OCTOBER 2024

CASA COASTER

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Board tweaks six rules

Decision covers grills, storage bins, building security

After months of discussions and disagreements, the board changed the rules of the road here by modifying several sections to its condominium documents at a Sept. 18 meeting.

Three of the modifications are common sense: keep photo records at the front desk of everyone in the building, allow residents to hang up holiday lights a bit earlier each year, allow the price of valet parking to change over time. Three other changes didn't come so easy.

One involves storage bins in the parking garage, the brainchild of Ron Hirsch of the north tower, who sought a convenient spot to stash golf clubs, car seats and other bulky items. Mr. Hirsch bought a 100-gallon bin for a test run. He said it fit well behind the curb stop and the wall by his parking space, even with his large SUV parked there. Some board members balked when he presented his idea at a spring meeting, citing concerns of clutter, safety and discrimination against residents with parking spaces that cannot fit a bin. The popularity of the bin option eventually won the day, as 79% of owners surveyed supported the option.

Casa Costa's rules and regulations were last revised in 2009 and cover policies for using the amenities and other neighborly behavior. They are designed to be adaptable, unlike other governing documents of the property that are difficult to modify.

Another rule change the board blessed sets the stage to bring grills to the pool deck. "There's been a lot of excitement about barbecues ever since the fire marshall gave us the green light," said Jake Harrington, board president. "But first things first, we needed to change our own rule that bans them." Mr. Harrington added that state law still bans grills on unit balconies.

The board also pondered how many fob devices each unit should receive. The 2009 rulebook calls for a fob per registered occupant and minor child, but permitted the office to provide an extra device in special circumstances such as for a caregiver who needs access. Years ago, the board loosened this allowance so every unit owner could request an extra device for convenience, but the change was never codified.

The board deliberated over fob fairness and security, eventually deciding on a new policy. It's a mouthful: the greater of one fob per bedroom or per person, plus one extra one. *CC*



JOHN BATTISTA

The Social Committee advertised star power for an event in early August. When the act didn't show, they leaned on Mildred Klein of the north tower. Ms. Klein, a graduate of a theatre school in London, didn't disappoint. The vocalist performed showstoppers including "Memory" from *Cats* and "My Favorite Things" from *The Sound of Music*.

EST. 2022

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SOUTH FLORIDA'S #1 POOLSIDE AMUSEMENT

INSIDE

MISTER B'S NEIGHBORHOOD
Condos behaving badly. **A4**

NEW IN OUR BACKYARD
A Key West makeover by a Miami bar group. **A6**

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Commissions, costs rattle South Florida real estate

In its largest change in generations, a powerful trade group changed rules designed to transform how real estate brokers are paid and who pays them. Meanwhile, higher housing expenses at Florida condominiums are squeezing owners and prices.

Historically, buyers were not expected to pay their real estate broker directly, as commissions – typically 5% to 6% of the purchase price – were paid by the seller. Many experts said these fees were baked into the listing price, inflating home prices.

After a series of lawsuits, the National Association of Realtors reached a settlement that prevents its members who represent sellers from advertising commissions in the database that brokers use to list and search for inventory. That means that buyer's agents can no longer search the database for homes based on how much they'll be paid. Critics claim that some agents skipped over listings with below-market commissions, even if they fit their buyer's criteria.

A second change involves paperwork. Buyers must now sign a legally binding agreement with their agent before they can begin touring homes together.

"The idea is if buyers are aware that they can negotiate commissions and that if they, in fact, do pay them, not the seller, it might create a more competitive market and possibly a menu of services in the future that would be more comparable to other developed countries," said Norm Miller, professor emeritus of real estate at the University of San Diego.

Another academic is already crying foul. Tanya Monestier, a contracts law professor reviewed the new forms distributed by 20 affiliates of NAR, including Florida Realtors. She called them unreadable, incomprehensible, confusing, in violation of the NAR settlement and designed to scare buyers.

"You should not need to hire a lawyer to understand a listing agreement or buyer representation agreement," she wrote. "These forms do not need to be this complicated. Lawyers and realtor groups have made them this complicated."

With new forms creating friction, the introduction of state safety laws and sky-high insurance premiums are increasing the cost of owning a condominium in South Florida.

