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BOCA RATON

Court awards condo owner \$232,170 after lawyer denied records by Boca Raton community board

The condo association has continued to fight the lawsuit despite a state agency and a state judge ruling it violated state law when it refused to allow an owner's lawyer to inspect condo records.

Mike Diamond Palm Beach Post

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BOCA RATON — The Boca View Condominium Association refused to allow an owner's lawyer to inspect association records and now it's paying a hefty price — owners' legal fees totaling \$232,170.

Despite a judge and a state arbitrator ruling that Boca View violated state law by denying access to the records, the condo association refuses to give up the legal battle that began more than four years ago:

The association has appealed the state court ruling.

It filed a separate lawsuit in federal court to overturn the state court ruling.

It has also filed a motion for a rehearing in October, exposing itself to having to pay even more legal fees.

Circuit Judge Carolyn Bell, who inherited the case from retired Judge John Kastrenakes, ruled July 5 that the condo owner who sought to review the records was entitled to \$194,875 in legal fees and \$31,904 in costs.

Bell said Boca View must pay interest on the award for each day that lapses between her order and the payment. Boca View has refused to make any payments while the appeals are pending, and it continues to deny access to the records.

Boca View could face a contempt citation if its appeals are unsuccessful. Lawyers for the condo owner have accused the association of “thumbing its noses” at rulings of the court.

That could result in more fines.

Expert HOA advice: Residents angered that HOA board skipped meeting, made decision via email

There were more than 400 case documents filed with the court on Boca View

Boca View is a 72-unit condo complex off Spanish River Road at the intersection of Camino Real in Boca Raton. It was built in 1972. The units are housed in a four-story building.

Bell said lawyers for the condo owners expended an “enormous amount of time” on the case in the form of more than 400 case documents filed with the court. Bell said it was a result of various strategies taken by Boca View lawyers, adding: “Many issues that should have been relatively straightforward were made quite difficult and required skill, time, and effort for an effective response.”

Kastrenakes upheld the arbitrator’s decision in December just before his retirement. He said state law clearly allows either condo owners or their representatives to inspect association records. Boca View said only the owner of the condo, Eleanor Lepsulter, could examine the records. The judge ruled that the association violated state law by denying access to her lawyer.

Boca View argued that Lepsulter was acting on behalf of someone else, but Kastrenakes ruled that “motivation” was irrelevant, noting: “Her simple desire to have an authorized representative inspect and copy association records for her is, in and of itself, a proper purpose for a request to inspect association records.”

Andrew Schwartz, a lawyer representing Lepsulter, said he is pleased with the court’s rulings and expects to be successful on appeal. Repeated efforts to obtain comment from Boca View lawyers were unsuccessful.

The amount of funds expended by Boca View to deny Lepsulter access to association records has not been made public, but it is expected to be equal to or more than the \$232,170 awarded to Lepsulter’s lawyers.

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More: Homeowners at Black Diamond in Wellington filed papers to recall four board members

Did the Boca View condo association refuse to allow an owner to rent to a nurse?

Boca View is in the midst of another legal battle; this one with the U.S. Department of Housing and Urban Development. The agency is investigating a complaint that Boca View refused to allow an owner to rent to a nurse because it was fearful that the nurse would spread the coronavirus.

Boca View refused for more than a year to allow the federal agency to subpoena records or interview board members and management employees. HUD had to file a lawsuit.

Last month, it worked out an agreement with Boca View but not before HUD threatened the association with sanctions. A federal judge ruled that HUD was within its rights to obtain records it needed for its investigation.

Boca View claims it barred all rentals during the height of COVID, and that the denial of the lease had nothing to do with the tenant being a nurse. Nonetheless, it fought for more than year efforts by HUD to obtain records it sought.

Mike Diamond is a journalist at The Palm Beach Post, part of the USA TODAY Florida Network. He covers Palm Beach County government and transportation. You can reach him at atmdiamond@pbpost.com. Help support local journalism. Subscribe today