of the spalling beams can be conducted upon the restoration of the grade beam. Restoration of the hollow core slabs can be conducted in a manner similar to what was successfully completed.

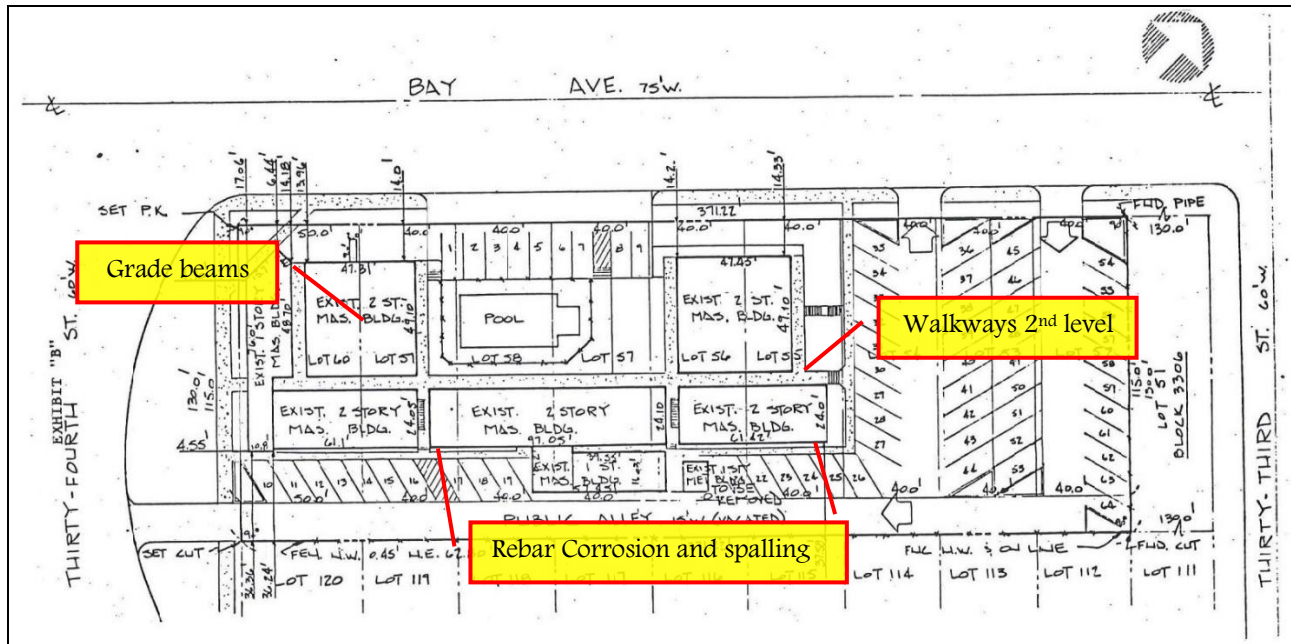


Figure 4 Areas of recommended repairs

We trust that you will find the above information helpful. Should you require further information, please contact us.

With regards,
TADCO Engineering & Environmental Services, LLC
Safwat Tadrous, P.E., C.M.E.

NJ LIC #24GE03716800



CC: Mr. David Buckwalter DaveBuckwalter@gmail.com

Photographs



Corrosion of reinforcement and concrete spalling in first floor beam (crawlspace 1 and 2)



(Crawlspace 3 and 4)

Note that concrete and reinforcement corrosion are in an acceptable condition



Crawlspace 5

Note that concrete and reinforcement corrosion are in an acceptable condition



Crawlspace 6
Note that there are cracks in the grade beam and the CMU wall (top)



Crawlspace 7

Note that the CMU wall and the planks is in an acceptable condition



Crawlspace 8

Note that the planks and CMU are in an acceptable condition



Northeastern side (Units 14 and 30)
Note limited wall cracks

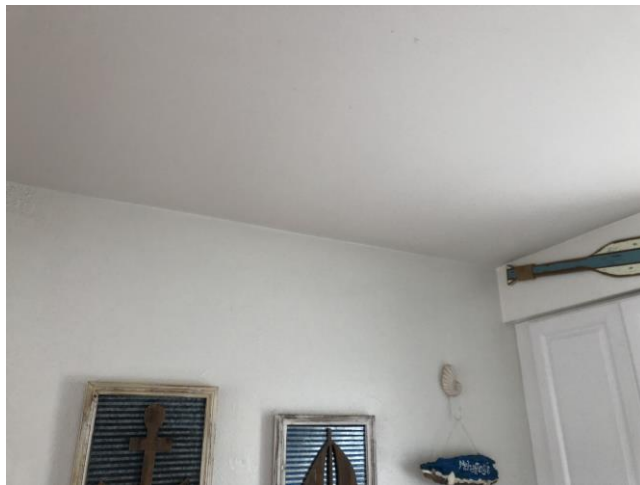
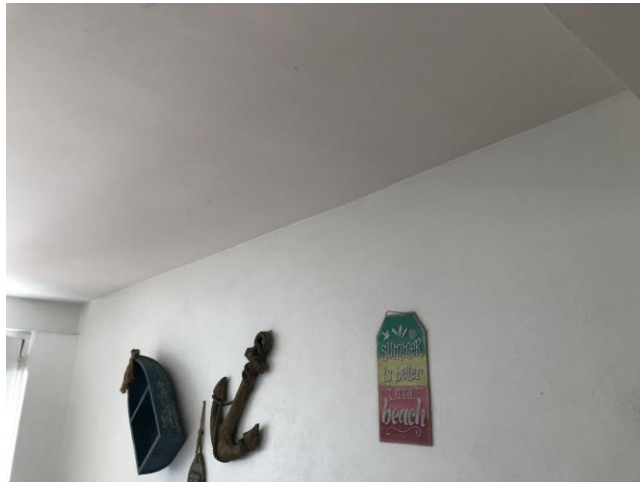


Southwestern side (Units 17 - exterior)
Note cracks through the walls

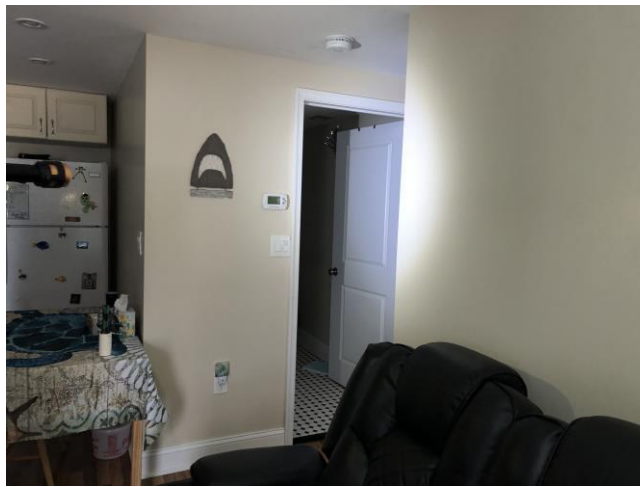


(Units 18 – interior)

Note moisture cracking of the surface cover on the ceiling



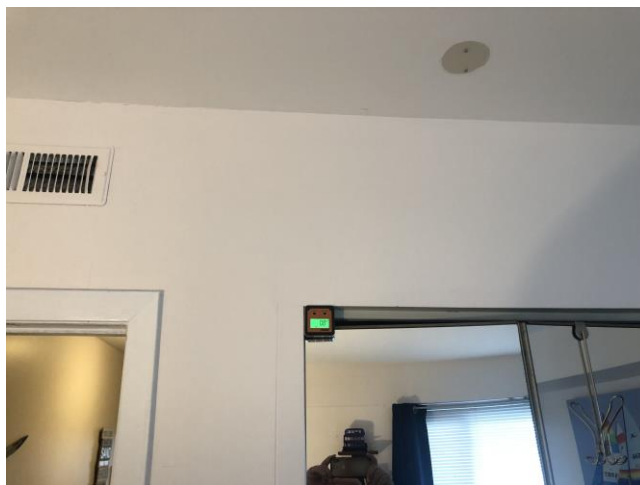
(Units 22 ~ interior)
No visible cracks



(Units 26 – interior)
No visible cracks



(Units 32 – interior)
No visible cracks



(Units 32 - interior)
No visible cracks



2nd Floor walkways
Note cracks with need of repairs or restoration

Safwat Tadrous, P.E. CV

Safwat Tadrous, P.E. – Principal Engineer of TADCO Engineering & Environmental Services, LLC obtained his Bachelor Degree in Civil Engineering and Environmental Science- New Jersey Institute of Technology, Newark, New Jersey in 1986.

Safwat Tadrous, P.E, C.M.E, has over thirty (30) years of experience in civil, structural and environmental engineering, construction management, and engineering management. Mr. Tadrous' advanced professional courses and training include hydraulics, hydrology, coastal engineering, and environmental remediation. He holds the following related licenses, registrations and certifications:

1. State of New Jersey Registered Professional Engineer (#24GE03716800)
2. State of New York Professional Engineer (081817-1)
3. Certified Helical Piles/Mini Piles engineer, designer and installer.
4. New Jersey Certified Municipal Engineer. (CME577)
5. State of New Jersey D. E. P. Certified Underground Oil Tank Operator (*includes testing, installation, closure, and subsurface investigation*) (License #0021291, Reg. #0021291)
6. U.S. Housing and Urban Development Certified HUD203K Plan Consultant, Plan Reviewer and Inspector (HUD203K #P0879)
7. OSHA Certification (40 hrs.)
8. State of New Jersey Licensed Home Inspector (#24GI00032300)
9. State of New Jersey Licensed Lead Inspector / Risk Assessor (#031240)
10. Certified Mold Sampling & Testing Technician
11. State of New Jersey Home Improvement Contractor #13VH02789900

Mr. Tadrous' experience and expertise has been cultivated throughout his employment including the following engineering firms:

Vollmer Associates, New York City: January 1985 – September 1985

During early educational period, Mr. Tadrous engaged in the inspection of The Brooklyn-Queens Express Way and the Van Wyck Express Way in NY State for a period of nine (9) months.

Responsibilities included conducting field assessments, measurements of high bridges steel and concrete components of underdeck and abovedeck.

Johnson Engineering, Morristown, NJ: May 1986 through June of 1994 as staff or consultant.

Mr. Tadrous conducted site planning, subdivision, site design, stormwater management, floodplain management, dam and stormwater detention design/breach analysis, spillway design, highway culvert and winged wall design, grading, foundation drainage, retaining wall design and evaluation, including construction monitoring.

Carpenter Environmental, River Vale, NJ 1989:

Conducted subdivision designs and drainage analysis.

Brown Engineering E&C, Berkeley Heights, NJ. 1990

Conducted various site plan design, drainage design, tank farm truss supports, water tanks buoyancy control, secondary containment design, and chiller tower supply lines design.

Joseph R. Loring, New York City. 1991-1992

Site utilities and drainage for Kings and Bellevue hospitals, and large facilities (NY), and BASF (NJ)

For over 30 years TADCO has been a leader in the engineering and environmental industries. Headquartered in northern New Jersey, this organization is committed to client satisfaction by providing diverse, comprehensive professional services. From initial contact to project completion, TADCO's staff of engineers and environmental professionals delivers solutions to its clients founded upon extensive education, training, and knowledge of industry, products, codes and regulations. TADCO achieves its goals through continually upgraded quality control measures covering every client, every project at every stage.

TADCO's exemplary reputation is greatly attributed to its client-loyalty approach, which has yielded a dedicated clientele and a large referral base. By listening to its client's needs and preparing a customized course of action, TADCO ensures its clients are offered the care that exceeds their expectations. Furthermore, the company encourages clients' feedback and evaluation of its services, promoting effective communication at all stages of the project.

TADCO Inspection Services and TADCO Engineering and Environmental Services, LLC , Formerly TADCO Inspection Services Company (March 1992-present)

Conducted numerous structural evaluation and design of residential, commercial and industrial buildings throughout New Jersey and New York States. Services were expanded to include Non-Destructive Evaluation (NDE), Subsurface engineering and environmental scanning (GPR), soil investigation, structural damage analysis for residential structures, numerous site-specific investigations and designs related to structural failure analysis, expert testimonials for contractual disputes, storm-related damages and floodplain inundation through utilization of sophisticated monitoring and modeling systems, sensors, and field testing equipment.

TADCO provides subsurface scanning, steel rebar locating, non-destructive concrete strength analysis, thickness scanning, and helical pile underpinning design, monitoring and installation services.

Numerous structural upgrades and repairs were conducted by TADCO in addition to being retained for site management or oversight including residential and commercial projects.

TADCO conducts pre-demolition investigation, demolition monitoring and construction advisory services for the construction industry.

TADCO conducts construction inspections including footing, foundation, helical piles installation monitoring, steel and wood framing inspections, retaining wall inspections and modifications/upgrades, historic structures restorations, pre-demolition and demolition monitoring and shoring plans.