Long considered more affordable than a single-family home, the carrying cost of many condos has skyrocketed in recent months. Monthly dues and special assessments are on the rise to cover deferred maintenance and higher insurance premiums. Laws now require inspections and repairs that many properties ignored for years.

Higher dues scare some would-be buyers, causing prices to decline. The number of Florida condos listed for sale over the summer increased 53% from last year, according to Redfin. CC

OPINION

Facing the strange

BY ANDRE APICELLA

One of my favorite songs is "Changes" by David Bowie from 1971: *Ch-ch-ch-ch-changes / Turn and face the strange*.

Turn and face the strange is a good characterization of what came down the pike for the practice of real estate on Aug. 17. That's when the National Association of Realtors negotiated a legal settlement by removing commissions from the Multiple Listing Service.

How did we get here? NAR is the country's largest trade organization with 1.5 million members. NAR policies control the MLS, the listing system realtors use to promote and search for properties for clients. A group of sellers accused NAR and others of essentially forcing sellers to pay commission to a buyer's agent as a condition of adding a listing to the MLS. Though NAR disputes this, one jury handed down a judgment against them. But before NAR appealed, they settled.

"Now, sellers don't have to pay a commission to the buyer's agent," is one narrative catching the attention of would-be sellers.

While not offering a commission to a buyer's agents sounds appealing, have you ever tried selling your own home? Undoubtedly, some have had success, but for most sellers it's a loser bet by a country mile, save for a strong seller's market. Selling your home without offering a commission to agents bringing buyers is fool's gold if you want top dollar for your home. There are over 80,000 agents in South Florida alone, some of whom have buyers for your property.

The most savvy sellers are probably very excited at the notion that many of their neighbors will try selling their homes without incentive for agents to bring buyers. More buyers for them! What an advantage they will have.

Some are expecting that sellers will pay less in commission and as a result home prices will fall. The amount of the commission, or even the existence of a commission, is not a driver of value. The narrative that home prices will fall as a result of these changes is false. The truth is that choosing a good listing agent is always the best way to save on commissions.

In our profession, many sellers choose their agent based on social relationships. Unfortunately, sometimes as a result of the "relationship," they end up paying the highest commissions versus competing brokers. I've seen it for years. There are so many good, experienced brokers who will save you a bundle because that's partly how we strive to earn your business. Isn't it nice when someone sets out to win your business rather than leverage a personal relationship?

Sellers have been paying top dollar for years simply because of whom they chose to be their agent, not because the rules needed to change. My office has been offering reduced commissions for a long time and some owners have already paid total commissions as low as 3% by working with me. You never had to wait for a settlement for a chance to save on fees. You just needed to walk into my office. I don't show up to a lot of parties at Casa Costa, yet I have represented the highest priced sale at Casa Costa this year, and last year at both Casa Costa and Marina Village. You don't have to sacrifice experience and track record to save money.

Back to the settlement. The premise of the lawsuit was in part that sellers were being forced to pay a buyer's agent commission to list on the MLS. And so, some may say that the proposed solution is simply to "force" the buyer to pay commission to a broker instead of the seller? Where's the logic if the point is not to force someone to pay a commission?

Here's the logic: NAR saves millions in attorneys fees settling the lawsuit. The attorneys broke the back of the organization that, without admitting guilt, settled possibly to avoid bankruptcy defending itself.

Another part of the settlement now requires every buyer working with a NAR agent member to sign a Buyer's Representation Agreement if they want to see homes with a realtor. One of the new agreements states that you, the buyer, could pay the buyer's agent commission when shopping for a home. Realtors are now prohibited from showing homes without a buyer's agreement.

By the way, it's a fanciful notion that a buyer will pay the commission. It likely won't work that way when offers start coming in asking the seller to pay anyway – which they still will. This dynamic remains despite the seller not offering to pay the buyer's agent. The calculus changes when the seller is faced with losing a sale in a tight market. So in that scenario, nothing changed.

With more paperwork and sellers still paying the buyer's agent fee, you might find yourself wondering what all this nonsense was about. Strange indeed.

