FURTHER INSIGHTS ON THE BAN OF FIRE-SOURCED GRILLING DEVICES & ACTIVITIES

AS STATED IN THE RECENT LETTER YOU RECEIVED REGARDING FIRE-SOURCED GRILLING APPARATUSES, THE ATTORNEY'S SIMPLE CONCLUSION WAS THAT LOS PRADOS WAS NOT IN COMPLIANCE WITH STATE LAW, AND IN THE HIERARCHY OF CONDO LAW, STATE LAW SUPERSEDES COUNTY, LOCAL AND LOS PRADOS LAW. COMPLIANCE IS MANDATORY … WE HAVE NO POWER TO IGNORE OR VOTE-AWAY THE MANDATE.

- THE TRUTH OF THE MATTER IS THAT WE SHOULD CELEBRATE THE JANUARY 2023 INCIDENT THAT TRIGGERED OUR ATTORNEY'S INVESTIGATION OF THE MATTER, BECAUSE WITHOUT IT, WE MIGHT HAVE REMAINED UNAWARE OF THE STATE LAW, EXPERIENCED A FUTURE FIRE (THAT COULD HAVE SPREAD TO OTHER UNITS & BUILDINGS) AND CAUSED OUR INSURANCE CARRIER TO NOT ACCEPT ANY RESULTING CLAIMS BECAUSE WE WERE IN VIOLATION OF THE FLORIDA STATE FIRE STATUTE.

  IN FACT, IN THAT JANUARY CIRCUMSTANCE, IT WAS ONLY THE OWNER'S LEVELHEADED-ACTIONS THAT SAVED THE DAY. P.S. WORD HAS IT THAT IN THEIR 2 FIRE-TRUCK RESPONSE, SAFETY HARBOR RECORDED THE EVENT. IF TRUE, WE ARE ALREADY ON THEIR RADAR, WHICH WE WILL NOW BE ABLE TO REVERSE.

- FOR A BOARD, UPHOLDING STATE LAW IS FIDUCIARY RESPONSIBILITY 101. IF THE ASSOCIATION IS IGNORANT OF A CERTAIN LAW, IS MADE AWARE OF IT AND CHOOSES TO IGNORE IT AND A RELATED PERIL ENSUES, THE ASSOCIATION'S INSURANCE SHIELD COULD BE RIGHTFULLY AND EASILY PIERCED. FURTHER, IN SUCH A CIRCUMSTANCE, WHAT CARRIER WOULD EVER TOUCH LOS PRADOS AGAIN AND AT WHAT COST?

  ONCE INFORMED, THE INFORMATION CAN'T BE UNHEARD. AND THAT WOULD NO DOUBT HOLD FOR BOARD INSURANCE AS WELL. WHO IN THEIR RIGHT MIND WOULD EVER WISH TO BE A BOARD MEMBER KNOWING THEY WERE AT RISK OF PERSONAL SUIT FOR NOT HAVING BEHAVED FIDUCIARILY?

- AS AN ANALOGY, ONE OF THE REASONS FOR REQUIRING THAT AN EMPTY CONDO BE CHECKED AT LEAST ONCE A WEEK FOR POTENTIAL DAMAGE (ROOF/PLUMBING LEAKS, MOLD, ETC.) IS THAT THERE'S A FL 718 STATUTE THAT STATES TO NOT DO SO IS CONSIDERED NEGLIGENCE AND THEREFORE GROUNDS FOR NOT NECESSARILY BEING ABLE TO COLLECT ON A HOMEOWNER'S INSURANCE CLAIM IN WHOLE OR IN PART OR EVEN THE REQUIREMENT FOR AN ASSOCIATION TO CURE THE CAUSE OF DAMAGE AND FIX ANY ASSOCIATED SHEETROCK (A IS THE NORMAL RESPONSIBILITY).

- **A FL STATUTE MODIFICATION HAS RECENTLY DIRECTLY AFFECTED US. CASE IN POINT.** SINCE 2010, OUR MONTHLY FEE COLLECTION POLICY READ IN PART, *"UNIT OWNERS ARE PERSONALLY LIABLE FOR THE ASSESSMENTS CHARGED AGAINST THEIR UNITS BY THE ASSOCIATION DURING THEIR OWNERSHIP. ANY ASSESSMENT NOT PAID WITHIN TEN (10) DAYS FROM THE DATE WHEN IT IS DUE, INCLUDING THE DUE DATE, IS CONSIDERED PAST DUE, AND A LATE CHARGE OF TWENTY-FIVE DOLLARS ($25.00) … IF AN ACCOUNT IS NOT BROUGHT CURRENT BY THE END OF THE MONTH IN WHICH THE ASSESSMENT, LATE FEE AND INTEREST ARE DUE, THE ACCOUNT SHALL BE TURNED OVER TO THE ASSOCIATION'S ATTORNEY FOR COLLECTION."*

  THE MANAGEMENT COMPANY RECENTLY MADE US AWARE THAT THE LEGISLATURE HAD MADE A CHANGE - NAMELY THAT A DELINQUENT ACCOUNT MUST BE GIVEN 30-DAYS BEFORE WE TAKE LEGAL ACTION – NOT 20-DAYS. **MEANING THAT ONCE WE WERE INFORMED ABOUT THE CHANGE, WE HAD TO COMPLY … WE CAN'T ENFORCE THE LAWS AS WE WOULD LIKE THEM TO BE, BUT RATHER AS THEY ARE AND WHEN THEY ARE.**

