

Insurance agents: Why rates for Florida homeowners are soaring in 2022

BY MAX MARBUT, ASSOCIATE EDITOR



Homeowners should expect an increase of at least 30% to 40% when they renew their policies this year, according to Tim Irish, president of J.P. Perry Insurance.

Insurance agents who sell property and casualty policies have a warning for their current and potential clients:

“The Florida homeowners insurance market is currently in crisis and has been for years due to fraud and frivolous litigation,” said Kyle Ulrich, Florida Association of Insurance Agents president and CEO.

In an April 2, 2021, letter to state Rep. Blaise Ingoglia, chair of the House Commerce Committee, state Insurance Commissioner David Altmaier wrote that in 2019, Florida accounted for 8.16% of homeowners insurance claims filed in the U.S., but the state accounts for 76.45% of the lawsuits filed in the U.S. against insurance providers.

“Florida’s ratio of suits opened to claims closed without payment is eight times higher than the next highest state at 27.75%,” Altmaier wrote.

“The state of Connecticut has the second highest ratio of suits opened to claims closed without payment at 3.4%. The next highest three states are New Jersey (2.45%), Rhode Island (2.23%), and Pennsylvania (1.82%).”

Roof claims lead list

The trend began several years ago when most of the disputes were related to water damage claims. Now, roof replacement is leading the litigation, said Danny Sands, president of Brightway Insurance – The Sands Agency.

“Roofing companies have become storm chasers. When there is a bad storm in an area, the next day they canvass the area with salespeople,” Sands said.

Florida insurance regulations allow policyholders to assign their benefits to a contractor, who then can make repairs and send the bill directly to the insurance carrier.

“The contractor will repair the roof and the homeowner thinks that’s great. On the back end, the fair market value for the repair might be \$20,000 but the contractor bills the insurance company \$40,000. The insurance company denies the claim, so the contractor sues,” Sands said.

“At that point, the insurance company makes a decision to pay the inflated price or go to court and maybe pay the inflated price plus attorney fees.”

Insurers are in business to stay in business and pay claims, so the cost of claims and litigation must be passed along to policyholders. The increased cost is causing premiums to rise from one year to the next.

“Insurance companies did not build this into their rate structures, but you want your insurance company to make money so they can be there when you make a claim,” said Tim Irish, president of J.P. Perry Insurance.

He said homeowners should expect an increase of at least 30% to 40% when they renew their policies this year. Some of his clients in Northeast Florida are seeing their annual premium more than double compared with last year.

The increased cost of doing business has driven some insurance carriers to stop writing policies in Florida, reducing options for consumers.

Sands said several years ago, there were more than 50 companies offering homeowners insurance, but that has dropped to about 10 options.

“In 2014, it was a soft market because a lot of companies wanted to enter the market, especially in North Florida because we miss the big storms. They were all lowering rates to be super competitive and get market share. I’ve never seen such a hard market like we’re in today,” Sands said.

Citizens grows

The inflation in premiums is driving many property owners to Citizens Property Insurance Corp.

It was created by the state Legislature in 2002 as a not-for-profit, tax-exempt government entity to provide casualty insurance to property owners unable to find coverage in the private market.

Policyholders pay smaller premiums when they are insured by Citizens.

In Duval County, the average premium is 10% to 20% less; in Clay County, 20% to 30% less; and in St. Johns County, 30% to 40% less, according to public rate hearing data submitted to the state by Citizens.

Pricing premiums below the private sector market rate means that if Florida were to be hit by a major catastrophe, Citizens could run out of money to pay all of its claims, a possibility the Legislature considered when it established the insurer.

Citizens is funded by policyholder premiums; however, Florida law requires that Citizens levy assessments on most Florida policyholders if it experiences a deficit in the wake of a particularly devastating storm or series of storms.

With private sector companies leaving the market, the state-run insurer has gone from being a safety net to being the insurer of choice for many homeowners.

“We write more Citizens than any other company. It’s about 50% of our business,” Sands said.

“Citizens has grown a lot, but long term, it’s not the solution. It needs to be the insurer of last resort,” Irish said.

“Citizens is expected to surpass 1 million policies in 2022 and will be the least expensive or only option for many Floridians as private companies continue to sustain losses and cut policyholders,” Citizens said in a Dec. 15 news release.

