

AT SECURES FIRST-OF-ITS-KIND INJUNCTION FOR FLORIDA CONDO OWNERS

Armstrong Teasdale Partners [Glen Waldman](#), [Jeffrey Lam](#) and [Marlon Weiss](#) secured a significant victory in Florida's Third District Court of Appeal which impacts developers and condominium owners and sent reverberations throughout the entire state of Florida. This first-of-a-kind appellate ruling places significant limitations on the power and rights of developers to take control of condominium associations, amend the governing documents, and terminate condominiums so they may demolish the condominiums and redevelop the property while running roughshod over the individual property rights of innocent unit owners.

Armstrong Teasdale represents seven unit owners in the Biscayne 21 Condominium, a 13-story condominium located on the waterfront of Biscayne Bay in Miami. Over the course of the last few years, a developer began buying up units in the condominium with the goal of obtaining enough units to control the condominium association and terminate the condominium form of ownership so it could tear down the building and develop three luxury condominium towers. Armstrong Teasdale's clients refused to sell and agree to termination.

Condominium termination, the process where a condominium association is dissolved, is most common when a developer wishes to re-develop a parcel of land that an aging or small condominium is located on, and a small handful of unit owners resist. Often, what will happen is that the developer slowly acquires a significant number of the units (and thus, the voting power) and then "votes" to terminate the condominium form of ownership. However, it must be done so according to Florida law and the Condominium's governing documents, including its Declaration.

Pursuant to the Biscayne 21 Condominium Declaration, unanimous approval of unit owners was required to terminate the condominium. One-hundred percent approval of unit owners was also required to amend the declaration to alter the voting rights of unit owners.

However, in 2022 after the Developer had bought up over 90% of the 191 units in Biscayne 21 and replaced the Association Board with its designees, the developer-controlled board adopted amendments to the Declaration lowering

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the voting threshold to 80% for termination, after which they sought and received from itself approval to terminate the condominium. All of Armstrong Teasdale's clients voted against the amendment and the termination. Despite this, the Developer proceeded to submit a Plan of Termination to the Division of Condominiums and evict Armstrong Teasdale's clients from their homes.

Armstrong Teasdale sued the Developer and the now Developer-controlled Association on behalf of the resisting unit owners, saying the voting threshold failed to comply with the Condominium Act of 1974, which was in force when the Declaration was originally issued and under which the unit owners had purchased their units, and that the requisite unanimous vote was not received to amend the Declaration or terminate the condominium. Armstrong Teasdale then moved for a temporary injunction to prevent the Developer from kicking the unit owners out of the building and proceeding to demolish the condominium.

The trial court denied the owners' request for a temporary injunction, concluding the amendment to change the requisite vote to terminate from unanimous approval to 80% approval did not alter unit owners' voting rights, and the termination was thus proper. As a result, the Developer cut off all utilities to the condominium, forcing the remaining unit owners to flee their homes.

Armstrong Teasdale appealed the denial of the temporary injunction to the Third District Court of Appeal on an expedited basis. Prior to issuing its opinion, the appellate court issued an order staying the underlying trial court action, which included all efforts by the Developer to demolish the condominium.

On March 13, 2024, Florida's Third District Court of Appeal rendered its opinion reversing the trial court's order and remanding it back for the entry of a temporary injunction on the basis the unit owners had a substantial likelihood of success on their claims. The appellate court agreed with Armstrong Teasdale's arguments that the unit owners' veto power for termination was removed by the amendments to the Declaration. As such, 100% approval of all unit owners was necessary to amend the Declaration's provisions regarding termination. The appellate court also determined that the original condominium declaration did not automatically incorporate amendments to the Condominium Act lowering the permissible voting threshold for termination.

In reversing the trial court's ruling and instructing the trial court to enter an injunction, the Third DCA found that the machinations of the Developer were improper and took away the inviolate voting rights of the unit owners. Essentially, the appellate court ruled that termination of the condominium was improper and in violation of Florida law and the Condominium's Declaration, meaning Armstrong Teasdale's clients were improperly kicked out of their



homes, and remain owners in the condominium.

“Our clients all purchased their units knowing the condominium could not be terminated without their consent and approval,” said Armstrong Teasdale Partner Jeffrey Lam. “Despite their objections to amend the Declaration and terminate the condominium, the Developer brazenly proceeded with their plans with utter disregard to our clients’ rights and livelihood. Hopefully this is a lesson to other developers looking to follow the same playbook that they must follow the rules.”

Partner Glen Waldman added that “this decision has tremendous consequences for the Developer, who decided to proceed with termination and efforts to demolish the condominium, basically leaving our clients homeless. Although the likelihood of getting our clients back in the building, which has now been rendered uninhabitable, is slim, the Developer is now subjected to millions and millions of dollars in damages.”

The appellate court’s decision has significant implications in Florida as an emerging sphere of large-scale developers seek to acquire older buildings in highly sought-after locations and displace long-time unit owners for redevelopment.

The case has garnered significant coverage in local and national media including [Law360](#), [Law.com](#), [CBS News](#), [South Florida Business Journal](#) and more.