TADCO has been a leader in the environmental remediation field providing services ranging from Conducting Phase I and Phase II environmental screening and investigative services to conducting Geophysical probing and investigation services for all media.

TADCO conducts subsurface scanning utilizing the most advanced Ground Penetration Radar (GPR) which utilizes real-time satellite communication enabling 3-D imaging for pipe, conduit, transmission lines and large objects as buried tanks and vessels.

TADCO conducts soil, groundwater and soil gas investigation utilizing most advanced Geoprobe technology even in restricted access areas. Onsite test labs are available for remedial investigation process.

JOHN A. CALZARETTO, ESQ.
(NJ Attorney ID#: 0022561993)
CALZARETTO & BERNSTEIN, LLC
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 (856) 667-0400 Telephone
 (856) 667-1477 Facsimile
 Attorneys for All Plaintiff(s)

BLOCK PROPERTIES, LLC, TODD AND SUSAN ROBERTS, HALEY LUCAS AND MICHAEL D. NEVINSKY, ARLENEN CLAPP; DOUG AND HILLARY WEAVER, THOMAS AND ADONNA LONGO individually and derivatively on behalf of the OWNERS OF THE SEASPRAY CONDOMINIUM ASSOCIATION, INC	: SUPERIOR COURT OF NEW JERSEY : LAW DIVISION : CAPE MAY COUNTY : : DOCKET NO.: CPM-45-22 : : Civil Action : : THIRD AMENDED COMPLAINT
Plaintiff(s)	
v.	
SEASPRAY CONDOMINIUM ASSOCIATION BOARD (hereinafter referred to as SCA); SEASPRAY CONDOMINIUM ASSOCIATION, INC. (hereinafter referred to as SCB); JAMES CRAIG, JOSEPH LINCKE; DAVID BUCKWALTER; ROBERT McNEILL; GARY GILLOTTI; JOHN PAWLOWSKI; RAYMOND D LUKAS; DAWN J. LEEDS, ESQUIRE aka DAWN J. PREPSEL; BERNEDETTE McCARTHY aka BONNIE McCARTHY; KEITH HILLEGRASS; JOHN ZWIRZINA; KEITH JENSEN; WILLIAM PRIMVERA, PROPERTY MANAGEMENT CONSULTANTS; COASTAL STATE REALTY MANAGEMENT CORP.; BURNS CONSTRUCTION & PROPERTY MANAGEMENT; JOHN DOES 1 TO 120; ABC CORPORATIONS 1 TO 20; XYZ LLC 1 TO 20; ABC PROFESSIONAL CORPORATIONS 1 TO 20; XYZ PARTNERSHIPS 1 TO 20; PAM CONCANNON; RAYMOND D LUKAS individually and as Former Board Member and President of SCB; Jeanne Marie Lukas; JAMES CRAIG individually and as a Former Board Member and President of SCB; CAROLINE CRAIG; JOHN M. KORIZIS; GEORGE	

<p>M KORIZIS; JOSEPH J. CAMPANELLA; KATHLEEN P. CAMPANELLA ; NANCY L. GILLOTTI; Frank Ancharsk and Barbara Ancharski; Patrick J. and Marilyn Collins; John Pawlowski; Erika Pawlowski; Thomas G. Matthews, Janet V. Matthews; Eugene E. Hickman, Miriam K. Hickman; Albert Gillotti; Anne Gillotti; LONG & FOSTER REALTY; GRACE REALTY; KELLER WILLIAMS REALTY-JERSEY SHORE; KELLER WILLIAMS REALTY- WASHINGTON TOWNSHIP; BERGER REALTY;CENTURY 21 ALLIANCE; BERKSHIRE HATHAWAY- FOX & ROACH, MONIHAN REALTY INC., THE QUINTINE GROUP-KERR- WILLIAMS JERSEY SHORE; JAMES GREY HAENN individually and as Licensed Real Estate Agent; ; HERBERT BIRCH, III, individually and as a Licensed Real Estate Agent; Thomas Montiague, individually and as licensed Real Estate Agent; HEATHER KOLTOUKIS, individually and as a Real Estate Agent JOHN DOES 1 TO 120 individually and licensed Real Estate Agents and Brokers; ABC CORPORATIONS 1 TO 20 licensed Real Estate Brokers ; XYZ LLC 1 TO 20 licensed Real Estate Brokers; ABC PROFESSIONAL CORPORATIONS 1 TO 20 licensed Real Estate Brokers; XYZ PARTNERSHIPS 1 TO 20 licensed Real Estate Brokers;</p> <p>Defendant (s)</p>	
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Plaintiffs, by way of verified complaint against
defendants in this matter, hereby aver:

VENUE

1. The venue for this action lies with the County of
Cape May as the property that is the subject matter of this

litigation is located in County of Cape May.

PARTIES

2. This is a dispute over management and control of the Seaspray Condominium Complex, located at 3313-15 Bay Avenue, Ocean City, New Jersey. The Seaspray Condominium Complex is composed of thirty-two residential condominium units.

3. The individually named plaintiffs, Block Properties, LLC, Todd and Susan Roberts, Haley Lucas and Michael D. Nevinsky, Arlene Clapp, Doug and Hillary Weaver, and Thomas and Adonna Longo are current individual unit owners in the Seaspray Condominium Complex and the defendants are the managing Board of the Seaspray Condominium Complex as well as past and former Board Members of the defendant, Seaspray Condominium Association and Seaspray Condominium Board.

4. Plaintiff is a New Jersey Limited Liability Corporation authorized to transact business in the State of New Jersey located at 900 Rte 168, St. B3, Turnersville, NJ and is managed by and the registered agent is Dennis E. Block, Esquire and is the owner of Unit 25 in the complex that was purchased by the plaintiff 2016.

5. The plaintiffs, Todd and Susan Roberts are the owners of Unit 31 in the Seaspray Condominium Complex and are owners in the Seaspray Condominium Association.

6. The plaintiff, Arlene Clapp is the owner of Unit 1 in the Seaspray Condominium Complex and is an owner in the Seaspray Condominium Association.

7. The plaintiffs, Haley Lucas and Michael D. Nevinsky are the owners of Unit 14 in the Seaspray Condominium Complex

and are owners in the Seaspray Condominium Association.

8. The plaintiffs, Doug and Hillary Weaver, are the owners of Unit 8 in the Seaspray Condominium Complex and are owners in the Seaspray Condominium Association.

9. The plaintiffs, Thomas and Adonna Longo are the owners of Unit 8 in the Seaspray Condominium Complex and are owners in the Seaspray Condominium Association.

10. The defendants, RAYMOND D LUKAS individually and as Former Board Member and President of SCB; Jeanne Marie Lukas; JAMES CRAIG individually and as a Former Board Member and President of SCB; CAROLINE CRAIG; JOHN M. KORIZIS; GEORGE M KORIZIS; JOSEPH J. CAMPANELLA; KATHLEEN P. CAMPANELLA ; NANCY L. GILLOTTI; Frank Ancharsk; Barbara Ancharski; Patrick J. Collins; Marilyn Collins; Thomas G. Matthews, Janet V. Matthews; Eugene E. Hickman, Miriam K. Hickman; Albert Gillotti; Anne Gillotti; John Pawlowski and Erika Pawlowski herein after referred to Previous Owners.

11. The defendants, LONG & FOSTER REALTY; GRACE REALTY; KELLER WILLIAMS REALTY-JERSEY SHORE; KELLER WILLIAMS REALTY-WASHINGTON TOWNSHIP; BERGER REALTY; CENTURY 21 ALLIANCE; BERKSHIRE HATHAWAY-FOX & ROACH, HERBERT BIRCH, III, individually and as a Licensed Real Estate Agent; Thomas Montiaque, individually and as licensed Real Estate Agent; HEATHER KOLTOUKIS, individually and as a Real Estate Agent and JOHN DOES 1 TO 120 individually and licensed Real Estate Agents and Brokers; ABC CORPORATIONS 1 TO 20 licensed Real Estate Brokers ; XYZ LLC 1 TO 20 licensed Real Estate Brokers; ABC PROFESSIONAL CORPORATIONS 1 TO 20 licensed Real Estate Brokers;

XYZ PARTNERSHIPS 1 TO 20 licensed Real Estate. Are licensed Real Estate Brokers and Agents who listed and market the units purchased by the Plaintiffs either as the listing/selling agent of the units purchased by the plaintiffs' and/or are buyers' agents, hereinafter referred to as agent/brokers.

12. The defendants, Seaspray Condominium and the Seaspray Condominium Association are governed by a Master Deed and Bylaws, drafted in 1980 and recorded in the Cape May County Clerk's Office.

STATEMENT OF FACTS

13. Those documents vest administration and management of the condominium in a three-person board of directors, elected annually by the unit owners from among those persons holding an ownership interest in a unit.

14. The powers and duties of the board of directors include, but are not limited to, financial management of the condominium; preparation and implementation of the annual budget; making and collecting annual assessments against unit owners; maintenance, repair, replacement and operation of the condominium property, including the common elements; enforcement of condominium regulations; and the employment, if deemed necessary, of persons to manage the condominium.

9. The powers outlined above include the conducting of structural engineering studies as well as reserve studies in accordance with the New Jersey Condominium Law.

10. Since 2000, the defendants, Seaspray Condominium Association, Inc. (hereinafter referred to as SCA) and the Seaspray Condominium Board (hereinafter referred to as SCB) has

been aware of major structural deficiencies in the buildings and in fact has had six (6) structural engineering studies over the period from 2000 to the present that establish that the condominium complex buildings must be torn down and redeveloped. See attached Exhibits A to I.

11. In fact, the defendants SCB and SCA have been aware of these structural problems since 1980. See Exhibit J.

12. The defendants, SCA and SCB have conducted a reserve study to determine not only the structural repairs that the complex needs to undertake but also the routine maintenance the Seaspray Condominium Complex must undertake.

13. The defendants, SCB and SCA conducted a reserve study estimates repairs in excess of \$1 million. See attached Exhibit K. This reserve study also determined that the defendants, SCB and SCA are grossly under reserved and have been for over twenty (20) years.

14. The initial estimates of the structural repairs starting in 2004 were estimated at \$3.5 million and the current estimate of the repairs to the building stand at approximately \$7.5 million. See Exhibits A to I.

15. The defendants, pursuant to the New Jersey Condominium Act, are required to maintain adequate reserves to address capital repairs that the plaintiffs have outlined above.

16. Currently, the defendants have the following balances in their operating and reserve accounts. The balance in the operating account totals \$34,415.97 and the reserve account totals \$13,164.64. It is clear that the defendants do not have available funds to address the necessary capital repairs that

are outlined by the reserve study which is in the possession of the defendants.

17. It is clear that the defendants, SCA and SCB do not have the necessary reserve funds to undertake the capital repairs outlined in paragraph 16 above and pursuant to the reserve study conducted by the defendants, SCA and SCB have been under reserved for over twenty (20) years.

18. The defendants SCA and SCB have refused to address this issue and have refused to undertake any type of special assessment to start the repair process recommended by their own engineers. The defendants, SCA and SCB have even refused to address the Reserve Account shortfall that their own reserve study has suggested that they maintain.

19. The amount needed for the reserve account is \$592,249.00. As outlined above the defendants, SCA and SCB do not even have any where near this amount in their reserve account.

20. The plaintiffs' have become aware that the State of New Jersey Department of Community Affairs (DCA) is in the process of conducting structural, fire and safety inspections and the defendants have been advised by engineering firm, Bechtel Engineering, the complex will not pass this inspection. In fact, the management company hired by the defendants, Action Management and the Board's attorney, I. Dominic Simeone of Simeone & Raynor, Cherry hill, NJ has advised the Board that the complex will not pass inspection.

21. The inspection listed in paragraph number 22 was scheduled to take place in November, 2021 and Action Management

Company, current management company, was able to get this inspection put off until April or May, 2022. This inspection is currently on appeal by the defendants, SCA and SCB.

22. The inspection listed in paragraphs 20 and 21 were conducted and the Seaspray Condominium Complex has failed these inspections.

23. The plaintiffs have been attending numerous Board meetings and it has come to their attention that several members of the defendants Board believe that the common area buildings are continually safe for the use and occupancy by the owners of the complex despite the fact that numerous engineers have declared that buildings of the complex are not safe for continued use and occupancy due them being structurally unsound.

24. These are the Board members and defendants, Joseph Lincke and David Buckwalter. These Board members are the owners of the two largest units in the complex.

25. This attempt by these defendants violates their obligations to the other owners of units in the complex and establishes that the Board is operating in a financially irresponsible way to the detriment of all owners of the complex.

