

Parkway Maintenance and Management Report January 16, 2023

SB 4-D Information and Updates

The first deadline imposed by Senate Bill 4-D requires condominium associations to inform the state by January 31, 2023, of the number of buildings on the condominium property that are three stories or higher, the number of units those buildings contain, and the county in which they are located. To be compliant with this requirement contained in Section 718.501(3)(a) of Florida Statutes, that information was submitted to the Florida Division of Condominiums, Timeshares and Mobile Homes on October 3, 2022.

Senate Bill 4-D also requires that condominium associations conduct mandatory structural inspections of buildings three stories and taller when they reach a specified age. These mandatory inspections, called a "milestone inspection", must be performed by an architect or engineer licensed in the State of Florida. The initial milestone inspection is required for all condominium buildings 3 stories and taller that are at least 30 years old, based on the date the certificate of occupancy was issued. All such buildings with a certificate of occupancy issued on or before July 1, 1992, must have their milestone inspection completed by December 31, 2024.

Phase 1 of the milestone inspection is a visual examination. If there is no sign of substantial structural deterioration to any building components, Phase 2 is not needed. Phase 2 of the milestone inspection may involve destructive or nondestructive testing at the inspector's direction. The Association will need to start funding the inspection(s) with the upcoming budget that will take effect on July 1, 2023. This will ensure the Association will have the funds on hand to start paying for the inspections.

At this time there are a total of 71 buildings in the On Top of the World condominium community impacted by this requirement. At the direction of the On Top of the World Condominium Association, Inc., the Management Company is in the process of contacting local engineers and architects to provide inspection costs and to perform the milestone inspections, including Phase I and if necessary, Phase II.

In addition to the milestone inspection requirements, the Association must arrange for a structural integrity reserve study on all buildings 3 stories and taller. This must be completed by December 31, 2024. This requirement applies to all Associations in existence on or before July 1, 2022, regardless of the age of the buildings. The reserve study may be performed by any person qualified to perform such a study, but the visual inspection portion of the reserve study must be performed by an engineer or architect licensed in the State of Florida. Due to the length of time, it will take to complete these studies the Association will need to start funding these reserve studies in the budget that takes effect July 1, 2023. It is important to note that the failure of an association to complete its required structural integrity reserve studies is considered a breach of an officer's and director's fiduciary relationship to the unit owners and subjects the officers and directors to liability for monetary damages.

As of December 31, 2024, Associations with buildings 3 stories or higher can no longer waive reserves for the identified building components and reserves must be funded for them in full, based on the reserve study, over their remaining useful life.

The specific components that this applies to are identified in Senate Bill 4-D as follows: Roof, load-bearing walls or other primary structural members, floor, foundation, fireproofing and fire

protection systems, plumbing, electrical systems, waterproofing and exterior painting, windows, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the previously listed items.

The Association would not start funding these reserves until the July 1, 2024, budget. Keep in mind that there may be legislative changes that go into effect before then that could alter the requirement. Additionally, the Association wouldn't know how much to reserve until the completion of the reserve studies. The reserve studies must be prepared every 10 years. Upon completion, the milestone inspection reports and structural integrity reserve studies will be official records of the Association that must be maintained for at least 15 years and they must be provided to prospective purchasers of condominium units. In addition, Senate Bill 4-D requires condominium associations to transmit the milestone inspection summary to all unit owners, to post a copy on the condominium property, and to publish a copy on the association's website.

At the direction of the On Top of the World Condominium Association, Inc., the Management Company is in the process of contacting local architects or engineers, licensed in the State of Florida, to conduct Phase I and if needed Phase II of the milestone inspections and the structural integrity reserve studies. Of the companies contacted, all reported they could/would not perform the inspections and studies but would forward contact information for any individuals or companies they could recommend. From that, we are currently working on many leads and will provide updates as necessary.