Mr. Apicella is owner of Waterfront Homes & Condos LLC.

New laws curb condo board power abuses



MISTER B'S NEIGHBORHOOD

Condescending, arrogant and smug board members. No access to financial or voting records. Unjust and inconsistent fines levied based on unreasonable rules. Safety problems ignored or hidden. Corrupt lawyers complicit in the fraud.

These examples show how some leaders at Florida buildings have abused their powers in ways that harm residents. These abuses involve selective enforcement of rules, financial mismanagement and retaliation against those who challenge authority.

The Florida legislature was spurred into action when, after decades of mismanagement, the Surfside condo Champlain Towers South collapsed, killing 98 residents. And it took five years of authorities poking around Hammocks HOA, one of the largest in the state, to uncover that its board had stolen $2 million.

New laws went into effect this summer and represent a significant step toward protecting residents' rights, ensuring safer living conditions and promoting fair governance within HOAs and condominium associations.

In Florida, homeowners associations and condominium associations are governed by similar but separate statutes. I highlight the new rules that apply to Casa Costa and other condos.

- **Mandatory structural inspections**: Senate Bill 4D requires that buildings over 30 years old and taller than three stories undergo structural inspections every ten years.
- **Reserve funds for structural repairs**: Condo associations must maintain reserve funds specifically for structural repairs and conduct studies to determine necessary annual contributions. (Previously associations could ignore structural problems by simply refusing to fund reserves.)
- **Enhanced financial disclosures**: Senate Bill 1966 mandates that condo associations provide detailed financial reports, including information on reserve funds and projected expenditures.
- **Board member qualifications**: Mandatory certification courses (now four hours long) within 90 days of election or appointment.
- **Mandatory web pages for condos**: Condos with 25 or more units must establish web pages with essential documents like bylaws, budgets and vendor contracts.
- **Anti-retaliation provisions**: New laws prevent boards from retaliating against dissenters through defamation lawsuits.
- **Increased state oversight**: The Florida Department of Business and Professional Regulation now has greater authority to investigate condo board wrongdoing.
- **Fines**: New laws ensure homeowners receive notice and a chance to respond before fines are enforced, set limits on fines and require detailed record-keeping and payment plans to ease financial burdens.

These changes are designed to balance enforcement power with protections for homeowners transparent governance. But are they a bridge too far?

Examining today's Casa Costa board, it's evident that they are ahead of the curve and already adhering to many of these laws. I asked Jake Harrington, president of our board. He fears that some of the laws are burdens without benefits. "I'm confident that most board members across the state are well-intentioned, but the spirit of this latest round is that we are all presumed guilty," he said. "There were already 200 pages of laws specific to condos, and crimes are crimes; do we really need more special condo crimes?"

Indeed it's unfortunate that sweeping changes are often applied due to a few bad actors, for some condo owners who have experienced unfair and abusive rules, these new laws are a relief.

For instance, one Florida condo board repeatedly fined an owner for minor violations – such as placing a doormat outside her door, an act that was not even prohibited. The owner had previously raised concerns about the board's financial management and believed the fines were retaliatory. Despite requests for a hearing to contest the fines, the board ignored them and imposed further penalties, suspending her access to common areas while continuing to refuse access to financial records. This is the same type of obstruction exercised for years by ex-board members at the Hammocks HOA, as they were stealing and self-dealing. Sometimes when there's smoke, there's fire, and now those ex-board members are in jail. The new law should speed up that process if it happens elsewhere.

Considering the new Florida condo laws, it's reassuring that our association is proactively complying. By prioritizing transparency, adequate reserve funds and open communication, our board sets a positive example. These measures align with the new laws and also reflect a commitment to fair governance and the well-being of all residents. Moving forward, it's clear that our association is dedicated to doing the right thing, striving for a safe and harmonious community for everyone. CC