26. The engineers hired by the defendants along with their management company and their attorney have advised the Board that this not possible given all of the structural problems and repairs that the buildings of the complex are required undertake to bring the complex up to proper safety standards that the DCA will require. Despite these recommendations the defendants continue to ignore the advice and counsel of professionals that they have hired to advise them in this area.

27. The plaintiffs have requested that the defendants address the numerous structural deficiencies, repairs and deficiencies within the complex as well as the reserve account deficiencies and the defendants have refused to address same as demonstrated by the balances listed in paragraph number 16.

28. In fact, pursuant to the Bylaws of the defendant, SCA the defendant, SCB is required to advise all unit owners of the portion of their monthly dues/HOA fees are being applied to the reserve account and are obligated to apply this portion to the reserve account.

29. The defendants, SCA and SCB through their management company, Action Management, have failed to advise the unit owners of this portion that is being applied to the reserve.

30. The Bylaws of the defendant, SCA allows for the defendant, SCB to undertake "special assessments" without the approval of the unit owners. These special assessments include special assessments to replenish the reserve account to the proper levels as recommended by the reserve study conducted by the defendants, SCA and SCB conducted in the fall of 2021.

31. The reserve study conducted by the defendants, SCA and SCB places the current deficiency in the reserve account of the defendants, SCA and SCB in the amount of \$592,249.00. This is found in the draft copy of the reserve study of the defendants' SCA and SCB report of Becht Engineering dated September 15, 2021.

32. The defendants, SCA and SCB along with all current and past Defendant, Board members, that have been named individually in this complaint, have refused to address this reserve account

deficiency.

33. The current cost of doing the structural repairs required by the defendants, SCA and SCB engineering studies total \$3,600,000.00. This is found in the structural engineering report of Becht Engineering dated October 27, 2021, at page 2, section 1.3.

34. The repairs stated in the October 27, 2021 report of Becht Engineering are the same repairs that were recommended by four (4) previous structural engineering reports rendered to the defendants, SCA and SCB between the periods of 2002 through 2008.

35. These repairs were never done by the defendants, SCA and SCB along with the individually named current and prior Defendant, Board members.

36. The previous engineering studies were all in agreement that if these repairs were not done then the buildings in the complex were not fit for continued use and occupancy. This occurred in July, 2006.

37. There are other additional "deferred maintenance" that the defendants, SCA and SCB along with currently individually named Board members, who are currently defendants in this suit, that need to be addressed due to the fact that they have reached the end of their useful life.

38. These items are the roof, stucco, parking lot and guard rails. The repair of these items total \$534,100.00 according to the defendants', SCA and SCB's own reserve studies.

39. Thus, the current total of routine maintenance repairs, structural repairs, and reserve study deficiencies

total \$4,726,344.00.

40. The estimate of the repair exceeds the present value of the complex.

41. The repairs, as stated by the Defendants own engineer, would require the defendants, SCA and SCB along with the present Defendant Board members to undertake a "special assessment" to cover the repairs that are necessary to bring the buildings of the complex in compliance and to address the structural deficiencies in the complex.

42. At the very least the defendants, SCA and SCB along with the current Defendant Board members should undertake a "special assessment" to address the reserve account deficiency of \$592,249.00. This will at least bring the reserve account to the appropriate funding as recommended by the reserve study that they authorized and undertook.

43. Based upon the actions of the defendants, SCA and SCB and the individual past and present Defendant, Board Members, it is clear that the actions by these defendants amount to fiscal irresponsibility raising to the level that this court needs to appoint a Special Fiscal Master and/or receiver to operate the Seaspray Condominium Association and to do away with the defendant, SCB and to make decisions for the benefit of all owners.

44. Further, the plaintiffs have requested that the Board investigate the sale and/or the demolishing of the Seaspray Condominium Complex to avoid the necessity of any special assessments other than to demolish the complex.

45. The defendants SCA and SCB are investigating the

possibility of a sale however, through various Board meetings it is clear that even if the defendants, SCA and SCB were to get a buyer for the complex several owners will not be in agreement to sell the complex the fact that the defendants, SCA and SCB cannot meet the necessary repairs from reserves and the defendants, SCA and SCB refuse to undertake needed and necessary special assessments to maintain and repair the complex.

46. The defendants, SCA and SCB have received an offer to purchase the complex from Devine Group, LLC as confirmed by the defendant, SCB Board meeting of June 16, 2022, in the amount of \$4.950,000.00 million dollars. This offer is for the purchase of the land only and not the buildings.

47. The defendants have refused to act on this offer and are still investigating a possibility of a repair to the buildings of the complex and according to the June 16, 2022 meeting believe that the repairs could be undertaken to repair the structure in the approximate amount of \$750,000.00.

48. The repairs outlined in paragraph number 44 are to undertaken by Hale Built Group a house raising company out of Toms River, NJ.

49. The defendant, SCB members pushing for the repair of the complex are the owners of the two largest units in the complex. These defendants are David Buckwalter and Joseph Lincke.

50. According to an amendment to the Master Deed, that was ordered by this Court, in 2004, if the defendants, SCA and SCB receive an offer for the land only of the complex all unit owners percentage of the proceeds from this type will be equal

at 3.33%.

51. The defendant, Lincke currently owns 6.02% of the defendant, SCA and the defendant, Buckwalther currently owns 5.68% of the defendant, SCA.

52. A sale of the Seaspray Condominium Complex for land only would result in a reduction of the defendant, Lincke interest in the proceeds of the sale for the ground only of 2.69% and for the defendant, Buckwalter of 2.35%.

53. Thus, the defendants, Lincke and Buckwalter have a conflict of interest as to the pursuing a sale on behalf of the other unit owners of the complex and should recuse themselves from the handling of both the repair investigation of the complex, which is in direct contradiction to the recommendations the defendants, SCA and SCB's own engineering studies along with the sale of the property to the Devine Group, LLC.

54. In fact, the Master Deed and Bylaws allows for the appointment of other unit owners by the defendant, SCB to handle situations of this nature to address any conflicts.

55. The defendants, Buckwalter and Lincke have refused to make known the unit owners of this conflict of interest at any of the regularly scheduled unit owners meetings.

56. These defendants, Buckwalter and Lincke are represented by not only counsel for the defendants, SCB and SCA but counsel for the defendants, SCA and SCB through their Director and Owners insurance policy. None of these counsel's have advised the defendants, Buckwalter and Lincke that a conflict of interest exists and the recusal is necessary.

57. Further, as a result of the June 16, 2022 owners

meeting that the defendants, SCA and SCB, through their current Board, which the defendants, Buckwalter and Lincke are members, intend on hiring another engineer should they proceed with the repairs through Hale Built Group.

58. The defendants, SCA and SCB's current engineer, Becht Engineering Group has advised the defendants, SCA, SCB, Lincke and Buckwalter that they will not participate in performing the engineering studies and blueprints that would be required to be preformed prior to any structural repairs being preformed on the Buildings of the Seaspray Condominium Complex.

59. The defendants, SCA, SCB, Lincke and Buckwalter have not advised the unit owners if they supplied all of the previous engineering studies to the Hale Built Group on the structural integrity of the buildings in the complex.

60. Thus, the defendants, SCA, SCB, Lincke and Buckwalter for all intense purposes would be shopping for an engineer and/or engineering firm that will certify the repairs they are seeking when these defendants' own engineer has already stated that the structural repairs to the complex already total \$3,600,000.00 to bring the complex to a structural sound status.

61. Given the fact that the reserve account for this complex has a shortfall of \$592,249.00 there is no way that the defendants, SCA and SCB can undertake any repairs of the complex unless they perform a special assessment.

62. It is clear that the defendants, SCA and SCB are for all purposes financially insolvent due to the actions of the defendants, SCA and SCB and the individually named past and present Board Members, in failing to maintain a proper reserve

account and their failure to undertake special assessments.

63. On July 21, 2002 the defendants, SCA and SCB held their monthly meeting.

64. At this meeting there was decision or mentioning of the current offer that the defendants, SCA and SCB received to purchase the property nor did the defendants, SCA and SCB advise the unit owners as to whether or not this offer was still available and/or where the offer stood or even if they were pursuing the offer.

65. In fact, Catarina Fenimore, the Treasurer of the defendants, SCA and SCB proposed to attempt to sub-divide the property in order to sell off two (2) of the three (3) parcels of land that compromise the Seaspray Complex in an attempt to get the necessary funds to proceed with the repairs that the Board is seeking.

66. The repairs that the Defendants SCB are seeking to perform have been advised by their engineer, Becht Engineering that this repair will not address the structural deficiencies that plague the Seaspray Condominium Complex.

67. Again, the Defendants, SCA and SCB and the Defendants, Fenimore, Buckwalter and Lindke have refused to address the issue of the offer to purchase the property along with the advise of the professional engineer that they hired to determine the type and method of repair the complex needs, how the repair is to be made, and how much the shortfall of the reserve account. These defendants have chosen to pursue a course of action that is to the detriment of all of the unit owners.

68. As a result of the actions of the defendants, SCA and

SCB along with past and current individually named defendants, this court must appoint a Special Fiscal Master and/or receiver to operate the Seaspray Condominium Complex and to do away with the defendant, SCB and to make decisions for the benefit of all owners.

69. This Special Fiscal Master and/or receiver should have the power to sell the property over the objections of all of the owners and/or impose a special assessment to undertake all necessary repairs and maintenance as required by and recommended by the professional hired to undertake these studies.

70. The appointment of a Special Fiscal Master and/or receiver to operate the Seaspray Condominium Complex and to do away with the defendant, SCB and to make decisions for the benefit of all owners will avoid the necessity of seeking approval from all unit owners to either undertake a sale and/or demolishing of the property.

71. This Special Fiscal Master and/or Receiver will have the powers necessary to address the serious structural and maintenance problems that the Seaspray Condominium Complex has had for over 40 years and the defendants SCA and SCB have refused to address.

72. Additionally, since at least 2000 the previous Board members of the defendants SCA and SCB, that are named individually and personally in this litigation and/or by way of fictitious pleading practice along with previous management companies have intentionally, deliberately, willfully, recklessly, negligently, and carelessly hid and concealed from all current owners these structural deficiencies and repairs to

the Seaspray Condominium Complex.

73. The actions and inactions of all of the defendants have resulted in not only the plaintiffs suffering damages but all owners of the defendants, SCB and SCA suffering damages.

74. The plaintiff has resorted to the fictitious pleading practice as the plaintiff is not in possession of a complete listing of all of the named defendants that were either named individually, corporately, or as a business entity and this includes all members of the defendant, SCB and management companies.

75. All defendants individually and fictitiously named herein are current owners, and/or previous owners of units in the Seaspray Condominium Complex and were members of the defendant, SCB.

76. The defendants, Burns Construction & Property Management, Coastal State Realty Management Corp, Property Management Consultants, and fictitiously named corporations, LLCs, professional corporations and individuals were property management companies hired by the defendants, SCB and SCA to manage the Seaspray Condominium Complex.

77. The actions and inactions of all of the defendants in this matter have resulted in damages, loss value and use and enjoyment of all owners of the Seaspray Condominium Complex. As a result of the defendants' inactions and actions the plaintiff seeks the dissolution of the defendant, SCA and SCB and the partition and sale of the complex.

78. As a result, the plaintiffs are seeking to dissolve the defendants, SCB and SCA and sell the Seaspray Condominium

Complex. It is clear from the facts outlined above that value of the complex is no longer in the buildings and ground and lies solely in the ground.

79. The defendants, SCA and SCB along with several unit owners refuse to accept the fact that the complex has reached the end of its useful life and needs to be demolished and torn down.

80. This position is supported by the engineering studies attached hereto as Exhibits A to J. All of these studies demonstrate that the buildings owned by the defendant, SCA and managed and operated by the defendant, SCB have reached the end of its useful life.

81. Based upon these engineering studies the plaintiffs move to dissolve the SCA and SCB and move for partition and sale of the Seaspray Condominium complex.

82. The defendant, PAM CONCANNON was the bookkeeper for the defendants, SCA and SCB and was responsible for the financial records and reserve accounts of the Seaspray Condominium Complex.

83. The defendant, PAM CONCANNON was the Bookkeeper for the Seaspray Condominium Association and owed an obligation to all of the owners of the Seaspray Condominium Complex to advise the defendants, SCA and SCB of the financial stability of the Seaspray Condominium Complex as well as a fiduciary obligation to the owners of the Seaspray Condominium Complex to point out the financial irresponsibility of the defendants, SCB and SCA.

84. The defendant, PAM CONCANNON failed to meet her responsibilities as a Bookkeeper, was negligent and breached her fiduciary both as an owner and as the bookkeeper for the

defendants, SCB and SCA.

