



## INFORMATION REGARDING HURRICANE IAN REPAIRS

---

The Association's contractors remain hard at work repairing the extensive damage caused by Hurricane Ian. For the time being, the premises remains a construction site, and the Association's Board of Directors and management thank you for your continued patience and cooperation. While the condominium is under construction, please be advised of the following, which pertain to prospective purchasers, real estate agents, and lenders.

The Association is under contract to completely restore the units and the common elements. This includes, without limitation, the floor, wall, and ceiling coverings within the units. In accordance with Florida's Condominium Act, the construction contract contemplates restoring the units to a base-level that includes replacement of like quality with the Condominium's original plans and specifications. The unit owners have been provided with a reasonable opportunity to contract directly with the Association's contractor, at their own cost and expense, to make upgrades from the base-level fixtures and finishes.

Once a decision has been made by a unit owner to upgrade from the base-level, the Association does not have control over the upgrade or the unit owner's construction contract with the contractor. It is up to unit owners to disclose their construction contracts to prospective purchasers and lenders. Unit owners are also responsible for disclosing the existence, or possibility, of any construction liens associated with their construction contracts. Please note that the Association is not responsible for the increased costs of upgrades selected by a former owner beyond the base-level. It is up to the unit owners to plan with their contractor to ensure that all contractual obligations are upheld, including, if necessary, assigning rights to those contracts to new owners.

The condition of the units changes almost daily, as work progresses. The Association makes no representation or warranty concerning the present condition of any unit, nor will the Association comment or confirm the fixtures, finishes, and materials that have been installed in any unit. Purchasers and lenders must perform their own due diligence, and unit owners are responsible for all information that they, or their agents, publish advertising their unit, including, without limitation, pictures of unit interiors.

In regard to any distributions of surplus insurance proceeds, please note that the Association will only make distributions to individuals who are members of the Association as of the date of distribution. The Association is a not-for-profit corporation. Pursuant to § 617.0505, F.S., the Association is prohibited from making distributions except under special circumstances. These include disbursements to members to disburse the Association's common surplus and any surplus insurance proceeds. Owners who are in the process of selling their units should negotiate with prospective purchasers for how any surplus funds will be accounted for between the parties.

Likewise, owners and prospective purchasers must determine how they wish to address future installments of existing and anticipated special assessments. Pursuant to § 718.503, F.S., purchase and sale agreements for residential condominium units must disclose an owner's responsibility with regard to the payment of regular or special assessments. The most commonly used contract rider for this purpose will also include a provision requiring that a seller either pay all special assessment installment payments that come due prior to the date of closing or the entire balance of all installment payments, including those payments that have not yet become due. An estoppel certificate issued by the Association will list all assessments, special assessments, and other moneys owed to the Association on the date of the certificate's issuance as well as anything that will become due during the effective period of the certificate. However, it is up to purchasers and sellers to work out how to pay for the monetary obligations.

Finally, please note that neither the Condominium nor the Beach itself are fully recovered. Please be aware that your experiences, and the experiences of your guests and renters, may differ from prior years, due to ongoing construction. Similar challenges are being faced throughout the local hospitality industry, some even more complex. The Association is not responsible for any misrepresentation of the Condominium's condition or its facilities by unit owners and listing agents.