Final Order No. BPR-2008-04580 Date: 5-22-08
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STATE By: Brandon M. Nichols

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS, AND MOBILE HOMES

IN RE PETITION FOR DECLARATORY STATEMENT

PORT ROYAL OWNERS ASSOCIATION, INC.

DS 2008-016

Docket No. 2008015339

_____/

DECLARATORY STATEMENT

The Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes (Division) hereby issues this Declaratory Statement pursuant to sections 120.565 and 718.501, Florida Statutes. The issue is whether the association is required to assess for hurricane damage repair and reconstruction based on ownership interest in the common elements or whether only the owners in the buildings primarily affected by hurricane damage should be assessed for the costs of repairs and rebuilding under section 718.111(11), Florida Statutes.

PRELIMINARY STATEMENT

On March 7, 2008, the Division received a petition for declaratory statement from The Port Royal Owners Association, Inc. (Association), by and through its attorney, Karl M. Scheuerman.

Notice of receipt of the petition was published in Florida Administrative Weekly on April 4, 2008.

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FINDINGS OF FACT

The following findings of fact are based on information submitted by Association. The Division takes no position as to the accuracy of the facts, but merely accepts them as submitted for purposes of this final order.

1. Port Royal of Pensacola, Inc. (Developer) submitted the land for Port Royal, a Condominium (Port Royal) to the condominium form of ownership in July 1984. Declaration of Condominium of Port Royal, a Condominium (Declaration) at 1. Port Royal is a leasehold condominium located in Pensacola, FL, with the land leased from the City of Pensacola under a 99-year lease. Id. at art. III; Pet. for Dec. Stmt. at 1. Port Royal contains sixty (60) units in four (4) buildings. Pet. for Dec. Stmt. at 2. The declaration adopts the Condominium Act. Declaration at 1.

2. Association was created to operate and govern Port Royal. Art. VII, Declaration; art II.1, Articles of Incorporation of Port Royal Owners Association, Inc. (Art. of Incorp.). Association is a condominium "association," as that term is defined by section 718.103(2), Florida Statutes (2007).

3. The four buildings of Port Royal consist of: the Hargood Court building, which contains seven (7) townhouse-type condominium units; the Mentor Court building, which contains nine (9) townhouse-type condominium units; the Kingston Court building, which contains five (5) townhouse style condominium units; and the Galvez Towner, which is a seven-story tower containing thirty-nine (39) condominium units. Art. IV, Declaration; Pet. for Dec. Stmt. at 2.

4. Article VI of the Declaration contains a schedule of the units, unit types, ownership interests in the common elements, and approximate square footage of the

sixty (60) units contained in the four buildings of Port Royal. There are: twenty-two (22) "Class I" units which are assigned a 1.62% ownership share in the common elements; two (2) "Class II" units with a 1.66% ownership share in the common elements; thirty-two (32) "Class III" units with a 1.69% ownership share in the common elements; and four (4) "Class IV" units with a 2.74% ownership share in the common elements. Pet. for Dec. Stmt. at 2; see also art. VI, Declaration (giving a building-by-building breakdown of the type of units and percentage share allocated to each unit contained in each of four buildings).

5. Article XIV(B) of the Declaration provides in part that:

> Common expenses shall include, but not be limited to, costs and expenses of operation, maintenance and management, . . . insurance premiums, . . . [and] operating expenses of the Condominium Property and Association, . . .(but only as to the common elements and limited common elements, and Association Property, except for emergency repairs or replacements deemed necessary to protect the common elements and property chargeable to the individual condominium unit concerned). . . .

Pet. for Dec. Stmt. at 2-3.

6. Article XVI of the Declaration provides in part that:

> (A) The owner of each condominium unit, at his own expense, shall see to and be responsible for the maintenance of his unit and all equipment and fixtures therein, ... Furthermore, the owner of each unit shall, at his own expense, be responsible for the upkeep and maintenance . . . of the . . . exterior doors including glass doors, and all screens, all windows and plate glass in windows, and plate glass or screens in the perimeter walls of the unit. . . .
>
> (B) Except as provided in Paragraph A above and elsewhere in this Declaration, the Association shall be responsible for and see to the maintenance, repair and operation of the

> common elements and limited common elements of the condominium.