85. The defendants, RAYMOND D LUKAS individually and as Former Board Member and President of SCB; Jeanne Marie Lukas; JAMES CRAIG individually and as a Former Board Member and President of SCB; CAROLINE CRAIG; JOHN M. KORIZIS; GEORGE M KORIZIS; JOSEPH J. CAMPANELLA; KATHLEEN P. CAMPANELLA ; NANCY L. GILLOTTI; Frank Ancharsk; Barbara Ancharski; Patrick J. Collins; Marilyn Collins; Thomas G. Matthews, Janet V. Matthews; Eugene E. Hickman, Miriam K. Hickman; Albert Gillotti; Anne Gillotti; John Pawlowski and Erika Pawlowski herein after referred to as Previous Owners.

86. The defendants named in paragraph 85 sold their Units in the Seaspray Condominium Complex to the detriment of the current owners of Units in the Seaspray Condominium Complex and were unjustly enriched to the detriment of the current Unit Owners.

87. The defendants, LONG & FOSTER REALTY; GRACE REALTY; KELLER WILLIAMS REALTY-JERSEY SHORE; KELLER WILLIAMS REALTY-WASHINGTON TOWNSHIP; BERGER REALTY; CENTURY 21 ALLIANCE; BERKSHIRE HATHAWAY-FOX & ROACH, HERBERT BIRCH, III, individually and as a Licensed Real Estate Agent; Thomas Montague, individually and as licensed Real Estate Agent; HEATHER KOLTOUKIS, individually and as a Real Estate Agent and JOHN DOES 1 TO 120 individually and licensed Real Estate Agents and Brokers; ABC CORPORATIONS 1 TO 20 licensed Real Estate Brokers ; XYZ LLC 1 TO 20 licensed Real Estate Brokers; ABC PROFESSIONAL CORPORATIONS 1 TO 20 licensed Real Estate Brokers; XYZ PARTNERSHIPS 1 TO 20 licensed Real Estate. Are licensed

Real Estate Brokers and Agents who listed and market the units purchased by the Plaintiffs either as the listing/selling agent of the units purchased by the plaintiffs' and/or are buyers' agents, hereinafter referred to as agent/brokers.

88. The defendants named in paragraph number 87 are agents/brokers who were engaged to represent Previous Owners in the sale of their respected Units in the Seaspray Condominium Complex and/or were engaged by the plaintiffs with the exception of the plaintiff, Block Properties, LLC to represent them as Buyers agent/brokers.

89. The defendants named in paragraph 87 engaged with the defendants named in paragraph number 85 to conceal the structural defects at the Seaspray Condominium Complex in order to be unjustly enriched and to the detriment of the plaintiffs.

90. The defendants named in paragraph numbers 85 and 87 engaged with the defendants SEASPRAY CONDOMINIUM ASSOCIATION BOARD (hereinafter referred to as SCA); SEASPRAY CONDOMINIUM ASSOCIATION, INC. (hereinafter referred to as SCB); JAMES CRAIG, JOSEPH LINCKE; DAVID BUCKWALTER; ROBERT McNEILL; GARY GILLOTTI; JOHN PAWLOWSKI; RAYMOND D LUKAS; DAWN J. LEEDS, ESQUIRE aka DAWN J. PREPSEL; BERNEDETTE MCCARTHY aka BONNIE MCCARTHY; KEITH HILLEGRASS; JOHN ZWIRZINA; KEITH JENSEN; WILLIAM PRIMVERA, PROPERTY MANAGEMENT CONSULTANTS; COASTAL STATE REALTY MANAGEMENT CORP.; BURNS CONSTRUCTION & PROPERTY MANAGEMENT to intentionally, willfully, recklessly and negligently engaged in a course of conduct, a conspiracy, designed to defraud, conceal, and otherwise hide the latent structural defects at the Seasspray Condominium Complex in direct violation of the

laws of the State of New Jersey, specific fiduciary duties, to enrich themselves and their businesses to the detriment of the plaintiffs and the general public.

91. The defendants, SCA and SCB, only as to the current SCB Board and Board members of the defendant, SCA, have begun a course of conduct designed to torturously, negligently, willfully, recklessly, deliberately, wantonly and intentionally to interfere with the business relationship of the plaintiffs, Block Properties, LLC and Arlene Clapp with potential and present business relationships of the plaintiffs, Block Properties and Clapp by attempting to enact changes to the rules and regulations of the defendant, SCA that are specifically addressed to these plaintiffs.

92. The actions of the SCA and SCB, only as to the current SCB Board and current Board members of the defendant, SCA, is specifically being undertaken by these defendants in an attempt to harass and hinder these plaintiffs in the prosecution of the present litigation and in an attempt to have these plaintiffs cease and/or drop the present litigation.

93. Additionally, the defendants, SCA and SCB, only as to the current SCB Board and Board members of the defendant, SCA, have engaged in a course of conduct designed to harass, hinder, deprive, effect and otherwise interfere with all of the plaintiffs named in this complaint, with the exception of the plaintiff, Block Properties, LLC, use, enjoyment, access, property rights and otherwise prevent the plaintiffs from the use and occupancy of their units at the Seaspray Condominium Complex by torturously, negligently, willfully, recklessly,

deliberately, wantonly and intentionally.

94. The actions of the SCA and SCB, only as to the current SCB Board and current Board members of the defendant, SCA, is specifically being undertaken by these defendants in an attempt to harass and hinder these plaintiffs in the prosecution of the present litigation and in an attempt to have these plaintiffs cease and/or drop the present litigation.

95. These actions by these defendants have caused the plaintiffs, with the exception of the plaintiff, Block Properties, LLC to suffer extreme mental and emotional distress as well as effecting these plaintiffs use and enjoyment of their units at the Seaspray Condominium Complex.

COUNT ONE
(Breach of Fiduciary Duty)
(AS TO ALL DEFENDANTS)

96. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

97. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

98. The defendants owe a fiduciary duty to the condominium, the owners and to plaintiffs, to manage the condominium in accordance with its governing documents, and to the mutual and equitable benefit of the condominium association's members and unit owners.

99. By their actions as described above, the defendants, have violated that fiduciary duty and caused harm to the plaintiffs'.

100. As a proximate result thereof, the individual plaintiffs have been irreparably injured, without an adequate remedy at law, in that they have been deprived of their ability to participate in the governance of the condominium. Moreover, the Seaspray Condominium Association has been irreparably injured in that it has been unable to function as anticipated by the condominium's governing documents. Additionally, plaintiffs have suffered financial losses as a result of defendants improper, negligent, and willful mismanagement of the condominium association and complex.

101. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter

and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWO
(Action pursuant to N.J.S.A. 15A:12-12)
(AS TO ALL DEFENDANTS)

102. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

103. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

104. Defendants have improperly exercised control over the Seaspray Condominium Association, Inc.

105. In their exercise of that control, defendants have perpetuated the corporation for their personal benefit, and have acted in an illegal, oppressive or fraudulent manner.

106. As a proximate result thereof, the individual plaintiffs have been irreparably injured, without an adequate remedy at law, in that they have been deprived of their ability to participate in the governance of the condominium.

107. Moreover, the Seaspray Condominium Association has been irreparably injured in that it has been unable to function as anticipated by the condominium's governing documents. Additionally, plaintiffs have suffered financial losses as a result of defendants' illegal management of the condominium.

108. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium

Complex;

- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT THREE
(Negligence)
(AS TO ALL DEFENDANTS)**

105. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

106. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

107. As a result of the carelessness, reckless and negligence of the defendants in the operation and maintenance of the Seaspray Condominium Complex the plaintiff and all owners have sufferable irreparable harm and damages as a result of the actions of the defendants in the mismanagement, in action, failure to properly maintain the Seaspray Condominium Complex and were otherwise carelessness, reckless and negligent in the operation of the Seaspray Condominium Complex.

108. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT FOUR
BREACH OF FIDUCIARY DUTY AND SELF-DEALING
(AS TO ALL INDIVIALLY NAMED DEFENDANTS, ALL FICTITOUSLY NAMED
INDIVIDUAL DEFENDANTS AND ALL MEMBERS OF THE DEFENDANT SCB
BOARDS FROM 2000 TO 2022 ALL PREVIOUS ONWERS OF UNITS AT THE

**SEASPRAY CONDOMINIUM COMPLEX DESIGNATED AS SELLERS AND ALL
DEFENDANTS DESIGNATED AS REAL ESTATE AGENTS AND BROKERS AND ALL
PROEPRTY MANAGEMENT COMPANIES)**

109. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

110. This paragraph applies to all individually named defendants, all fictitiously named individual defendants, and all members of the defendant, SCB Boards from 2000 to 2019.

111. Defendant(s) were required to act in a fiduciary capacity and were under a duty of care as and regarding the control of the effective managing and operation of the Seaspray Condominium Complex to the benefit of all owners in the complex, to which the Defendant(s) failed to do.

112. The essence of the relationship required the Plaintiff(s) to place trust and confidence in the Defendant(s) who were in a dominant or superior position to that of the Plaintiff(s) in the defendant, SCA. thereby placing the Defendant(s) SCA and its members, including the Plaintiff(s), on matters related to SCA.

113. The Defendant(s) are liable for the harm resulting from the above described breach of their fiduciary duty and duty of care imposed upon them by the existence of the above described relationship, including the Defendant(s)' breach in exercising reasonable skill and care, abuse of discretion, negligently and improperly performing as a substantial majority member and as the effective managing member, by improperly, wrongfully and destructively pursuing a campaign to and exercising their power to commit acts, including the unilateral and wrongful change of the business relationship, wrongful

employee terminations, gross mismanagement of operations, intentional self-dealing, and/or omission of acts for the sole benefit of the Defendant(s)' self-interest and for the purpose of destroying the Plaintiff(s), their investment, their business relationships and/or any opportunity for there to derive any benefit from their investment.

114. Also, Defendant(s)' course of conduct was not in the best interest of the defendant, SCA and constituted gross negligence, gross misconduct or fraud.

115. Defendant(s) are liable to pay an appropriate amount to the Plaintiff(s) to restore them to the position they would have occupied if the Defendant(s) had not abused their discretion.

116. The defendants all individually named defendants, all fictitiously named individual defendants, and all members of the defendant, SCB Boards from 2000 to 2019 who have sold their units in the Seaspray Condominium Complex acted in their own self interest to the detriment of the other owners in the complex due to their position as members of the Board and should be disgorged of all profits they made from their actions.

117. By reason of the foregoing, as a direct and proximate result thereof, Plaintiff(s) have sustained severe damage, and will continue to sustain damage to effectuate the repair, cure, remedy and replacement of Plaintiff(s) lost investment, profits and business reputation.

118. Further, Defendant(s) acted willfully, intentionally, maliciously and with bad faith and evil motive and therefore

the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

119. As a direct result of the breach of fiduciary duty of care and self-dealing by Defendant(s), Plaintiff(s) are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

120. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;

- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT FIVE
BREACH OF LOYALTY AND BAD FAITH
(AS TO ALL DEFENDANTS)**

121. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

122. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

123. Defendant(s) were under a duty of loyalty due to their control of the effective managing and OPERATE THE Seaspray Condominium Complex to which the Defendant(s) were members of the defendant, SCB to which all of the plaintiffs' retained an interest through membership or by way of contract(s) or agreement(s), oral, written or otherwise.

124. The essence of the relationship required the Plaintiff(s) to place trust and confidence in the Defendant(s) who were in a dominant or superior position to that of the Plaintiffs) in the defendant, SCB and SCA as members of the Board of elected to operate, manage and run for the benefit of all owners of the Seaspray Condominium Complex since the

Defendant(s), were the effective managing members.

125. Defendant(s) are liable for the harm resulting from the above described breach of their duty of loyalty imposed upon them by the existence of the above described relationship, including the Defendant(s)' breach in exercising reasonable good faith, skill and care, abuse of discretion, negligently and improperly performing as majority members and as the effective managing member, by improperly, wrongfully, destructively and in bad faith pursuing a campaign to and exercising their power to commit acts, including the unilateral and wrongful change of the business relationship, wrongful employee terminations, gross mismanagement of operations, intentional self-dealing, and/or omission of acts for the sole benefit of the Defendant(s)' self-interest and for the purpose of destroying the Plaintiff(s), their investment, their business relationships and/or any opportunity for them to derive any benefit from their investment.

126. At all times material hereto, the Defendant(s) breached their duty of loyalty and acted in bad faith to AFS LLC, and thus to its minority member, DEB, all to their financial damage and loss.

127. As a direct result of the breach of duty of loyalty, the Plaintiff(s) has been injured and damaged as said forth above.