“In November, Citizens’ policies were found to be cheaper than private market options 97% of the time. Since January, Citizens’ policy count has grown from 541,000 to 745,000, a 37.7% increase,” it said.

The growth raised concern among Citizens’ board members, who voted in December to recommend the maximum 12% rate increase allowed by law for 2022

Citizens Chairman Carlos Beruff said in the release the widening premium gap, coupled with high litigation rates, is making it nearly impossible for Citizens to shrink and return to its role as Florida’s residual insurer.

He also said the recommendation to apply the maximum allowable rate increase is necessary to stem the flood of policies to Citizens.

“We need to take a look at all our options to stop this unsustainable trajectory. Any solution is going to require legislative action to provide Citizens with the tools and flexibility to return to its role as an insurer of last resort,” Beruff said.

Legislative changes

Now in session, the Legislature is considering changes that could improve the market for private sector property and casualty insurance providers.

Under the proposed bills, SB 1728 and HB 1307, customers would not be allowed to renew their policy with Citizens if a private insurer offers a premium that is within 20% of what Citizens would charge for the same coverage.

In addition, the Senate bill also would reduce coverage for roof damage and allow insurance companies to sell policies that would not offer replacement coverage for a roof that is at least 10 years old, a move that could help control the annual premium increase trend.

“The Legislature has been debating changes to roof coverage and the Florida Hurricane Catastrophe Fund that could have a more immediate premium impact. However, it remains to be seen whether anything will pass,” Ulrich said.

Insurance agents say homeowners need to understand the real purpose of casualty insurance.

“It’s an education issue. We have to help people understand that a property policy is not a warranty plan. It is not the insurance company’s responsibility when someone doesn’t put a roof on their home for 30 years,” said Veronica Della Porta, president of The Della Porta Group.

Irish said homeowners facing premium increases – or their insurance company declining to provide coverage for an older roof – might consider replacing the roof themselves to save money on insurance costs or qualify for coverage.

“You have to maintain your house. A roof has a reasonable life. If it’s 15 years plus, you might look at the cost of replacement. You could recoup some of the cost,” Irish said.

Citizens: Up, down and up again

Citizens Property Insurance Corp. was established in 2002 by the state Legislature. It is intended to be the “insurer of last resort” for Florida property owners who are unable to buy coverage in the private sector insurance market.

Citizens grew to about 900,000 policyholders by 2004, according to data provided by Citizens in September 2021.