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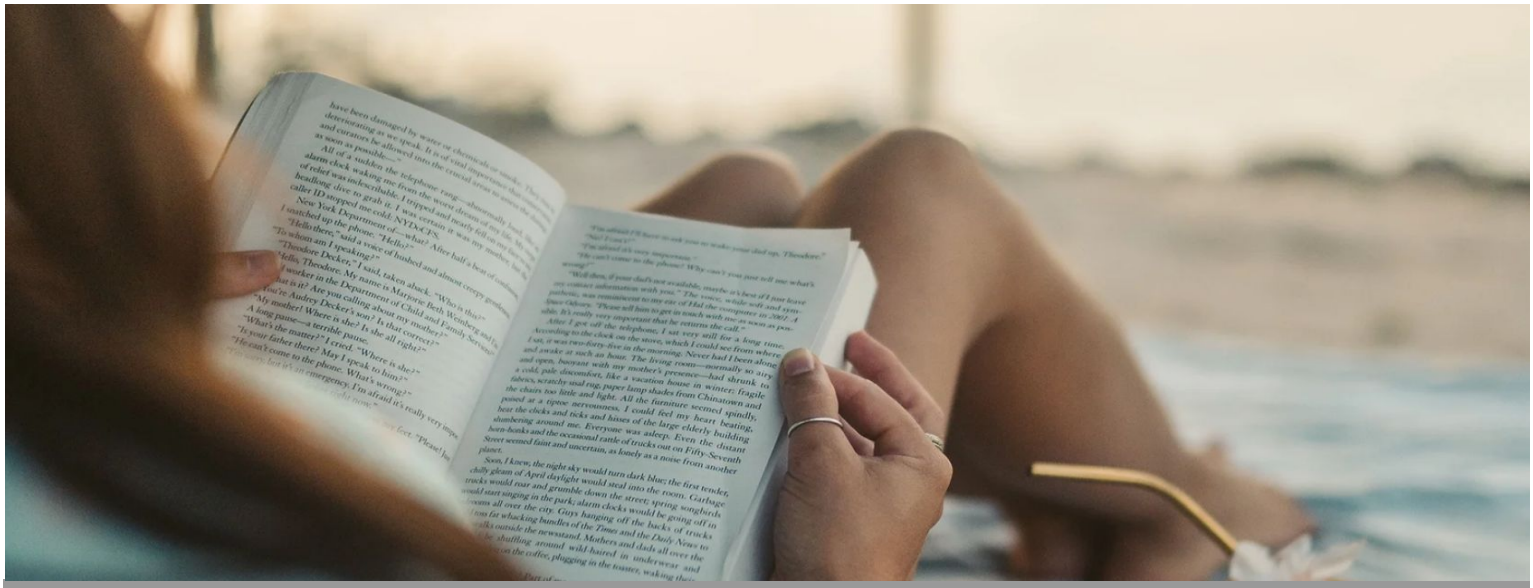
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New name in our backyard

Latest iteration of casual bar and concert venue aims for upscale atmosphere that locals embrace

Casa Costa's noisy neighbor is getting a colorful makeover.

The latest incarnation of the casual outdoor bar and concert venue at 511 NE 4th St., just west of the north tower, is set to debut: Bungalow Bar & Grill.

The new owners, Miami-based Last Call Hospitality Group, aim to continue the location's tradition of live music with a "unique Boynton Beach vibe mixed with a bit of Key West charm," according to their posts online.

"We want a fresh start," said Glenn Schwartz, the new general manager at the Bungalow.

The divisive locale has rocked the neighborhood for nearly 30 years with a casual vibe. Classifieds from decades ago advertise live music at the address, calling the joint various names: Moe Blues, The Red Eye Saloon, Nat's Den and Tiki Tavern & Grill.

Local investor Jim Hall bought the dilapidated property in 2012 for $175,000, according to county records. With assistance from the city, he paved a parking lot and built a beer garden described as "Key West style." With a restored 1971 trailer as a makeshift kitchen, he opened Cuthill's Backyard Bar, named after his business partner. "We serve a lot of beer. We want this to become a tourist destination," Mr. Hall told the *South Florida Sun Sentinel* at the time. He announced plans for a wine bar and steakhouse nearby.

Before long, he shortened the name to The Backyard Bar and stayed open till 2 a.m. A fatal stabbing in 2013 brought an unwelcome shine to the venue, and the treasurer of the business allegedly stole money, according to a former employee.