128. Further, Defendant(s) acted willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

129. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,

- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT SIX
FRAUD
(AS TO ALL DEFENDANTS)**

130. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

131. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

132. Defendant(s) willfully and intentionally used and employed deception, fraud, false pretenses, false promises, misrepresentation or knowingly concealed, suppressed and omitted material facts, including, but not limited to unilaterally, intentionally, wrongfully and destructively pursuing a campaign to and exercising their power to commit acts, including the unilateral and wrongful change of the business relationship, and confiscation of membership interests, gross mismanagement of operations, intentional self-dealing, and/or omission of acts for the sole benefit of the Defendant(s)' self-interest and for the purpose of destroying the Plaintiff(s), their investment, their business relationships and/or any opportunity for them to derive any benefit from their investment.

133. Defendant(s) acted with the intent that Plaintiff(s) would rely on such concealment, misstatement, false statement, suppression or omission.

134. Defendant(s) acts included, but are not limited to,

and to willfully and intentionally exercising their power to commit acts, including the unilateral and wrongful change of the business relationship, wrongful employee termination, confiscation of membership interest, gross mismanagement of operations, intentional self-dealing, and/or omission of acts for the sole benefit of the Defendant(s)' self-interest and for the purpose of destroying the Plaintiff(s), their investment, their business relationships and/or any opportunity for them to derive any benefit from their investment.

135. The conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

136. As a direct result of the fraudulent conduct of the Defendant(s), Plaintiff(s) are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the

Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT SEVEN
BREACH OF IMPLIED COVENANTS OF GOOD FAITH AND FAIR DEALING
(AS TO ALL DEFENDANTS)

137. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

138. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

139. Defendant(s), through their aforesaid conduct, have breached their covenant of good faith and fair dealing implied by their duties and obligations owed and owing and arising under the contract(s) and agreement(s), written, oral or otherwise, made between the Plaintiff(s) and the Defendant(s), which business arrangements created a mutual agency in addition to the fact that the Defendant(s) acted in a fiduciary capacity and were the substantial majority and effective managing

member(s) of AFS LLC, to which the Plaintiff(s) retained an interest through membership or by way of contract(s) or agreement(s), oral, written or otherwise.

140. Defendant(s) unilaterally, wrongfully and destructively, intentionally and willfully pursued a campaign of changing the business relationships, gross mismanagement of operations, violation of non-compete provisions, intentional self-dealing, and/or omission of acts, and thus committed and continue to commit material and substantial breaches of the contract(s) and agreement(s), oral, written or otherwise, made with Plaintiff(s).

141. Further, the conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

142. As a direct result of the breach of the implied covenants of good faith and fair dealing of Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a

Receiver and/or Trustee appointed by the Court.

- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT EIGHT
NEGLIGENCE, GROSS NEGLIGENCE AND GROSS MISCONDUCT
(AS TO ALL DEFENDANTS)**

143. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

144. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

145. Defendant(s) provided and performed as the majority members and the effective managing member of the Seaspray Condominium Complex to which Plaintiff(s) retained an interest through membership and ownership.

146. Defendant(s) were obligated to perform their duties

in a reasonable manner free from negligence, gross negligence and gross misconduct.

147. Defendant(s) breached their duty in that they negligently, intentionally, willfully and destructively pursued a campaign changing the business relationship, intentionally self-dealing, and/or committing acts and/or omission of acts for the sole benefit of the Defendant(s)' self-interest, and for the purpose of destroying the Plaintiff(s), their investment, their business relationships and/or any opportunity for them to derive any benefit from their investment.

148. Defendant(s) failed and/or refused to act or to omit from acts constituting negligence, gross negligence and misconduct unreasonably causing the destruction of the investment, contract(s) and agreement(s) made with the Plaintiff(s) and causing the Plaintiff(s) the prevention and deprivation of any opportunity to benefit from their investment and/or contract(s)/agreement(s).

149. The conduct of the Defendant(s) described above was performed willfully, intentionally, maliciously with bad faith and evil motive, and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

150. By reason of the foregoing, as a direct and proximate result thereof, Plaintiff(s) have sustained severe damage, and will continue to sustain damage to effectuate the repair, cure, remedy and replacement of the Plaintiff(s)' lost investment, profits and business reputation.

151. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of

duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT NINE
NEGELIGENT MISREPRESENTATION
(as to all Defendant(s))

152. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

153. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

154. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

155. Defendant(s) fraudulently and/or negligently induced the Plaintiff(s) to retain their interest in the defendants, SCA, by making false representations regarding the the structural condition, reserve account balances, the need for repairs and special assessments, desire, method of valuation, effective date and other arrangements upon which the Plaintiff(s) relied.

156. Defendant(s), by unilaterally, intentionally, wrongfully and destructively pursuing a campaign changing the business relationship, grossly mismanaging operations, wrongful employment termination, intentionally self-dealing, and/or omitting acts, breached their duty imposed upon them in that Defendant(s), fraudulently and/or negligently induced the Plaintiff(s) by making false representations regarding the transactions and otherwise acted with the intention to unreasonably destroy the investment, contract(s) and agreement(s) made with the Plaintiff(s), and to prevent and deprive them from any opportunity to benefit from their investment and/or contract(s)/agreement(s).

157. The conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive, and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

158. As a direct and proximate cause of Defendant(s)' fraudulent and/or negligent misrepresentations, made to the Plaintiff(s), Plaintiff(s) have sustained severe damage, and will continue to sustain damage in order to effectuate the repair, cure, remedy and replacement of Plaintiff(s)' lost investment, profits and business reputation.

159. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter

and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT TEN
PUNITIVE DAMAGES
(AS TO ALL DEFENDANTS)**

160. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

161. The allegations of this paragraph apply to all of the defendants named in this lawsuit and all fictitiously named defendants.

162. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

163. Defendants knew or should have known that their actions and omissions aforesaid had an extremely high degree of probability of causing harm o Plaintiffs.

164. At a minimum, Defendants acted in reckless indifference to the consequences of their actions and omissions aforesaid, meriting the imposition of punitive damages against them.

165. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,

- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT ELEVEN
PARTITION
(AS TO the DEFENDANTS SCA and SCB only)

166. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

167. The allegations of this paragraph apply to the defendants, SCA and SCB only.

168. The plaintiffs seek the dissolution of the defendants, SCA and SCB based upon the allegations and financial irresponsibility of these defendants in the management and operation of the Seaspray Condominium Complex.

169. The engineering studies attached hereto establish that the defendants, SCB and SCA have been operating the Seaspray Condominium Complex in a negligent, reckless and careless by failing to maintain proper reserves, neglecting maintenance and repairs on the complex and overall operating in a non-financially responsible manner.

170. The engineering studies attached hereto to this complaint establish that the Seaspray Condominium Complex has reached the end of its useful and the cost of repairs and rehabilitation of the complex outweigh the value to the unit owners.

171. Additionally, the actions of these defendants and several owners of the Seaspray Condominium Complex lead to the conclusion that the only course of action for the plaintiffs is to seek the partition and sale of the entire complex.

172. The defendants, SCA and SCB along with several owners

do not desire to proceed with this course of action and the plaintiffs seek the partition and sale of the property.

173. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,

- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWELVE
APPOINTMENT OF A SPECIAL FISCAL AGENT, TRUSTEE AND/OR RECEIVER
(AS TO THE DEFENDANTS SCA and SCB ALL MEMBERS OF THE DEFENDANT
SCB BOARDS FROM 2000 TO 2022 ONLY)

174. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

175. The allegations of this paragraph apply to the defendants, SCA and SCB only.

176. The defendants, SCA and SCB have operated in a financially irresponsible manner for over twenty (20) years as demonstrated by the factual allegations listed above.

177. The actions of these defendants have resulted in the failure undertake substantial repairs and maintenance to the complex to the detriment of the unit owners and the plaintiffs.

178. The actions of these defendants have resulted in the Seaspray Condominium Complex basically becoming structurally unsound and a hazard to the health and safety of the residents of the complex.

179. The actions of the these defendants have resulted in a current estimate for the structural repairs and routine maintenance repairs in excess of \$9 million dollars.

180. As a result of the mismanagement and financial irresponsibility of the defendants, SCA and SCB the plaintiffs are seeking the appointment of a Special Fiscal Master, Trustee and/or receiver by the court.

181. The actions of these defendants support the plaintiffs'

position for the appointment of a Special Fiscal Master, Trustee and/or receiver by the court.

182. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,

- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT THIRTEEN
BREACH OF FIDUCIARY DUTY
(AS TO THE DEFENDANT PAM CONCANNON)**

183. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

184. The allegations of this paragraph apply to the defendants, Pam Concannon only.

185. The defendant, Pam Concannon is and/or was an owner in the Seaspray Condominium Complex and was employed by the defendants, SCB and SCA as the bookkeeper/treasurer.

186. The defendant, Pam Concannon as both an owner and as the bookkeeper for the defendants, SCB and SCA owed a fiduciary both as an owner and as the bookkeeper to advise the plaintiffs' and other owners of the financial stability of the defendants, SCA and SCB and failed to live up these duties.

187. As a result of the defendants, Pam Concannon's breach of her fiduciary duties as an owner and as the bookkeeper for the defendants, SCA and SCB the plaintiffs have suffered damages.

188. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

189. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of

duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT FOURTEEN
NEGLIGENCE
(AS TO THE DEFENDANT PAM CONCANNON)**

190. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

191. The allegations of this paragraph apply to the defendants, Pam Concannon only.

192. The defendant, Pam Concannon is and/or was an owner in the Seaspray Condominium Complex and was employed by the defendants, SCB and SCA as the bookkeeper/treasurer.

193. The defendant, Pam Concannon performed her duties as the bookkeeper financial officer of the defendants, SCA and SCB by failing to maintain an adequate reserve account and by performing her duties as a bookkeeper in negligent, careless and reckless manner.

194. The defendant, Pam Concannon by performing her duties in a negligent, careless and reckless manner has caused the plaintiffs to suffer damages.

195. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owner's unit in the complex;
- b. For an order, in the form of an injunction or otherwise, requiring defendants to cede control of

the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.

- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT FIFTEEN
MINORITY OPPRESSION**

**(AS TO THE DEFENDANTS, SCA AND SCB AND ALL INDIVIDUALS
LISTED AS PAST AND PRESENT SEASPRAY CONDOMINIUM BOARD MEMBERS
AND PRESIDENTS AND ALL MEMBERS OF THE DEFENDANT SCB BOARDS FROM
2000 TO 2022)**

196. Plaintiff(s) incorporate by reference to the averments contained in the above paragraphs inclusive as if each were fully set forth at length herein.

197. This count of the complaint applies only to the listed above and not to any other defendants that are not

listed under Count Twenty-five.

198. Defendant(s) are the effective managing and substantial majority member(s) of SCA, to which the plaintiffs maintain an ownership interest and/or membership interest in the defendant, SCA through membership, ownership of a unit in the Seaspray Condominium Complex; ownership in the Seaspray Condominium Association, or by way of contract(s) or agreement(s), oral, written or otherwise.

199. Despite this ownership interest the defendants, SCA and SCB along with past and present SCB boards, the defendants, SCA pursue a course of conduct that has suppressed the value and interest of the Plaintiffs individual ownership of units within the Seaspray Condominium Complex.

200. The Defendant(s) acted arbitrarily, vexatiously and in bad faith, despite the Defendant(s) being fully aware of and the fact that Plaintiff(s) had a reasonable expectation of long-term appreciation in the value of their units that would sooner or later provide an economic return to the Plaintiffs.

201. Further, the conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

202. As a direct result of the minority oppression by the Defendant(s), Plaintiff(s) are entitled to compensatory

damages, punitive damages, attorney's fees, and cost of suit.

203. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages,

- incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT SIXTEEN

**NEGLIGENCE, GROSS NEGLIGENCE AND GROSS MISCONDUCT
(AS TO THE DEFENDANTS, SCA, SCB ALL INDIVIDUALS
LISTED AS PAST AND PRESENT SEASPRAY CONDOMINIUM BOARD MEMBERS
AND PRESIDENTS AND ALL MEMBERS OF THE DEFENDANT SCB BOARDS FROM
2000 TO 2022 AND ALL PROPERTY MANAGEMENT COMPANIES)**

204. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

205. This count of the complaint applies only to the listed above and not to any other defendants that are not listed under Count Twenty-six.

206. Defendant(s) provided and performed as the majority members and the effective managing members of SCA, to which Plaintiff(s) retained an interest through membership.

207. Defendant(s) provided and performed as the majority members and the effective managing member of SCA.

208. Defendant(s) were obligated to perform their duties in a reasonable manner free from negligence, gross negligence and gross misconduct.

209. Defendant(s) breached their duty in that they negligently, intentionally, willfully and destructively pursued a campaign changing the business relationship, intentionally engaged in self-dealing, and/or committing acts and/or omission of acts for the sole benefit of the Defendant(s)' self-interest, and for the purpose of destroying the Plaintiff(s),

their investment, their business relationships and/or any opportunity for them to derive any benefit from their investment.