- WE EACH HAVE A MULTIPLE HUNDRED-THOUSAND DOLLAR INVESTMENT TO PROTECT AND JUST BECAUSE ONE INDIVIDUAL WAS VERY CAREFUL WITH THEIR GRILLING ACTIVITIES, IT DOESN'T MEAN THAT CIRCUMSTANCES OR ERROR OR INADVERTENCE WOULDN'T CAUSE A FIRE PERIL TO OCCUR SOMEWHERE ELSE (THAT COULD AFFECT THE CAREFUL INDIVIDUAL). REMEMBER, THE DEDUCTIBLE FOR A FIRE CLAIM (OR ANY CLAIM) FOR THE EXTERIOR OF ONE OR MORE BUILDINGS IS PAID-FOR BY ALL OWNERS.

- ONE MIGHT ASK, "WHAT ABOUT THE ABILITY TO COOK DURING A POWER OUTAGE?" THE SIMPLE ANSWER IS THE WELL-KNOWN 'BATTERY BACKUP' DEVICE SOLD AT HOME DEPOT OR ON AMAZON THAT CAN POWER THE ALLOWABLE ELECTRIC GRILL (IT CAN ALSO DOUBLE FOR A BATTERY JUMP).

- ONE MIGHT POINT TO THIS OR THAT ASSOCIATION THAT HASN'T TAKEN THE SAME POSTURE. THE SIMPLE RESPONSE IS THAT IF ANOTHER ASSOCIATION WISHES TO GAMBLE, THEY'RE LITERALLY "PLAYING WITH FIRE", AND IF A DAMAGING FIRE EVER OCCURRED, THEY WOULD BE SINGING A DIFFERENT TUNE … INDIVIDUALS AND THEIR ATTORNEYS WOULD BE IN FULL PURSUIT OF SCAPEGOATS, WITH THEIR BOD PERHAPS BEING FIRST ON THE CHOPPING BLOCK.

- One might ask, "Why can't the Association provide a fire-sourced grilling device at the Cabana?" There's already a legal stove in the Kitchen that can be used for broiling.

  Beyond that, consider the following:

  1. Let's say there were such a device, and an adult uses it for grilling.
  2. The adult finishes grilling and takes the food to a table for presentation to guests.
  3. Children are curious by nature and unbeknownst to the adult who has left the grilling area, someone else's child approaches the grill, touches the still-hot cover and burns themselves.
  4. What happens next? A pretty good guess is that finger-pointing turmoil ensues.
  5. Who's responsible for such a mishap?
  6. After the dust settles, the responsibility may very well fall to the Association – leaving it with a problem that it didn't need because it falsely-believed that no such thing could ever happen and didn't plan for it. In communal living, it's always best to plan defensively.

- One might ask, "Why not allow fire-based grilling to be done in other parts of the Common Area?" The responses are many. Among them are:

  1. Before a desired change to the Common Area can be made, an affirmative Vote must be sought. Similarly, whenever a change to the Common Area's "use" is sought, a similar Vote must be taken.
  2. One evident fact is that the Common Area contains 227 trees at last count (and that's only the oak species). How many times have we heard that this or that forest fire had been caused by a match or a campfire (grill).
  3. Further, to be fair, if such grilling were allowed in one part of the Common Area, it would have to be allowed in any part of the Common Area … meaning that our property could quickly devolve into trampled-turf/jasmine areas, thereby wasting some of the tens of thousands of dollars spent annually in turf/jasmine upkeep and having an overall appearance unbecoming to that to which we've become accustomed.
  4. Who among us would police such areas for debris?
  5. How many people would be allowed at such "cookouts"?
  6. Who would want such random activities in front of their Condo? And what about the introduction of music and maybe a wiffle ball game to enhance the atmosphere. In short, it's a slippery slope".
  7. Los Prados may look like a park, but all residents in our "park" have an expectation of "quiet enjoyment". Random grilling activities would be the opposite of that.

- As our Attorney noted, we can't claim that our carrier hadn't told us. **Consider that it may be by design,** because if such a damaging fire peril ever occurred, a carrier wouldn't have to say a word and would just have to point to the State Fire Code … and then where would an actual or potential Claim be? **In the Law, ignorance, inaction and/or delay isn't excused.**

- Finally, to put a fine point on the issue, each year we and our agent must "market" our property to prospective carriers. One of our upcoming bullet points will be that Los Prados complies with all State Statutes, especially one that goes to the very heart of insurance coverage and culpability (potential fire and its aftermath) … and to prove it, we would be able to say with confidence and truthfulness that there isn't one such fire-sourced device in existence on the property. Looking like choir boys may help our new Premium!

2 Concluding Thoughts:

1. To repeat, in this matter, we have no legal recourse except to comply. The good news is that by complying, we'll be removing a major risk to life and property.

2. To those who say, "nothing will ever happen", one might respond by saying that history is littered with events that were never supposed to happen.