Pet. for Dec. Stmt. at 3.

7. Article XVIII of the Declaration allows the Association to make substantial and material alterations, improvements and additions to the common elements upon approval of 2/3 vote of the members of Association. "The cost of such alteration, improvement or addition shall be assessed and collected as a common expense and each owner shall bear the same portion or share of such cost as is the share of the common elements appurtenant to his unit." Id.

8. Under Article XIX(A) of the Declaration, the board of directors is required to keep the condominium property insured, including the buildings, all fixtures and personal property appurtenant thereto owned or used by the Association or constituting a part of the common elements or limited common elements and all units contained therein. Pet. for Dec. Stmt. at 3. The insurance premiums and all fees and expenses of the Insurance Trustee are part of the common expenses assessed to unit owners. Art. XIX(C), Declaration.

9. Article XIX(D) provides that:

> D. MANDATORY REPAIR. Unless there occurs substantial damage or destruction to all or a substantial part of the Condominium Property as hereafter defined, and subject to the provisions hereinafter provided, the Association and the unit owners shall repair, replace and rebuild the damage caused by casualty loss, which shall be borne by the unit owners in proportion to their shares of the common elements as set forth in the Declaration.

10. Article XIX(I) provides in part that:

> I. REPAIR AND RECONSTRUCTION. The provisions of Paragraphs D, E, and F to the contrary notwithstanding, each separate and distinct Apartment Building shall for the purposes of reconstruction and repair in the event of casualty loss be treated as if the same were the only Apartment Building in the Condominium, to the effect that:
>
> 1. All insurance proceeds reasonably attributable under the insurance policy to the damage or destruction to one such Apartment Building shall be first used for the reconstruction and repair of that building, to the extent that proceeds are sufficient; and, in the event that such proceeds are not sufficient, the condominium unit owners in that building alone shall be assessed in proportion to their relative shares of the common elements for any deficiency or insufficiency in the funds necessary to such reconstruction or repair as contemplated by Paragraph D above. (emphasis added).

11. Port Royal suffered major damage from Hurricane Ivan on September 16, 2004. Pet. for Dec. Stmt. at 5. Most of the damage occurred to the townhome units, while less damage occurred to the tower units. Id.

12. The board of directors found that there was a deficiency between the cost to repair and reconstruct the property and the amount of insurance proceeds received. Id. The board determined to undertake a series of special assessments to pay for repairs and reconstruction. Id. A special assessment in the amount of $600,000.00 was levied on October 14, 2004, to cover the repair expenses not covered by insurance proceeds. Id. This assessment was based on the common element percentage owned by each unit according to Article VI of the Declaration; not on the assessment method contained in Article XIX(I) of the Declaration. Id. In other words, all unit owners were assessed for the damages sustained to all buildings as opposed to only assessing unit owners for the damage sustained to their particular buildings.

13. The Board also passed a special assessment on November 14, 2005 in the amount of $900,000.00, to pay a short-term loan that had been secured to pay for the hurricane repair expenses. Id. This assessment was assessed to all unit owners based on their percentage ownership of the common elements, as was the October 14, 2004 assessment. Id.

14. At all times relevant to the determination of the issues raised in this Declaratory Statement, Port Royal was insured by Citizens Property Insurance Corporation, under its Citizens Property Insurance Corporation, Wind Only Policy, Citizens No. 368573. Policy 368573 contained a separate deductible for each of the four buildings comprising the condominium.