In 2016, a father and son duo of fishmongers both named Timothy leased the space and took over operations. They initially changed the name to The Twisted Fish before settling on The Fish Depot Bar & Grille, a variation on the fresh seafood store they ran a few blocks away.

For the better part of a decade, the Fish Depot team brought in popular local bands like Spider Cherry. But in recent years, they tightened their belts and the quality of musicians dwindled, according to long-time residents.

Crazy Fingers, a Grateful Dead tribute band, brought big crowds on Thursday nights, but the establishment still had trouble making money. "The problem with a bunch of stoners is they want to eat, but the food took forever and the food was awful," one resident recalled. Neighbors complained about litter.

According to court documents, in the late summer of 2019, the tenants stopped paying rent to Mr. Hall and months later, they defaulted on a financing agreement for their liquor license. With the coronavirus causing legal backlogs, the tenants hung on.

City officials made ten visits over the next three years and issued $5,300 in fines for objectionable odors, no running water, broken coolers, dead roaches and other unsanitary conditions. The Fish Depot finally shut its doors Mar. 31. According to a Boynton Beach police officer, a former chef repeatedly broke into the property in its final days to steal equipment after not being paid.

"We are opening a bright new concept with a Key West vibe," Mr. Schwartz told the *Casa Coaster*. In addition to a fresh paint job, bright orange rooftop, artificial grass and new seating for large groups, the old trailer is gone. "We have a brand new outdoor kitchen for high-quality bar food served by wait staff," he said. A small menu of sandwiches, salads and margaritas will evolve based on feedback.

Mr. Schwartz says he is hiring security to avoid the sort of trespassing and vandalism from crowds in the past.



SOUTH FLORIDA SUN SENTINEL

BLAST FROM THE PAST: "A new adult playground is opening," announces a newspaper in 2012. Below, a makeover of the venue marks its ninth name change in three decades.



LAST CALL HOSPITALITY GROUP

Music-wise, he says it will be "a little bit of everything," and the Bungalow is installing its own sound and lighting system so bands can plug in. He hopes to entice sports fans with nine new TV sets across three bars.

"We're building a fun, relaxing atmosphere for family and friends," Mr. Schwartz said.

Despite weather delays, the Bungalow hopes to open this fall. *CC*

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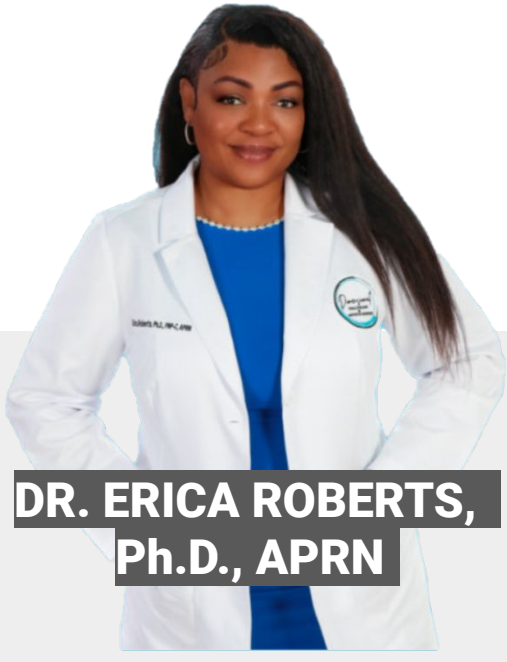
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DUNCE OF THE MONTH



PHOTO BLURRED BECAUSE IT'S SO GROSS

HOT TUB PARTY FOUL: With revolting disregard for civility and hygiene, some dunce left a used personal product on the pool deck when Sept. 1 was that time of the month. The maintenance team responded quickly and deep cleaned the area, but has it really come to this? There are better ways to get yourself noticed in the newspaper. CC

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CasaCostaBB.com/events

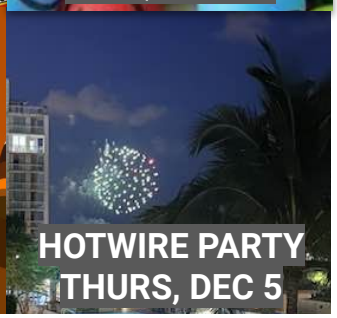












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