210. Defendant(s) failed and/or refused to act or to omit from acts constituting negligence, gross negligence and misconduct unreasonably causing the destruction of the investment, contract(s) and agreement(s) made with the Plaintiff(s) and causing the Plaintiff(s) the prevention and deprivation of any opportunity to benefit from their investment and/or contract(s)/agreement(s).

211. The conduct of the Defendant(s) described above was and still is being performed willfully, intentionally, maliciously with bad faith and evil motive, and therefore the Plaintiffs) are entitled to an award of punitive damages as proven at trial.

212. By reason of the foregoing, as a direct and proximate result thereof, Plaintiff(s) have sustained severe damage, and will continue to sustain damage to effectuate the repair, cure, remedy and replacement of the Plaintiff(s)' lost investment, profits and business reputation.

213. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

a. For compensatory damages and diminution of value of

each owners unit in the complex;

- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT SEVENTEEN

**CIVIL CONSPIRACY
(AS TO ALL DEFENDANTS)**

214. Plaintiff(s) repeats each and every statement contained above as if set forth at length herein.

215. This count of the complaint applies to all of the

defendants that are listed in the complaint.

216. Defendant(s), acted in concert with each other to commit the unlawful and tortious acts set forth above and below to conceal the fact that the Seaspray Condominium Complex buildings had latent structural defects and to conceal the fact that the defendants, SCA and SCB were under funded in their reserve account.

217. Defendant(s) knowingly, intentionally, willfully and maliciously agreed to commit such acts in an effort to harm the Plaintiff(s).

218. Further, the conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial. As a result of the foregoing overt actions committed by the Defendant(s) acting in concert, Plaintiff(s) have suffered damages for which Defendant(s) are liable.

219. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of

the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.

- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT EIGHTEEN

USURPATION OF BUSINESS OPPORTUNITIES (AS TO THE DEFENDANTS, SCA, SCB ALL INDIVIDUALS LISTED AS PAST AND PRESENT SEASPRAY CONDOMINIUM BOARD MEMBERS AND PRESIDENTS ALL MEMBERS OF THE DEFENDANT SCB BOARDS FROM 2000 TO 2022 AND ALL DEFENDANTS NAMED AS PROPERTY MANAGEMENT COMPANIES)

220. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

221. This count of the complaint applies to THE DEFENDANTS, SCA, SCB, ALL INDIVIDUALS LISTED AS PAST AND PRESENT SEASPRAY CONDOMINIUM BOARD MEMBERS AND PRESIDENTS.

222. Defendant(s) through their intentional, willful and destructive efforts orchestrated by them, as the agent, servant, and effective managing members of SCA and the SCB by virtue of their power to manage and control SCA have intentionally, willfully and destructively pursued a campaign changing the terms of the business relationship, intentionally self-dealing, wrongfully terminating employees, and/or committing acts and/or omission of acts for the sole benefit of the Defendant(s)' self-interest, and for the purpose of destroying the Plaintiff(s), their investment, their business relationships and/or any opportunity for them to derive any benefit from their investment, and thus committing and continue to commit material and substantial breaches of the contract(s) and agreement(s), oral, written or otherwise, made with the Plaintiff(s).

223. The Defendant(s), owed a duty to the Plaintiff(s) since Plaintiff(s) retained a minority interest in SCA, whose opportunities the Defendant(s) usurped for themselves.

224. Further, the usurpation of these business opportunities by Defendant(s) was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiffs) are entitled to an award of punitive damages as proven at trial.

225. As a direct and proximate result thereof, the Plaintiff(s) have suffered damages.

226. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to

compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT NINETEEN**CONSTRUCTIVE FRAUD
(AS TO ALL DEFENDANTS)**

227. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

228. This count of the Complaint applies to all defendants named in this complaint.

229. Defendant(s) SCA, SCB, and all individually named defendants that are named present and past SCB board members and Presidents of the defendant, SCB acting as the majority members and the effective managing members of SCB and all defendants that are named as Prior Owners and the defendants, SCA to which Plaintiff(s) retained an interest through membership or by way of contract(s) or agreement(s), written, oral or otherwise, and in so doing made material misrepresentations to the Plaintiff(s), thereby fraudulently and/or negligently inducing the Plaintiff(s) to purchase units in the Seaspray Condominium Complex and that repairs were forth coming to be made in accordance with the recommendations of engineers that were hired

230. The Defendant(s) failed and/or refused to honor, to properly perform and to discharge Defendant(s) duties and obligations owed, owing and arising under the contract(s) and agreement(s), written, oral or otherwise, made between the Plaintiff(s) and the Defendant(s), thereby unilaterally,

intentionally, wrongfully and destructively pursued a campaign including the changing the business relationships, violation of non-compete provisions, intentional self-dealing, and/or omission of acts breaching their duty imposed upon them in that Defendant(s) contacted persons to which the Plaintiff(s) had business relationships and in Defendant(s) self-dealing, and with the intention to unreasonably destroy the investment, contract(s) and agreement(s) made with the Plaintiff(s) and to prevent and deprive them from any opportunity to benefit from their investment and/or contract(s)/agreement(s).

231. Defendant(s)' conduct constitutes constructive fraud, due to the unfairness based on the relationship of the parties involving a breach of fiduciary relationship and due the structure of the Plaintiff(s) relationship with the Defendant(s). Plaintiff(s) lack of ability to prevent Defendant(s) from self-dealing and improperly performing as majority members, and as the effective managing member of SCA.

232. The conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

233. As a direct and proximate cause of Defendant(s)' fraudulent and/or negligent misrepresentations made to

Plaintiff(s), Plaintiff (s) have sustained severe damage, and will continue to sustain damage to effectuate the repair, cure, remedy and replacement of Plaintiff(s) lost investment, profits and business reputation.

234. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWENTY

**FEDERAL RICO
(AS TO ALL DEFENDANTS)**

235. Plaintiff(s) repeats each and every statement contained above as if set forth at length herein.

236. At all times relevant hereto, the acts of Defendant(s), as previously set forth, were part of a scheme to deprive Plaintiff (s) of their property, funds and any opportunity to benefit from their investment and/or contract(s) and agreement(s).

237. At all times relevant hereto, and as previously set forth herein, Defendant(s) conspired to conduct their business and/or other entity(ies) which they controlled or operated as a means to further an enterprise engaged in acts of racketeering activity, including but not limited to theft of Plaintiff(s)' property and monies; false representations

by wire, mail and telephone to deceive Plaintiff(s) into believing that Defendant(s) agreed to buy DEB's interest to their detriment, bribery/extortion of Plaintiff(s) for monies or interests based on false representations, the unilateral and wrongful change to the business relationship, concerning the legal services business and investment; violation of non-compete provisions, intentional self-dealing, and/or omission of acts; and misrepresentations about Defendant(s) concerning the legal services business.

238. These acts by Defendants were acts of racketeering as defined in 18 U.S.C. Section 1961 (1)(A)-(B), in that they included but were not limited to, acts of mail fraud in violation of 18 U.S.C. Section 1341 and wire fraud in violation of 18 U.S.C. Section 1343. Upon information and belief, Defendant(s) engaged in such conduct by willfully and knowingly or through artifice, or by means of false pretenses, misrepresentations and/or promises, and by use of the United States Postal Service by mailing or causing to be mailed or e-mailed some matter or thing for the purpose of executing a scheme to deceive or defraud Defendant(s).

239. These acts by Defendant(s) constitute acts of racketeering as defined in 18 U.S.C. Section 1961(1) et seq.

240. The conduct as described herein is sufficient to

constitute an incident of racketeering activity or predicate acts within the meaning of 18 U.S.C. Section 1962.

241. Defendant(s) attempted and did in fact benefit economically from these racketeering activities and committed these acts for purposes of financial gain.

242. Defendant(s) are liable for engaging in prohibited activities under 18 U.S.C. Section 1961 (a)-(d).

243. Defendant(s) further conspired to conduct their business or other enterprises or entities that they controlled or operated as a means to withhold compensation from the Plaintiff(s) in violation of 18 U.S.C. 1962 (a)-(d).

244. The fraudulent and extortionate scheme outlined herein was the work of an enterprise comprised of all named Defendant(s), falling within the definition of enterprise in 18 U.S.C. Section 1961(4).

245. The enterprises operated by the Defendant(s) were ongoing with each of the Defendant(s) functioning as a continuing unit existing separate and apart from the pattern of racketeering acts in which it is specified the Defendant(s) engaged.

246. Each of the individual Defendant(s) had an interest in the establishment of the enterprise, acquired or maintained directly or indirectly the control of the

enterprises, conducted or participated directly or indirectly in the conduct of the enterprise's affairs, and knowingly and purposefully conspired to permit directly or indirectly, or aid other of the corporate Defendant(s) in, the commission of at least two of the racketeering incidents described herein.

247. The aforesaid prohibited racketeering activities caused injury to the Plaintiff(s) and property interests, including but not limited to, lost money, lost property, reputation and good will.

248. The conduct of Defendant(s) was done in order to conceal their violations of law and racketeering activities.

249. Further, the conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

250. As a direct and proximate result thereof, Plaintiff(s) were caused to sustain and will continue to sustain damages for which Defendant(s) are liable.

251. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to

compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWENTY-ONE**STATE OF NEW JERSEY RICO
(AS TO ALL DEFENDANTS)**

252. Plaintiff(s) repeats each and every statement contained above as if set forth at length herein.

253. At all times relevant hereto, the acts of Defendant(s), as previously set forth, were a person and/or enterprise capable of holding and in fact holding a legal or beneficial interest in property.

254. At all times relevant hereto Defendant(s) received income, distributions, unsupported alleged reimbursements derived directly or indirectly from the above pattern of racketeering and used or invested this income, or the proceeds of this income to deprive Plaintiff(s) of their property, funds and any opportunity to benefit from their investment and/or contract(s) and agreement(s).

255. At all times relevant hereto Defendant(s) received income, distributions, unsupported alleged reimbursements derived directly or indirectly from the above pattern of racketeering and used or invested this income, or the proceeds of this income to deprive Plaintiff(s) of their property, funds and any opportunity to benefit from their investment and/or contract(s) and agreement(s).

256. At all times relevant hereto, and as previously set forth herein, Defendant(s) conspired to conduct their business and/or other entities which they controlled or

operated as a means to further an enterprise engaged in acts of racketeering activity, including but not limited to theft of Plaintiff(s)' property and monies; false representations by wire, mail, e-mail and telephone to deceive Plaintiff(s) into such assignment(s), contract(s) and agreement(s) to their detriment, bribery/extortion of Plaintiff(s) for monies or interests based on false representations, the unilateral and wrongful change to the business relationship, concerning the various legal services business investments, violation of non-compete provisions, intentional self-dealing, and/or omission of acts; and misrepresentations about Plaintiff(s) concerning the various legal services business investments.

257. These acts by Defendants were acts of racketeering as defined in N.J.S.A. 2C:41-2(a), (b), (c) and (d). Upon information and belief, Defendant(s) engaged in such conduct by willfully and knowingly or through artifice, or by means of false pretenses, misrepresentations and/or promises, and by use of the United States Postal Service by mailing or causing to be mailed some matter or thing for the purpose of executing a scheme to deceive or defraud Defendant(s).

258. These acts by Defendant(s) constitute acts of racketeering as defined in N.J.S.A. 2C:41-1 et seq.

259. The conduct as described herein is sufficient to constitute an incident of racketeering activity or predicate acts within the meaning of N.J.S.A. 2C:41-1 et seq.

260. Defendant(s) attempted and did in fact benefit

economically from these racketeering, activities and committed these acts for purposes of financial gain.

261. Defendant(s) are liable for engaging in prohibited activities under N.J.S.A. 2C:41-1 et seq Defendant(s) further conspired to conduct their business or other enterprises or entities that they controlled or operated as a means to withhold reimbursements, distributions and other compensation from the Plaintiff(s) in violation of N.J.S.A. 2C:41-I et seq

262. The fraudulent and extortionate scheme outlined herein was the work of an enterprise comprised of all named Defendant(s), falling within the definition of enterprise in N.J.S.A. 2C:41-1 et seq.

263. The enterprises operated by the Defendant(s) were ongoing with each of the Defendant(s) functioning as a continuing unit existing separate and apart from the pattern of racketeering acts in which it is specified the Defendant(s) engaged.

264. Each of the individual Defendant(s) had an interest in the establishment of the enterprise, acquired or maintained directly or indirectly the control of the enterprises, conducted or participated directly or indirectly in the conduct of the enterprise's affairs, and knowingly and purposefully conspired to permit directly or indirectly, or aid other of the corporate Defendant(s) in, the commission of at least two of the racketeering incidents described herein.

265. The aforesaid prohibited racketeering activities caused injury to the Plaintiff(s) and property interests, including but not limited to, lost money, lost property, reputation and good will.