14. Association is unsure whether it is required to assess for hurricane repair and reconstruction expenses against all unit owners in accordance with their percentage ownership in the common elements, or whether it may assess a deficiency against those unit owners in the buildings most damaged by the storm under section 718.111(11), Florida Statutes. Id. at 5-6.[1]

CONCLUSIONS OF LAW

15. The Division has jurisdiction to enter this order pursuant to sections 718.501 and 120.565, Florida Statutes.

16. Association has standing to seek this declaratory statement.

17. The law in effect when the hurricane damage occurred in 2004 is controlling in this case, recent amendments notwithstanding. Under the law as it stood in 2004, if damage is caused by an insurable event, the cost of the repairs is covered by section

[1] The Division notes that the Association has not raised the issue of how it might assess unit owners for payment of the covered loss that fell within the deductible.

718.111(11), Florida Statutes (2003), which controls over any provision to the contrary in a declaration of condominium. See § 718.111(11), Fla. Stat. (providing that "paragraphs (a), (b), and (c) are deemed to apply to every residential condominium in the state, regardless of the date of its declaration of condominium.")

18. The Division finds in this case that the repair costs exceeding the amount of reimbursement obtained from insurance proceeds must be treated as a common expense and may not be assessed only against owners of those units that suffered the most damage.

I. The Condominium Act.

19. Section 718.111(11), Florida Statutes (2003), provides, in part, the following (emphasis added):

> (11) INSURANCE.--In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, paragraphs (b) and (c) are deemed to apply to every condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this section. Therefore, the Legislature requires a report to be prepared by the Office of Insurance Regulation of the Department of Financial Services for publication 18 months from the effective date of this act, evaluating premium increases or decreases for associations, unit owner premium increases or decreases, recommended changes to better define common areas, or any other information the Office of Insurance Regulation deems appropriate.
>
> (a) A unit-owner controlled association shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). . . . An association may also obtain and maintain . . . flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board. An association or group of associations may

self-insure against claims against the association, the association property, and the condominium property required to be insured by an association, upon compliance with ss. 624.460-624.488. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(b) Every hazard insurance policy issued or renewed on or after January 1, 2004, to protect the condominium shall provide primary coverage for:

1. All portions of the condominium property located outside the units;

2. The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and

3. All portions of the condominium property for which the declaration of condominium requires coverage by the association.

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. Beginning January 1, 2004, the association shall have the authority to amend the declaration of condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.

(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to

> an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.

Ch. 2003-14, § 4, Laws of Fla.[2]

II. Legislative History.

20. The legislature intended to clarify what portions of the insurance and insurable expenses for the condominium were to be paid by the association and what portions were paid by an individual unit owner for hazard policies when it amended this section in 2003.[3] Fla. H.R. Comm. on Jud., CS for HB 165 (2003) Staff Analysis 1, 9 (Mar. 20, 2003) (available on Florida Legislature website < http://www.flsenate.gov/data/session/2003/House/bills/analysis/pdf/>). This provision also appeared in CS for CS for SB592 in which it was presented as a clarification of "the property and casualty insuring responsibilities of the association provided . . . "that these responsibilities "do not affect any insurance contract provided to a unit owner." Fla. Sen. Comm. on Jud., CS for CS for SB 592 (2003) Staff Analysis 10 (Apr. 15, 2003)

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[2] Under § 718.104(4)(m), Fla. Stat. (2003), a declaration may not contain provisions inconsistent with Chapter 718.

[3] Section 624.604, Florida Statutes (2004), defines "property insurance" as insuring real or personal property against any "hazard." The insurance law does not define hazard, but does list the following as hazards: "pollution and environmental hazards," "disease hazards," fire hazards," and "slip and fall hazards." § 627.0625(3)(a), Fla. Stat. (2004). Cases have been found that use the term in reference to policies covering fire and hurricanes. Public Fire Ins. Co. v. Crumpton, 148 So. 537 (Fla. 1933) (fire); Tench v. American Reliance Ins. Co., 671 So.2d 801 (Fla. 3d DCA 1996) (hurricane). "Hazard" is generally defined as "danger, peril," "accident," "a condition that tends to create or increase the possibility of loss," "the effect of unpredictable, unplanned, and unanalyzable forces." Webster's 3d New Internat'l Dict. 1041. Traditionally, coverage of hazards under policies protect for damage caused by fire, wind, rain. In Re: Pet. for Dec. Stmt Lake Maitland Terr. Apts., Inc., at 3, (Sept. 30,1983) (denying petition as declaratory statement was not proper forum to determine liability under insurance policy for damage caused by water leak around soap dish).