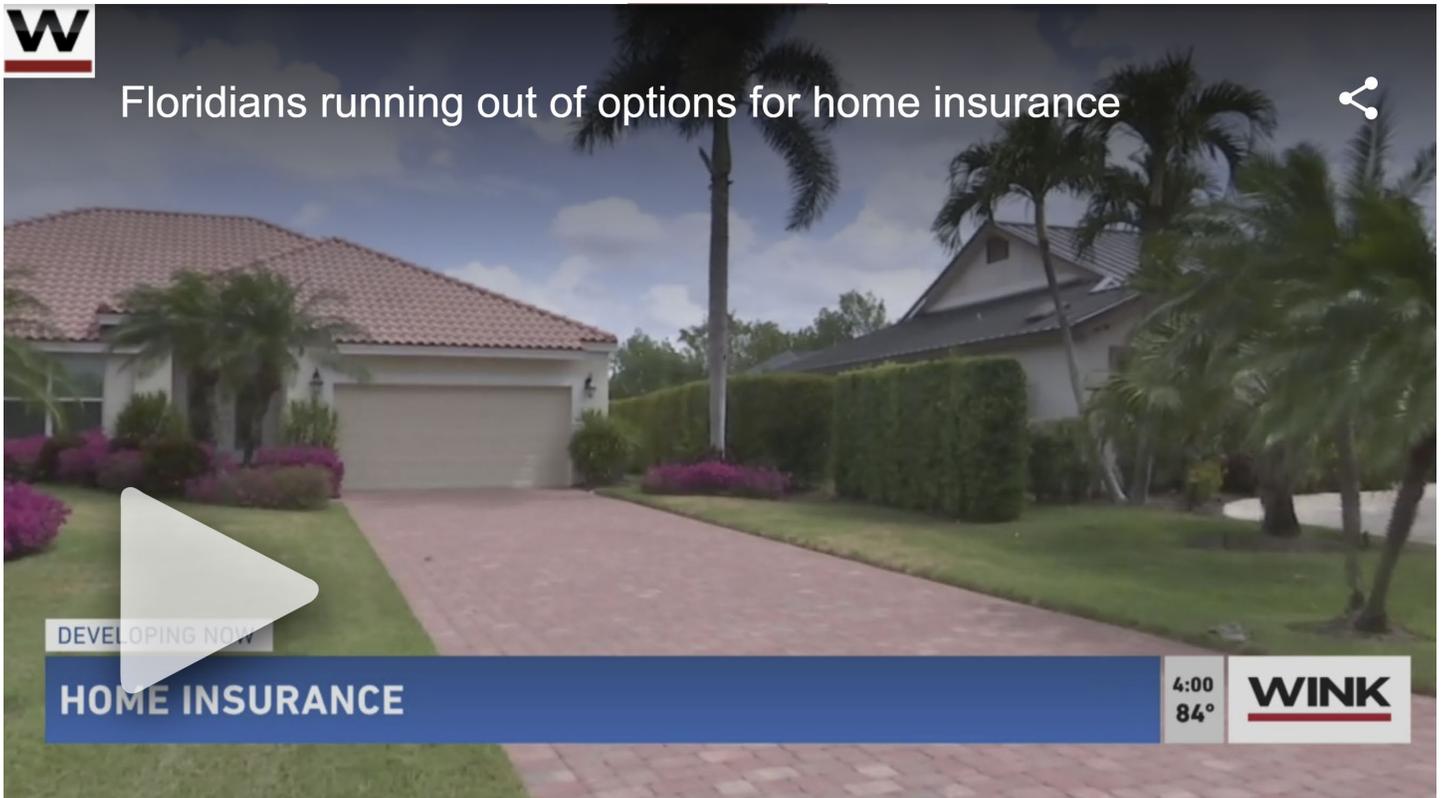
The policy count peaked in 2011 at about 1.5 million policies in force. The count then steadily declined until 2019, when about 500,000 policies were in effect.

Citizens is experiencing another growth period that started three years ago. In September 2021, more than 715,000 buildings were insured. Citizens is expected to surpass the 1 million policy mark in 2022.

<https://www.jaxdailyrecord.com/article/insurance-agents-why-rates-for-florida-homeowners-are-soaring-in-2022>

Floridians running out of options for home insurance

BY MICHAEL HUDAK, REPORTER | MATTHEW SEAVER, WRITER



Five insurance companies are pulling out of Florida, leaving homeowners with no choices in providers and major price increases. It is an issue that has been ongoing in Florida and with each season, is becoming worse.

Lawmakers know there is a problem and they are working on a solution that is controversial because critics say it favors insurance companies at the expense of homeowners.

A bill lawmakers are debating would allow companies to not offer replacement coverage for roofs more than 10-years-old.

WINK News asked Mark Friedlander of the Insurance Information Institute if he would do business as an insurer in Florida, "Haha, a loaded question. Thank you. I have to compose myself for that."

Friedlander operates out of northwest Florida but he feels the pain of the whole state.

"The state of homeowners insurance in Florida right now is in crisis, we are in serious crisis mode, where we're on a trajectory that the private insurance market could collapse," said Friedlander.

If that happens, Ken Skelton, and just about every other homeowner in Florida, will feel the pain.

Skelton said his insurance, "It was almost doubled, went up. \$1,700."

Skelton's insurance company jacked up his premium.

The Insurance Information Institute says only three out of 52 insurance companies in Florida actually made a profit last year.

Friedlander said, "every insurer is losing money, and they're losing a lot of money."

Those 52 insurance companies writing policies in Florida lost more than \$1.6 billion.

This year, fewer insurance companies will write policies in Florida because of those losses.

That is forcing more homeowners to rely on Citizens Property Insurance Corporation, the state's insurer of last resort.

777,000 Floridians now use Citizens Property Insurance to protect their homes. That is up 222,000 policies compared to 2020.

Florida State Senator Jeff Brandes said, "We have to fix it via legislation, the courts are never going to fix it."

Senator Brandes is frustrated by the fact Citizens Insurance is taking on policies at a breathtaking rate and criticized the governor for ignoring the problem.

"Yeah, property insurance is one of my big areas," said Brandes.