266. The conduct of Defendant(s) was done in order to conceal their violations of law and racketeering activities.

267. Further, the conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

268. As a direct and proximate result thereof, Plaintiff(s) were caused to sustain and will continue to sustain damages for which Defendant(s) are liable.

269. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray

Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.

- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWENTY-TWO

SECURITIES FRAUD

(AS TO THE DEFENDANTS, SCB, SCA, ALL INDIVIDUALLY NAMED PRESENT AND PAST BOARD MEMBERS OF THE DEFENDANTS, SCB AND SCA, ALL PAST AND PRESENT BOARD MEMBERS INDIVIDUALLY NAMED AND ALL INDIVIDUALLY NAMED PREVIOUS OWNERS)

270. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

271. This count applies only to the DEFENDANTS, SCB, SCA, ALL INDIVIDUALLY NAMED PRESENT AND PAST BOARD MEMBERS OF THE DEFENDANT, SCB INDIVIDUALLY NAMED AND ALL INDIVIDUALLY NAMED PREVIOUS OWNERS.

272. The Defendant(s) retain a majority ownership interest in SCA and the rights, duties and obligations of the effective managing members of these entities, and thereby, by way of their majority interest and the effective managing memberships, Defendant(s), together, effectively controlled the management and membership of the defendant, SCA.

273. The Defendant(s) made material misrepresentations to the Plaintiff(s), fraudulently and/or negligently deceiving Plaintiff(s) into believing that Defendant(s) agreed to buy DEB's interest to their detriment.

274. The transactions to which the Defendant(s) induced the Plaintiff(s) to enter into involved and constituted the purchase of securities.

275. The conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

276. As a direct and proximate result thereof, Plaintiff(s) were caused to sustain and will continue to sustain damages for which Defendant(s) are liable.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form of an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray

Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.

- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

TWENTY-THREE

ATTORNEY FEES IN A DERIVATIVE ACTION PURSUANT TO NJSA 42:2C-68 et seq. AND 42:2C-72 et seq. (AS TO THE DEFENDANTS, SCA AND SCB ONLY)

277. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

278. This count of the complaint applies only to the defendants, SCA and SCB.

279. All of the plaintiffs are members in the defendant, SCA as they are unit owners in the Seaspray Condominium Complex.

280. The present action has been instituted as derivative action to enforce the rights of the plaintiffs' as members in the defendant, SCA.

281. The plaintiffs seek recovery of their reasonable attorney fees and costs in whole or in part upon a successful and/or partial recovery against the defendants, SCA and SCB under the counts of this complaint.

282. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

TWENTY-FOUR

ATTORNEY FEES FOR CORPROATE DISPUTES PURUSNT TO NJSA 14A:12-7 (AS TO THE DEFENDANTS SCA AND SCB ONLY)

283. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

284. This count of the complaint applies only to the defendants, SCA and SCB.

285. All of the plaintiffs are members in the defendant, SCA as they are unit owners in the Seaspray Condominium Complex.

286. The present action has been instituted as derivative action to enforce the rights of the plaintiffs' as members in the defendant, SCA.

287. The present matter involves disputes as to corporate governance, the assessment of fees, sale of the Seaspray Condominium Complex, repair and maintenance of the Seaspray Condominium Complex and other corporate disputes.

288. The members of the defendant, SCA are so divided

that decision cannot be made, the Seaspray Condominium Complex and the defendant, SCB cannot properly manage the affairs of the defendant, SCA.

289. The defendant, SCB are abusive, oppressive and/or unfair towards the minority shareholders in their capacity as members of the defendant, SCB by engaging in tactics designed to oppress the interest of the plaintiffs and to harass the plaintiffs.

290. As a result of the actions listed in this count the plaintiffs seek recovery of their reasonable attorney fees and costs in whole or in part upon a successful and/or partial recovery against the defendants, SCA and SCB under the counts of this complaint.

291. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form of an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.

- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWENTY-FIVE

SPOILATION, CONCEALMENT OR DESTRUCTION OF EVIDENCE (AS TO THE DEFENDANTS SCA AND SCB AND ALL INDIVIDUALLY NAMED BOARD MEMBERS AND PRESIDENTS ONLY)

292. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

293. This count of the complaint applies only to the defendants, SCA and SCB and all individually named Past Board members and Presidents of the defendant, SCB.

294. The defendants, SCA and SCB and all individually named Past Board members and Presidents of the defendant, SCB were obligated pursuant to Corporations, Non-Profit Act, NJSA 15A:1-1 et seq. to maintain the books and records of the defendant, SCA in a proper and orderly fashion and in

accordance with the statutory requirements of the act listed above.

295. The defendants named in this paragraph had a legal obligation to do so and intentionally, willfully, deliberately destroyed material evidence to the detriment of the plaintiffs.

296. As a result of the actions of the defendants the plaintiffs have been deprived of their ability to prosecute their claims against the defendants listed in this paragraph and have incurred additional expenses, costs, attorney fees that would have not been otherwise been incurred by the plaintiffs.

297. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form of an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any

repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWENTY-SIX

CONDOMINIUM ASSOCIATION DUTY TO UNIT OWNERS (AS TO THE DEFENDANTS, SCA, SCB, ALL INDIVIDUALLY NAMED PAST AND PRESENT SCB BOARD MEMBERS AND PRESIDENTS FPR THE PERIOD FROM 2000 TO 2022 ONLY)

298. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

299. This count of the complaint applies only to the defendants, SCA and SCB and all individually named Past Board members and Presidents of the defendant, SCB for the period from 2000 to 2022.

300. The plaintiffs are unit owners in the Seaspray Condominium Complex and are members in the defendant, SCA.

301. The defendants named in this paragraph have in the past and for forty (40) years have acted in bad faith,

fraudulent, self-dealing or unconscionable and in violation of statute, the defendant SCA by-laws and master deed.

302. The defendants named in this count of the complaint have concealed known structural deficiencies within the ambit of the common elements and have failed to perform routine maintenance and repairs to these common elements in violation of the by-laws and master deed requiring same.

303. The defendants named in this count of the complaint have to follow the by-laws and master deed as to maintaining the Seaspray Condominium Complex and maintaining the proper reserve accounts and financial affairs of the defendant, SCA,

304. As a result of the actions of the defendants the plaintiffs have suffered damages and the defendants failed to exercise reasonable care to protect the residents from known dangerous conditions.

305. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of

the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.

- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT TWENTY-SEVEN

BREACH OF IMPLIED COVENANTS OF GOOD FAITH AND FAIR DEALING (AS TO ALL DEFENDANTS)

306. Plaintiff(s) incorporate by reference to the averments contained in the above paragraphs as if each were fully set forth at length herein.

307. Defendant(s), through their aforesaid conduct, have breached their covenant of good faith and fair dealing

implied by their duties and obligations owed and owing and arising under the contract(s) and agreement(s), written, oral or otherwise, made between the Plaintiff(s) and the Defendant(s), which business arrangements created a mutual agency in addition to the fact that the Defendant(s) acted in a fiduciary capacity and were the substantial majority and effective managing member(s) of SCA, to which the Plaintiff(s) retained an interest through membership or by way of contract(s) or agreement(s), oral, written or otherwise.

308. Defendant(s) unilaterally, wrongfully and destructively, intentionally and willfully pursued a campaign of changing the business relationships, gross mismanagement of operations, violation of non-compete provisions, intentional self-dealing, and/or omission of acts, and thus committed and continue to commit material and substantial breaches of the contract(s) and agreement(s), oral, written or otherwise, made with Plaintiff(s).

309. Further, the conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

310. As a direct result of the breach of the implied

covenants of good faith and fair dealing of Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.

j. For any other equitable or appropriate relief.

COUNT TWNETY-EIGHT

CONVERSION

**(AS TO THE DEFENDANTS, SCA, SCB, AND ALL INDIVIDUALLY NAMED
PRIOR AND PRESENT BOARD MEMBERS AND PAST AND BOARD PRESIDENTS
AND ALL DEFENDANTS NAMED AS PREVIOUS OWNERS AND ALL FICTITIOUSLY
NAMED DEFENDANTS)**

311. Plaintiff(s) incorporate by reference to the averments contained in the above paragraphs as if each were fully set forth at length herein.

312. The defendants mismanagement, failure to maintain proper reserves, failure to do repairs and maintenance, failure to maintain the Seaspray Condominium Complex along the previous owners sale of their units and their unjust enrichment from said sale had led to the conversion of the plaintiffs interest in the defendant, SCA to their interest.

313. As a direct result of the breach of fiduciary duty, duty of care, duty of loyalty and self-dealing of the Defendant(s), Defendant(s) converted interest of the plaintiffs in the defendant, SCA owned by the Plaintiff(s) and the membership interest of Plaintiff(s), in SCA, to themselves.

314. The conduct of Defendant(s) described above was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) is entitled to an award of punitive damages as proven at trial

315. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form of an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,

- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT TWENTY-EIGHT
DECLARATORY JUDGMENT
(AS TO THE DEFENDANTS, SCA AND SCB AND ALL INDIVIDUALLY NAMED
PRIOR AND PRESENT BOARD MEMBERS AND PAST AND BOARD
PRESIDENTS)**

316. Plaintiff(s) incorporate by reference the averments contained above as if each were fully set forth at length herein.

317. At all times material hereto, the Defendant(s) were obligated to abide by the terms and conditions of the Master Deed and Bylaws of the defendant, SCA.

318. As implied conditions of the Master Deed and Bylaws of the defendant, SCA and as a matter of law, the defendants listed in this paragraph were each individually and as Board Members and Past and Present Presidents were obligated to abide by a duty of good faith and fair dealing. This includes all past and present SCB Board Members and Past and Present Presidents of the defendants SCA and SCB and prior owners.

319. The operating agreement, Master Deed, and Bylaws does not permit or provide that a member, Board Members and Past and Present Presidents of the defendants SCA and SCB could neglect their obligations to minority members of the defendant, SCA by failing to instate repairs and maintenance,

failure to properly run and operate the defendants, SCA and SCB, failed to maintain a proper reserve account in accordance with the Master Deed and Bylaws of the defendant SCA.

320. The Defendant(s) as the majority members of SCA moved to confiscate the minority membership interests of the Plaintiffs.

321. The Defendant(s) are obligated in the first instance to pursue the objectives of SCA in accordance with the Master Deed and Bylaws of the defendant, SCA and not pursue their own self-interest and to neglected the repair and maintenance of the Seaspray Condominium Complex.

322. Thus, to the extent that the Defendant(s), and its members have and continue to advance their own interests over the best interests of the defendant, SCA they have breached their fiduciary duty and the express and implied terms of the Master Deed and Bylaws.

323. In furtherance of the intent of the Master Deed and Bylaws the Plaintiff(s) further request that this Court declare that the Defendant(s)' decision to not seek a sale, attempt to repair and rehab the Seaspray Conndoinium Complex, failure to due special assessments to address their reserve account shortfall, failure to come up with plan of repair as recommended by their own engineer, Becht Engineering and

otherwise operate the defendants SCA and SCB in accordance with the Master Deed and Bylaws constitutes and an attempt by the defendants to confiscate the membership interests of Plaintiff(s) is a breach of the Defendant(s)' duty of good faith and fair dealing and a breach of Defendant(s)' fiduciary duty to SCA, and its minority members the plaintiffs, and to allow the plaintiffs all to suffer their great "financial damage and loss".

324. The defendants named in this paragraph have contributed to the current state of affairs at the Seaspray Condominium Complex along with the inactions of the previous Boards and past Presidents to the state that the Seaspray Condominium Complex is no longer safe for use and occupancy as well as the complex having reached the end of its useful life.

325. Further, Defendant(s) have acted willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

326. As a result the plaintiffs seek this court, in addition to damages, the dissolution of the current Board of the defendant, SCA, the appoint of a Special Master/Trustee/Receiver for the defendant, SCA and that the Special Master/Trustee/Receiver have the power and authority

to sell the Seaspray Condominium Complex over the objections of the majority members of the defendant, SCA.

327. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.
- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages,

- incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

**COUNT TWNETY-NINE
USURPATION OF BUSINESS OPPORTUNITIES
(AS TO THE DEFENDANTS, SCA AND SCB AND ALL INDIVIDUALLY NAMED
PRIOR AND PRESENT BOARD MEMBERS AND PAST AND BOARD PRESIDENTS)**

328. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

329. Defendant(s) through their intentional, willful and destructive efforts orchestrated by them, as the agent, servant, and effective managing members of SCA by virtue of their power to manage and control SCA, have intentionally, willfully and destructively pursued a campaign changing the terms of the business relationship, intentionally self-dealing, wrongfully terminating employees, and/or committing acts and/or omission of acts for the sole benefit of the Defendant(s)' self-interest, and for the purpose of destroying the Plaintiff(s), their investment, their business relationships and/or any opportunity for them to derive any benefit from their investment, and thus committing and continue to commit material and substantial breaches of the contract(s), Master Deed. Bylaws and agreement(s), oral, written or otherwise, made with the Plaintiff(s).