(available on Florida Legislature website <

http://www.flsenate.gov/data/session/2003/Senate/bills/analysis/pdf/>). The insurance amendment:

> [S]upersedes certain coverage requirements for hazard insurance policies provided to the association, covering a condominium building, and requires, instead, that every policy issued or renewed on or after January 1, 2004 to provide primary coverage for the following: All portions of condominium property located outside the units; Condominium property located inside the units as initially installed or replaced with like kind and quality in accordance with original plans or, if those plans are not available, as they existed in the unit at the time of conveyance; and all portions of the condominium property required to be covered under the declaration.

Id. The bill expanded the list of items that could not to be covered under the association's policy. These include items in the interior of the unit: water filters, countertops, and air conditioning compressors serving only one unit. Id. The items excluded from association coverage are covered under the unit owner's policy. Id. The amendment became effective on May 21, 2003. Ch. 2003-14, § 16, Laws of Fla.

21. A discussion on amendment 2 to House Bill 165, which added this provision to that bill, presented the insurance amendment as a clarification that the association insures all of the condominium building and improvements and a unit owner purchases what amounts to "renter's" insurance on the personal property and contents. Tape recoding of H.R. Comm. on Jud. (Mar. 5, 2003) (available at Fla. Dep't of State, Div. of Archives, ser. 414, carton 1413, Tallahassee, Fla.). The amendment was to ensure "fairness between condo[minium] associations and the unit owners." Id. (comments by Rep. Mack). The amendment provided for "reasonable deductibles" to be determined by the board. Id. (comments by R. Penske). If the damage to the

building under the association policy falls below the deductible, the association must pay for it. Id.; see also Pet. for Dec. Stmt., The Renaissance of Pompano Beach II, DS89500 (May 23, 1990) (finding that unit owner was properly assessed as a common expense to pay deductible for damages to another owner's unit for a common element water leak).

22. Finally, the amendment repealed a provision grandfathering in declarations recorded before 1986 that required an association to insure portions of units that the unit owner was required to repair or replace. The repealed language is:

> However, unless prior to October 1, 1986, the association is required by the declaration to provide coverage therefor, the word "building" does not include unit floor coverings, wall coverings, or ceiling coverings, and, as to contracts entered into after July 1, 1992, does not include the following equipment if it is located within a unit and the unit owner is required to repair or replace such equipment.

Ch. 2003-14, § 4, Laws of Fla. (unit owner coverage of floor, wall and ceiling coverings was moved to subsection 3, only the grandfathering language was repealed).

23. The legislature intended to make condominium property casualty insurance contracts uniform across the state and make it clear which items of the condominium property were the responsibility of the association to insure and which were the responsibility of the unit owner. Beginning January 1, 2004, all Florida condominium associations were responsible for adequately insuring for the replacement cost of the buildings, and the components of the building structures, which includes the windows, doors, screens, and sliding glass doors that were initially installed when the building was built even where these are designated as inside the unit's boundaries. §

718.111(11)(a)-(c), Fla. Stat. But see Pet. Dec. Stmt. Bayway Isles-Point Brittany Two Condo. Corp. Inc., DS98-010 (May 22, 1998) (finding that under § 718.111(11), Fla. Stat. (1992) as applied to a 1969 condominium, the declaration and statute required unit owners to insure and replace the appliances).

24. The amendment also allowed associations that were required under their declarations to insure the property for full replacement value to contract for a reasonable deductible. This would assist associations with lowering the cost of insurance.

