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May 4, 2010

James H. Lewis, President
Majestic Beach Resort Community Association, Inc.
2140 Eleventh Avenue South, Suite 405
Birmingham, AL 35205

Re: Condominium and Homeowner Association Issues -
Oil Spill Disaster

Dear Jimmy:

The explosion on the Deep Horizon Offshore oil rig operated on behalf of BP is reaching the shores of Panama City Beach sooner than expected in the form of cancellations of future lodging reservations. We are sure that your families, like ours, have been glued to the television and Internet over the past two weeks watching to see if, or more likely when, the spill will actually reach The World's Most Beautiful Beaches.

Like us, you have seen promises from BP to pay all "legitimate" claims for damages, promises from the State and Federal governments to hold BP accountable and "high profile" personal injury attorneys already discussing the class action lawsuits that they have or intend to file.

As a client or friend of our law firm, we are providing this information to you with the hope that it will assist you in preserving what you may need to file as a "legitimate" claim.

When a natural disaster like a hurricane strikes your damages are usually obvious and relatively easy to prove. You need to prove that the wind or water caused you damage and the cost to repair that damage is \$X. In the case of the oil spill, any damage to your land and property would likely be self-explanatory, too.

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The cause and damaging effects of an oil covered coastline speak for themselves, and cleanup costs can be quantified. The more difficult damages to prove will be your lost profits based upon people deciding not to come here because of the oil spill.

This catastrophe is different than a hurricane. First, it is man made and initial reports suggest that it is due in part to the negligence of BP and or its agents. If the oil does reach our shores, then you may have some physical damage to your real estate.

However, the bulk of your damages, if any, are going to most likely be in the form of economic damages due to lost revenues from canceled reservations or even folks just refusing to book reservations this year, so-called "silent losses".

A legitimate claim for economic damages will require you to prove that your losses are a direct and foreseeable consequence of the oil spill.

Generally, lost profits are too speculative for an injured party to recover. However, where the injured party can prove the amount of lost profits with reasonable certainty, and that the wrongful act caused the loss, lost profit damages will be allowed.

In your particular case, you will need to prove the amount of rental income that you would have received but for the oil spill, and you will have to prove that the oil spill caused or contributed to the loss of rental income.

Record keeping at this time will be critical to your potential claim. Be sure to preserve all of your records for this year and the last three (3) years, at least. Additionally, it will be helpful to your claim if you keep a record of the number of cancellations due to the oil spill. Each property is different, so if you would like assistance in setting up a record keeping system, then please call us.

The law also requires you to mitigate your damages. That is, you are required to take affirmative steps to try and lessen the impact of BP's actions on your business, for example, re-renting rooms that have been canceled or keeping wash basin available for guests to remove oil from their feet, chairs, coolers, etc., before they enter your rooms. The rationale is that an injured party should not recover for those consequences of the wrongful act that are readily avoidable.


By this letter, we wanted to give you a broad overview of legal issues on the horizon because of this unprecedented oil spill disaster. However, we do not mean to in any way suggest that we have raised all potential issues affecting associations. What if property values as a whole drop due to the spill? Would damages for that be recoverable or be considered too remote? There is no clear answer to that question.

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In summary, we believe that associations need to be forewarned and forearmed that major legal issues are coming with the oil spill. If you have any questions regarding this letter, then please call us at the office and we will set up an appointment with you immediately to discuss your potential property and economic loss claims, and/or any other association issues.

Very truly yours,

**BURKE BLUE
HUTCHISON WALTERS & SMITH, P.A.**


Elizabeth J. Walters

EJW:mmc