

More Litigation in Store for Vizcayne Condos

Samantha Joseph, Daily Business Review

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More legal wrangling is in store for residents of two luxury Miami high-rises, who first fought a successor developer over construction costs and now have filed suit claiming shoddy work.

Residents of Miami's Vizcayne condos filed two lawsuits Nov. 8 against dozens of defendants, including Philadelphia-based general contractor W.G. Yates & Sons Construction Co. and several of its subcontractors.

They claim negligence and 12 counts of breach of contract for alleged malfunctioning plumbing, substandard roofing, compromised balcony railings, cracked stucco, water leaks, deteriorating pipes, up to 15,000 improper post-tension cable encapsulations, faulty bathroom installations and other defects.

"To fix that work, you literally have to swing around the whole building," said plaintiffs lawyer David Haber of Haber Slade in Miami.

Yates' lawyer, William Strop Jr. of Becker & Poliakoff in Fort Lauderdale, said his client has had no opportunity to review the allegations.

"Yates has not been served with either complaint," he said.

Vizcayne has been at the center of litigation for years. It was marketed as luxury residences in two high-rise towers in the heart of downtown Miami at 253 NE Second St. The property includes 409 units in the north tower, 440 in the south tower and 58,000 square feet of retail space, with condo prices ranging from about \$240,000 to \$2.5 million. But it fell victim to the housing crash and was one of the largest real estate collapses in South Florida.

The original developer was Cabi Downtown LLC, the U.S. subsidiary of GICSA, one of Mexico's largest developers. It worked on the towers for about three years before filing for bankruptcy protection in 2010, without completing the project. New private equity investors, RW 244 Biscayne Res LLC and RW 244 Biscayne RET LLC, acquired the development, but residents refused to cover construction costs.

Associations for the north and south towers sued for control, claiming the successor developer misused funds and assigned its expenses as a loan to unit owners. That case settled, with the developer canceling about \$8 million in notes, and the associations preserving all rights against other parties involved in the construction.

The associations exercised those rights this month with two lawsuits seeking up to \$8 million in damages. Vizcayne North Condominium Association Inc. and its counterpart, Vizcayne Master Association Inc., which controls the property's common areas, sued Yates, Y.B. Construction Inc., Fullerton-Diaz Architects Inc., Crespo Consulting Engineering Inc., CLW Concrete Construction Inc., Brightview Landscape Services Inc., Decktight Roofing Services Inc. and others.

The suit is the latest complex construction defect suit by Vizcayne North Association's counsel at Haber Slade, which in September reached a \$22.5 million settlement with Kolter Signature Homes in a construction-defect case that grew so large it required Palm Beach County court administration to build a new venue.

The Vizcayne litigation filed in Miami-Dade Circuit Court involves 29 parties.