25. Under the amendment, unit owner insurance is no longer an option, but an obligation. In making this change, the legislature correspondingly deleted reference to a unit owner's repair obligation. The items excluded from association coverage are covered under the unit owner's policy. Now, all repairs made after an insurable event are governed by the statute, declaration insurance provisions as amended by the statute, and insurance contracts.

26. Under insurance regulations, condominium associations purchase commercial residential property insurance and unit owners purchase personal residential property insurance. Fla. Off. of Ins. Reg., Condominium Insurance Report, at 1, (Nov. 19, 2004) (filed with the legislature in accordance with § 718.111(11), Fla. Stat.; § 627.4025, Fla. Stat. (2003)).

III. Application of Amendment

27. The issues raised here by Port Royal are somewhat similar to issues raised by Molokai Villas in In re: Molokai Villas Condominium Association, Inc., BPR-2006-06542, Division Docket No. DS 2006-028 (September 7, 2006). In Molokai Villas, the Association petitioned the Division for a Declaratory Statement regarding whether it could assess the cost of rebuilding two condominium buildings that had been destroyed by fire and hurricane against the four affected unit owners, where the repair costs exceeded the amount of insurance reimbursements. Twenty-one unit owners had suffered no damage to their units, and the declaration of condominium attempted to assign repair costs in the event of a casualty to only those units that were damaged. The Division found that an association may not shift the cost of an insurable common expense to only the affected unit owners, because section 718.111(11) prevents allocating the risk of repair costs in such a manner .

28. The damage in the instant case was caused by an insurable hazard covered by the insurance provisions of section 718.111(11), Florida Statutes, which determines who is responsible for insuring for the replacement cost of the components. Therefore, the cost of repairs is covered by section 718.111(11), Florida Statutes. As discussed below, this overrides the provisions of article XIX(E) of the Declaration, which state that "[i]f the net proceeds of insurance are insufficient to pay the estimated costs of reconstruction and repair, the Board of Directors shall . . . levy a special assessment against all unit owners for that portion of the deficiency related to common elements and limited common elements in accordance with each unit's share of the common expenses . . . ."

29. Associations have a duty to obtain adequate insurance and manage the insurance proceeds for the benefit of the unit owners under section 718.111(11), Fla. Stat. See also Nat'l Title Ins. Co. v. Lakeshore 1 Condo Ass'n, Inc., 691 So. 2d 1104 (Fla. 3d DCA 1997) (holding that the association had a duty to exercise reasonable care in managing insurance proceeds for the benefit of the unit owners and mortgagees). The statute requires that unit owners insure the contents of the unit that are excluded from the association's policy. § 718.111(11)(c), Fla. Stat. For example, window treatments are excluded from the association policy, so a unit owner insures the window treatments. Id. But windows are not excluded form the association policy, so the association insures the windows. Id.

30. Insurance for the association is a common expense. §§ 718.111(11), 718.115(1)(a), Fla. Stat. (2003); § 718.115(1)(f), Fla. Stat. (2007); accord art. XIV(B), XIX(C), Declaration (common expenses include the costs designated as common expenses under the declaration and the Act). Insurance proceeds are treated as revenue to the association and constitute common surplus. § 718.103(10), Fla. Stat. (2003); accord art. XIX(E), Declaration. Under Article XIV(B) of its Declaration, Port Royal treated the 2004 to 2005 annual casualty insurance premium for the insurance coverage mandated under section 718.111(11) as a common expense, and did not attempt to allocate premium costs between its four apartment buildings.

31. Section 718.115, Florida Statutes (2007) provides in relevant part:

(1)(a) Common expenses include the expenses of the operation, maintenance, repair, *replacement, or protection* of the common elements and association property, costs of carrying out the powers and duties of the association, and any other expense, whether or not included in the foregoing, designated as a common expense by this chapter, the declaration, the documents creating the association, or the bylaws. . . .

. . .

