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Gardens condo settles with Kolter, subcontractors for \$22.5 million

By Jane Musgrave

WEST PALM BEACH — After years of watching their luxury condominiums disintegrate as water seeped through walls, roofs, windows and sliding glass doors, more than 1,000 residents of a Palm Beach Gardens community on Thursday prepared to put their agonizingly soggy past behind them.

As a Palm Beach County judge was getting ready to bring in scores of potential jurors to decide a 6-year-old lawsuit, attorneys representing San Matera The Gardens Condominium Association announced they had reached a \$22.5 million settlement with insurers for Kolter Homes and those for dozens of subcontractors involved in the ill-fated construction of the community north of The Gardens Mall.

While less than the \$36 million the association was seeking to repair its 30 leaky buildings, its attorney said the accord will allow work to begin so the 676 unit owners can finally move on with their lives.

Even if a jury had awarded the community all of the money it sought, appeals from Kolter, dozens of subcontractors and their insurers could have dragged out for years, further delaying needed repairs, said attorney David Haber.

Attorney Richard Chaves, who represented Kolter Signature Homes, offered a similar explanation as to why his client approved the agreement. It will force insurers representing Kolter-related companies to pay \$11.8 million and insurers for the subcontractors will pick up the rest.

“It’s a fair settlement and we just thought it was a reasonable amount,” Chaves said. “All of the parties are satisfied with the results and we wish the association and the unit owners well.”

Haber credited herculean efforts by court officials in bringing the case to trial and spurring settlement talks. With no courtroom big enough to accommodate the estimated 40 attorneys representing the 18 defendants, court officials reconfigured a courtroom at the South County Courthouse in Delray Beach. Benches were pulled out and replaced with folding tables and chairs for the phalanx of lawyers.

In addition, hundreds of extra jurors were summoned for what was expected to be a more than monthlong trial. Thursday was the third day of jury selection. Palm Beach County Circuit Judge Jack Cox made it clear that a jury would be sworn in and the trial would begin Tuesday as planned, Haber said.

That's when settlement negotiations began in earnest, he said.

The accord was announced in open court in West Palm Beach, where jury selection was being held before the trial was moved to the remodeled Delray courtroom. Roughly 200 prospective jurors had already been interviewed and hundreds more had been summoned.

Jackie Durham, president of the association, applauded the agreement. "It's been a hardship on the community," she said of construction flaws that plagued the development.

Not only have homeowners had to live in with never-ending leaks, but condo fees escalated by as much as 10 percent a year to bankroll legal fees and emergency repairs, she said. The combination created tensions that were exacerbated any time it rained and water found its way into more condos, she said.

"The community itself needs to heal, and then we need to heal the building defects," she said.

Repairs won't be easy or instantaneous, Haber said. It will be three months before all the money arrives. Plans for the remedial work have to be approved and contractors hired. He estimated it would be two to three years before construction is complete.

Still, Durham said, the end is in sight. "This was a big hurdle we jumped today," she said. "We can finally take a deep breath and push on with what we have to do."

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