Brandes has been thinking about this for a long time. "The state of insurances, state of Florida is it's essentially in collapse."

A collapse that we cannot afford.

"A people homeowners are going to find it very difficult to find affordable coverage going forward unless the legislature acts," Brandes said. "Legislation fixes the incentive to sue your insurance company."

Brandes believes state law makes it too easy to file suit against insurance companies.

He points to the fact Floridians filed 100,000 lawsuits against insurance companies in 2021 alone.

Friedlander, with the Insurance Information Institute, said, "more than 90% are considered frivolous. So very few would be considered legitimate."

Not everyone agrees with that.

"Yeah, there are some frivolous lawsuits. But for the bulk part of it, they're not. They're just denied claims. It's a numbers game for the insurance company, if they deny 10 claims, maybe one gets awarded," said Property Attorney Chris Ligman.

Either way, something has to give. Ligman said, “we need to create alternative dispute resolutions so that everybody doesn’t wind up in court. And these insurance companies don’t end up going under because of litigation.”

State lawmakers are considering a bill that would force state-run Citizen Insurance to stop renewing policies if a private company offers a premium that is not more than 20% more than Citizens’ rate.

<https://www.winknews.com/2022/02/17/floridians-running-out-of-options-for-home-insurance/>

Miami Herald

Apartment rents are soaring in Miami. New local laws could give tenants some relief.

BY DOUGLAS HANKS AND OMAR RODRIGUEZ ORTIZ



Tenants of an apartment building in Hialeah whose rent will increase up to 65% protested at their new landlord's office in Brickell on Jan. 19, 2022.

The housing crisis arrived at Yudet Pérez's door in the form of a notice announcing a 55% rent spike at her unit in a Hialeah apartment complex weeks after the building was sold to a new owner. Her family had less than a month to brace for an extra \$600 due every month for their two-bedroom unit — now the subject of an eviction notice that has Pérez trying to find an affordable home in a market where rents are rising at one of the fastest rates in the country. "I cried a lot this morning," the 46-year-old cosmetologist, who came to the United States from Cuba, said in Spanish during an interview last week.

While Florida and local laws mostly give landlords latitude on increasing rents once a lease expires, there's a push in Miami-Dade County to impose some new rules on the timing of those hikes. A proposed countywide ordinance would require 60 days notice before a landlord could increase rent by more than 5% at the end of a lease, or for tenants without fixed leases. The legislation by Commissioner Eileen Higgins follows the lead of Miami Beach, which imposed a similar rule within city limits earlier this month, and Hialeah, which on Tuesday advanced legislation to impose its own notice requirement for notable rent increases.

"It buys them more time," said Higgins, whose county district includes Little Havana, parts of downtown Miami and South Beach. "You've got to give low-income folks more time to prepare."

NEW RENT RULES PROPOSED IN HIALEAH, MIAMI-DADE

Jeff Hearne, who serves as director of litigation at Legal Services of Greater Miami and also oversees the Tenants' Rights Clinic at the University of Miami law school, said renters rely on lease language for the kind of notice requirement the Higgins proposal would impose — a protection that's often absent. "If the lease is silent, the landlord can say a few days before a lease ends: 'Hey, we're going to raise the rent,'" he said.

Advocates for low-income tenants say the start of 2022 brought a flood of reports of people facing hefty rent increases, another symptom of a real estate market that's been in high demand since the early days of the COVID-19 pandemic. "We're seeing apartments in Liberty City that were \$800 [a month] go to \$1,700," said Santra Denis, executive director of the Miami Workers Center, a grassroots organization that supports tenants, workers and families in South Florida. "Someone in Little Haiti who was paying \$500 for an efficiency is now paying \$900." Statistics show the Miami area has some of the fastest growing rents among major metropolitan areas, fueled in part by a surge of transplants from New York and California after the pandemic created work-from-home opportunities in low-tax South Florida.

"If you come down from New York where you're renting a one-bedroom for \$4,000 a month, you find one here for \$2,000 a month and think it's affordable," said Jack McCabe, a real estate analyst and owner of Jack McCabe Expert Services in Deerfield Beach. "Prices have gone up so far, so fast. It's ridiculous."