(f) *Common expenses include the costs of insurance* acquired by the association under the authority of s. 718.111(11), including costs and contingent expenses required to participate in a self-insurance fund authorized and approved pursuant to s. 624.462.

. . .

(2) Except as otherwise provided by this chapter, funds for payment of the common expenses of a condominium shall be collected by assessments against the units in that condominium in the proportions or percentages provided in that condominium's declaration. In a residential condominium, or mixed-use condominium created after January 1, 1996, each unit's share of the common expenses of the condominium and common surplus of the condominium shall be the same as the unit's appurtenant ownership interest in the common elements.

(emphasis added.)

32. An association is not required to insure 100% of the replacement cost of the condominium property, but must have adequate insurance to replace the property destroyed by a hurricane.[4] A board may include reasonable deductibles in replacement value insurance policies. § 718.111(11)(a), Fla. Stat.; accord art. XIX(A), Declaration. A deductible amount is part of the cost of insurance and is a common expense for which reserves could be set aside. §§ 718.111(11), 718.115, Fla. Stat.; accord art. XIV(B), Declaration. Therefore, an association may not shift the cost of an insurable common expense to an individual unit owner -- or group of individual unit owners -- as common expenses must be assessed in the proportions or percentages required under sections

[4] Port Royal is required to insure the full replacement value of the property under the Declaration. Art. XIX(A).

718.104(4)(f) and 718.115, Florida Statutes. An Association may not excuse one owner from payment without excusing all owners from payment of the common expenses. § 718.116(9), Fla. Stat.

33. Pursuant to section 718.111(11), Florida Statutes, unit owners are unable to insure the building structure, and must rely on the Association to insure for property damages to their condominium buildings under article XIX(H) of the Declaration. Under article XIX(H) of Port Royal's Declaration, the Association manages the insurance claims and proceeds as the agent for the owners. It must do so with reasonable care since the Association, not the unit owners, is entitled to file a claim under the association's policy. Id.; see Nat'l Title Ins. Co. v. Lakeshore 1 Condo Ass'n, Inc., 691 So.2d 1108. Therefore, shifting the risk and liability to unit owners for hurricane damages is unfair and inconsistent with the allocation of insurable risks determined by the legislature.

ORDER

Based on the findings of fact and conclusions of law, it is declared that under sections 718.111(11) and 718.115, Florida Statutes (2004), Port Royal Owners Association, Inc., which is required to insure the condominium property under article XIX(A) of the Declaration and section 718.111(11)(a), Florida Statutes (2004), may not pass the cost of repair and reconstruction following a hurricane to only those unit owners whose units were damaged in the casualty, notwithstanding provisions in the declaration shifting this cost and responsibility to unit owners.

DONE and **ORDERED** this 20th day of May, 2008,

at Tallahassee, Leon County, Florida.

MICHAEL T. COCHRAN, Director
Department of Business and
Professional Regulation
Division of Florida Land Sales, Condominiums
and Mobile Homes
Northwood Centre
1940 North Monroe Street
Tallahassee, FL 32399-1030

Division of Florida Land Sales,
Condominiums & Mobile Homes

NOTICE OF RIGHT TO APPEAL

THIS FINAL ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY ADVERSELY AFFECTED PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(c), FLORIDA RULES OF APPELLATE PROCEDURE BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL ACCOMPANIED BY APPROPRIATE FILING FEES AND WITH THE AGENCY CLERK, 1940 NORTH MONROE STREET, NORTHWOOD CENTRE, TALLAHASSEE, FLORIDA 32399-2217 WITHIN THIRTY (30) DAYS OF THE RENDITION OF THIS FINAL ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail Karl M. Scheuerman, Esq., Attorney for Port Royal Owners Association, Inc., Lutz, Bobo, Telfair, Eastman & Lee, 2155 Delta Blvd., Ste. 210-B, Tallahassee, FL 32303, on this 28th day of May, 2008.

Robin McDaniel
Robin McDaniel, Division Clerk

Copies furnished to:

Janis Sue Richardson
Chief Attorney