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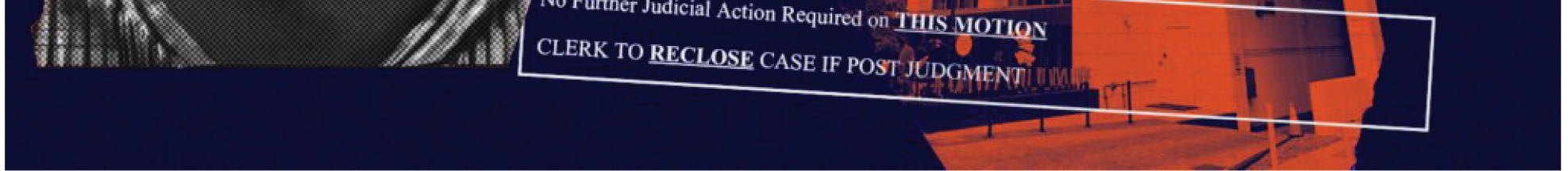


Brickell condo owners notch big win in legal battle with association

Court ordered the association, led by Jacob Kassel, to turn over control, records to winners of recall effort

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Jacob Kassel with 1050 and 1060 Brickell Avenue (Google Maps, Getty)

By Katherine Kallergis

Key Points ✨ ✓



- A Miami-Dade Circuit Court judge ordered the board of a two-tower condo on Brickell Avenue, led by Jacob Kassel, to turn over all records and control to the winners of a recall effort.
- The ruling is a significant win for unit owners who twice voted to recall their board over issues including a \$21 million special assessment and the elimination of electronic voting.
- The new board, consisting of Dorinda Spahr, Jermaine Jones and Javier Noriega, will remain in place until at least the annual election in November, following a legal battle that challenged the previous board's actions and election disqualifications.

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Nearly a year after a group of unit owners at a two-tower condo on Brickell Avenue in Miami voted to oust their association president, a judge ordered that the board, including its president, turn over all records and control of the association.

That means Jacob Kassel, the board president who led the association's passage of a \$21 million



ordered to turn over all records and property of the Brickell association by last Friday, according to the court order. The order is part of the lawsuit the association filed against unit owner James Duddey and others who introduced the recall effort.

The ruling doesn't resolve the litigation involving owners and the association, but it marks a big win for the owners who twice voted to recall their board over the past year. And it reaffirms the Florida Department of Business and Professional Regulation's final order, issued in July, that certified one of the recall efforts. That order determined that the current board be removed and that the board turn over all records and association property, including checkbooks, within 10 business days. Spahr, Jones and Noriega were to be appointed to the board effective immediately. But the association appealed.

"This case really illustrates some of the issues with the current versions of the recall laws," Haber Law attorney Jonathan Goldstein told *The Real Deal*. Goldstein and his colleague, Ariella Gutman, represent unit owners Duddey, Spahr and Nuñez and other owners.

The condo association's attorney, Marc Halpern, and Kassel did not immediately respond to requests for comment.

"Our outcome followed nearly a year of intense and costly legal battles against a board that refused to step down," Spahr, the new president, said. "We won this case because a committed group of owners united, they financially supported the cause and they were relentless."

The new board will remain in place at least until the annual election in November.

Last November, an official election was not held because the Kassel-led association disqualified the three candidates (Spahr, Jones and Noriega), so the existing board remained in power. Jones and Noriega challenged this via a separate arbitration petition filed with the state, while Spahr and other candidates to hold an election,” the lawsuit states.

Owners previously told *TRD* that they had spent more than half a million dollars on attorney fees since last year, in addition to funding the association’s legal fees via their monthly dues. The group of owners said the special assessment, which called for work that included nearly \$8 million in façade restoration and \$3.5 million in work to the garage and basement, was unwarranted for a complex that was completed in 2008 — 17 years ago.

In a separate lawsuit, Jessica Bergman and Antonio Sevillano, a married couple, sued the condo association in December. Their complaint, seeking a class action, amended in January, alleged that the board’s passage of the special assessment violated Florida law by failing to provide a description of the special assessment and by failing to allow unit owners to vote on it. Bergman and Sevillano alleged that the board’s 2-1 vote on the assessment also violated the property’s condo declaration.

The condo association’s attorney, Halpern, told *TRD* this summer that it is the board’s fiduciary duty to maintain the property and make necessary repairs, and Kassel said that his priority was ensuring the property is safe.

Judge Perkins’ latest order was the result of a Sept. 26 hearing. Perkins found that Duddey had demonstrated a “substantial likelihood of success” on the recall effort.

Perkins wrote that the court found the association's violations of the Florida Condominium Act resulted in "irreparable harm." His granting of a temporary injunction, he wrote, "will serve the public interest."

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