330. The Defendant(s), owed a duty to the Plaintiff(s) since Plaintiff(s) retained a minority interest in SCA whose opportunities the Defendant(s) usurped for themselves.

331. Further, the usurpation of these business opportunities by Defendant(s) was performed willfully, intentionally, maliciously and with bad faith and evil motive and therefore the Plaintiffs) are entitled to an award of punitive damages as proven at trial.

332. As a direct and proximate result thereof, the Plaintiff(s) have suffered damages..

333. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

COUNT THIRTY

**INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONSHIP
AND PROSPECTIVE ECONOMIC ADVANTAGE
(AS TO THE DEFENDANTS, SCA AND SCB AND ALL INDIVIDUALLY NAMED
PRIOR AND PRESENT BOARD MEMBERS AND PAST AND BOARD PRESIDENTS)**

334. Plaintiff(s) repeat each and every statement contained above as if set forth at length herein.

335. Defendant(s) were aware of the Plaintiff(s) relationship(s), contract(s), agreement(s), whether written, oral or otherwise with SCA as well as the relationship(s), contract(s), agreement(s), Master Deed, Bylaws, written, oral or otherwise, the Plaintiff(s) enjoyed as a member of AFS LLC.

336. Defendant(s) interfered with the Plaintiff(s) contractual relationships and pursuit of prospective economic or contractual relationships in which there existed a reasonable expectation of economic benefit and advantage and where there was a reasonable probability that the interference would cause a loss of the prospective gain or Defendant(s) unreasonably and actually interfered with the contractual

relationship of the Plaintiff(s).

337. Defendant(s)' conduct described above was performed willfully, intentionally, maliciously and with bad faith and evil motive, and therefore the Plaintiff(s) are entitled to an award of punitive damages as proven at trial.

338. Defendant(s) are liable for the harm resulting from their interference.

339. By reason of the foregoing and as a direct and proximate result thereof, Plaintiff(s) have sustained severe damage, and will continue to sustain damage to effectuate the repair, cure, remedy and replacement of Plaintiff(s) lost investment, profits and business reputation.

340. As a direct result of the breach, negligence, willful, wanton, reckless, intentional conduct and breaches of duties of the Defendant(s), Plaintiff(s), are entitled to compensatory damages, punitive damages, attorney's fees, and cost of suit.

WHEREFORE, plaintiffs demand judgment in their favor and against defendants, as follows:

- a. For compensatory damages and diminution of value of each owners unit in the complex;
- b. For an order, in the form or an injunction or otherwise, requiring defendants to cede control of the Seaspray Condominium and the Seaspray Condominium Association to a properly constituted board of directors and/or in the alternative to a Receiver and/or Trustee appointed by the Court.
- c. For an order directing defendants to not make any

repairs to the buildings of the complex until the Court has an opportunity to hear the present matter and appoint a Receiver/Trustee has had an opportunity to review the financial operations of the Defendant.

- d. For dissolving of the defendants, SCA and SCB;
- e. For Partition and Sale of the Seaspray Condominium Complex;
- f. compensatory damages, consequential damages, incidental damages,
- g. punitive damages,
- h. treble damages,
- i. For costs and attorney's fees.
- j. For any other equitable or appropriate relief.

Dated: August 8, 2022 By: /S/ John A. Calzaretto
JOHN A. CALZARETTO, ESQUIRE

JURY DEMAND

Plaintiff(s) demand trial by jury as to all issues triable by jury.

CERTIFICATION

It is hereby certified that there is one known actions or arbitrations, Block Properties, LLC et. al v. Seaspray Condominium Association, et al., CPM-L-65-22 relating to this action and there are parties who should be joined with respect to the matter in controversy. I further certify that there is

the potential for further joinder of other unknown parties to the present action.

By: */S/ John A. Calzaretto*
Dated: August 8, 2022 JOHN A. CALZARETTO, ESQUIRE

DESIGNATION OF TRIAL COUNSEL

NOTICE that **JOHN A CALZARETTA, Esquire** is hereby designated as trial counsel on behalf of **CALZARETTO & BERNSTEIN, LLC** in the above matter pursuant to R. 4:25-1.

By: */S/ John A. Calzaretto*
Dated: August 8, 2022 JOHN A. CALZARETTO, ESQUIRE

CERTIFICATION OF VERIFICATION AND NON-COLLUSION

1. I am the attorney for the plaintiffs in the foregoing complaint to which this is annexed.

2. The allegations of the complaint are true to the best of my knowledge and belief. The complaint is made in trust and good faith and without collusion for the causes set forth therein.

3. There is one pending action that involves the same parties and the same issues and that is the matter of Clapp, et. al. v. Seaspray Condominium Association, et al. Docket No.: CPM-L-65-22.

4. There is currently a motion pending to consolidate the Clapp, et. al. v. Seaspray Condominium Association, et al. Docket No.: CPM-L-65-22 into the present matter for the purposes of trial and discovery.

5. I certify that the foregoing statements made by me

are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: August 8, 2022 By: */S/ John A. Calzaretto*
JOHN A. CALZARETTO, ESQUIRE

CALZARETTO & BERNSTEIN, LLC
Attorneys at Law
459 Route 38 West.
Maple Shade, New Jersey 08052

Members of the Bar
New Jersey & Pennsylvania

Tel. (856) 667-0400
Fax. (856) 667-1477

John A. Calzaretto, Esq. (CPA)
Daniel P. Bernstein, Esq.
Kenneth J. Zoldan, Esq.

April 25, 2023

SENT VIA Ecourts to all counsel of record and to the Court

Honorable James H. Pickering, Jr. JSC
Cape May County Courthouse
9 North Main Street, 2nd Fl
Cape May Courthouse, NJ 08210

Re: Block Properties, LLC, et al v. Seaspray Condo.Assoc. et al
Docket No.: CPM-L-45-22
Motion to Appoint a Receiver/Special Fiscal Agent
Return Date: April 26, 2023
ORAL ARGUMENT

Dear Judge Pickering:

I apologize for the late communication to your Honor, however, at 3:00 pm today the City of Ocean City at the direction of the State of New Jersey Department of Community Affairs, Regulatory Enforcement ordered the City of Ocean City Construction Code Enforcement Officials to condemn/red tag the common areas and buildings of the Seaspray Condominium Complex as an unsafe building and that all residents are to vacate the premises as a result of the actions of the City of Ocean City.

I have attached to this correspondence the email communication from I. Dominic Simone, Esquire the attorney for the Seaspray Condominium Association (SCA) and Seaspray Condominium Board (SCB) confirming the red tagging of Seaspray Condominium Complex.

I would ask that your Honor consider this submission as part of the hearing on the Order to Show Cause for the Appointment of a Receiver that is returnable before your Honor tomorrow at 10:00 am.

Thank you for your cooperation and attention.
Sincerely,

/s/John Calzaretto
John A. Calzaretto, Esq.



Dennis Block <dennis@dblocklaw.com>

SCA - Unsafe Structure Notice - URGENT

9 messages

Monica Green <donotreply@appollo.com>
 To: dennis@dblocklaw.com

Tue, Apr 25, 2023 at 2:14 PM

Dear Seaspray Owners,

By now you may have received notice that the Department of Community Affairs (DCA) has ordered the Ocean City code enforcement office to red tag the Seaspray as an unsafe structure and require all persons occupying the Seaspray to vacate the property. No one will be permitted to occupy the premises until further notice. This unfortunate turn of events is the result of a report filed with the DCA and Ocean City. This action is being taken despite our prior reports advising that the building is not in imminent danger of collapse. Nevertheless, we must advise you to obey the order of removal from the premises that has been issued. We will continue our efforts to address the DCA concerning this report and seek a retraction of the unsafe structure notice. You will be updated as to progress concerning these events as additional information becomes available.

Sincerely,

I. Dominic Simeone, Esq.

When I received the report from the DCA regarding the building, I was not aware of the situation. I am sorry that this development.

[Redacted]
 [Redacted]

[Quoted text hidden]

Dennis Block <dennis@dblocklaw.com>
 To: Monica Green <donotreply@appollo.com>

[Quoted text hidden]

[Redacted] <[Redacted]>
 [Redacted]

[Redacted]

----- Forwarded message -----

Monica Green <donotreply@appollo.com>
 To: Dennis Block <dennis@dblocklaw.com>
 Subject: SCA - Unsafe Structure Notice - URGENT
 [Redacted]

[Quoted text hidden]

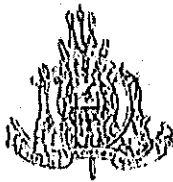
Dennis Block <dennis@dblocklaw.com>
 To: Monica Green <donotreply@appollo.com>

Re: SCA - Unsafe Structure Notice - URGENT
 From: Monica Green <donotreply@appollo.com> <[Redacted]>
 To: Dennis Block <dennis@dblocklaw.com> <[Redacted]>

[Redacted]

[Redacted]
 [Redacted]

4/25/2023, 3:57 PM



CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

CONSTRUCTION CODE OFFICE

SENT VIA CERTIFIED MAIL AND FIRST CLASS MAIL.
70203160000039066300

April 25, 2023

Block Properties LLC
900 Route 168 B-3
Turnersville, NJ 08012

RE: 3313-15 Bay Avenue
Ocean City, NJ
Block: 3306 Lot: 1, Qual: C25

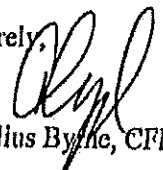
To Whom It May Concern:

Attached please find a Notice of Unsafe Structure for your property at 3313-15 Bay Avenue, Ocean City, NJ. The structure has been deemed unsafe by a structural engineer. Please provide an engineer's report and/or plans along with construction permit applications to restore the property to a habitable condition.

If you should have any questions please contact our office at 609-525-9174.

Thank you for your time and consideration.

Sincerely,


Cornelius Byrne, CFM
CB/ln

Enclosures

115 12th Street, Ocean City, NJ 08226
PH: 609-525-9174 FAX: 609-399-8419

Printed on Recycled Paper



NOTICE OF UNSAFE STRUCTURE

Permit/Control #:

Date Issued: 4/25/2023

Violation #: V-23-00059

IDENTIFICATION

Work Site Location: 3313-15 BAY AVE Ocean City, NJ 08228

Block: 3308 Lot: 1 Qualification Code: C25

Owner In Fee: BLOCK PROPERTIES LLC

Owner Address: 900 RT 168 B-3 TURNERSVILLE NJ 08012

Agent/Contractor:

Address:

To: ☒ Owner☐ Other:☐ Agent/Contractor

DATE OF INSPECTION: 4/25/2023 DATE OF THIS NOTICE: 4/25/2023

ACTION

Take NOTICE that as a result of the inspections conducted by this agency on 4/25/2023 on the above property, an unsafe condition has been found to exist pursuant to N.J.S.A. 52:27D-132 and N.J.A.C. 5:23-2.32.

The building or structure or portion thereof, deemed an unsafe condition is described as follows:

(NONE)

STRUCTURE HAS BEEN DEEMED UNSAFE REFERENCING A RECENT DOCUMENT SENT TO THE CONSTRUCTION OFFICE BY A STRUCTURAL ENGINEER. PENDING A FULL STRUCTURAL ANALYSIS. PERMITS WILL BE REQUIRED TO BEGIN WORK

You are hereby ORDERED to:

☒ Vacate the above structure by 4/25/2023

☐ Demolish the above structure by _____, or correct the above noted unsafe conditions by no later than _____.

Failure to correct the unsafe condition or refusal to comply with this ORDER will result in this matter being forwarded to legal counsel for prosecution and assessment of penalties up to \$1,000.00 per week per violation. You must immediately declare to the Construction Official, your acceptance or rejection of the terms of this ORDER.

Any building or structure vacated pursuant to this ORDER shall not be reoccupied unless and until a certificate of occupancy is issued by the Construction Official.

If you wish to contest this ORDER, you may request a hearing before the Construction Board of Appeals of the Cape May County within 15 days of receipt of this ORDER as provided by N.J.A.C. 5:23A-2.1. The Application of the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in question, the specific sections of the Uniform Construction Code in question and the extent and nature of your reliance on them. You may include a brief statement setting forth your position and the nature of the relief sought by you, and you may also append any documents that you consider useful.

The fee for an appeal is \$100.00 and should be forwarded with your application to the Construction

Board of Appeals Office at: 4 Moore Road
Cape May Court House, NJ 08210

If you have any questions concerning this matter, please call: (609) 526-9173

By Order of

Date:

4/25/23