RENTS IN MIAMI INCREASING AT A RAPID PACE

A national ranking of rental costs from apartment-listing company Redfin found the greater Miami area, which includes Fort Lauderdale and West Palm Beach, had the fifth highest rent increases last year in the country, up 31%. Data from Apartment List found the Miami area not quite as inflated as other metro areas, with a 27% rent increase landing the region in 11th Place on that ranking. The Higgins proposal is one example of county legislation backed by tenant advocacy groups aimed at protecting renters in an increasingly unaffordable housing market. Miami-Dade commissioners Jean Monestime and Raquel Regalado are proposing a county "Tenant Bill of Rights" that landlords would have to give renters outlining existing Florida protections and adding new ones locally, including a prohibition on asking about prior evictions and allowing rent deductions for neglected repairs. Both proposals are up for preliminary votes at the March 1 meeting of the County Commission.

Greg Brown, senior vice president for government affairs at the National Apartment Association, an organization that advocates for the rental housing industry, said new government restrictions on rent decisions usually hit small landlords the hardest and can result in shoddy housing as repairs get squeezed out of small budgets. "Half of the rental owners are mom and pops," he said. "Their margin on a month-to-month basis is very thin."

In Hialeah, the rent increases at Pérez's building became a flashpoint over a broader crunch on housing costs. When Eco Landing Development LLC announced rental increases weeks after purchasing the 20-unit building in December for \$4.1 million, the tenants organized, protested and contacted city officials with the help of the Miami Workers Center.

A Jan. 6 letter provided by a tenant from Miami-based real estate investment company Eco Stone Group, which shares corporate officers with Eco Landing Development, announced a \$600 rent increase effective 25 days later, on Feb. 1.

At least eight of the building's tenants have applied for federal emergency rental assistance intended to cover up to six months of rent for people who have been directly or indirectly impacted by the coronavirus pandemic, Mayor Esteban Bovo said at a Feb. 15 press conference.

The company has not responded to the Miami Herald's numerous requests for comment. So far, court records suggest only one tenant, Pérez, is facing eviction at the building, located on the 1500 block of West 42nd Street. She's one of several tenant organizers protesting the rent increases, which she said gave her and her husband and adult daughter just a month before her rent jumped from \$1,050 to \$1,650.

Pérez said four residents have vacated their units because they could not afford the new rents. María Rubí, a cashier who immigrated to the United States from Nicaragua, has lived in the apartment building for 25 years, along with her adult daughter. Now the 57-year-old is facing a 65% rent hike — a far higher rent bill than she ever expected. "I don't know what is going to happen next," Rubí said in Spanish.

HIALEAH CITY COUNCIL ADVANCES NOTICE RULE FOR RENT INCREASES

On Tuesday, the Hialeah City Council voted unanimously in favor of a proposed ordinance that would require landlords to give tenants 60 days notice before the effective date of any rent increase greater than 10%. City Council members must vote in favor of the legislation a second time before it becomes law. The item is scheduled for a final vote at the next council meeting, on Tuesday, March 8.

Council member Bryan Calvo, the ordinance's sponsor, called the proposed law a first step toward helping tenants. "This is also not a final, end-all, be-all solution to the problem of rent in our city," he said. "I think this is a start, this is a kickoff to what our city needs to be doing."

<https://www.miamiherald.com/news/local/community/miami-dade/article258467943.html>

Miami Herald

FPL wants injection wells at Turkey Point. It could also help Miami-Dade's wastewater woes.

BY ALEX HARRIS



Matt Raffenberg, FPL's environmental services director, talks about how FPL is working on ways to better control water temperature and salinity in the 39 cooling canals at the Turkey Point power plant in 2016.

Miami-Dade County has to find a place to send millions of gallons of wastewater it now pipes into the ocean. Florida Power & Light has been working for years to contain a saltwater plume beneath the troubled cooling canal system at its Turkey Point nuclear power plant.

A partial solution to both those long-standing environmental problems may reside about 3,000 feet below the sprawling plant on the edge of southern Biscayne Bay — if Florida's Department of Environmental Protection gives the green light.

FPL is seeking permission to install what are known as injection wells on the property. If the two wells are approved, FPL would switch from tapping a brackish underground aquifer to run through the cooling towers of a natural gas-powered unit on the site and instead use treated Miami-Dade wastewater — helping the county meet its federally mandated 2025 deadline to stop dumping its wastewater in the ocean.

FPL would then take that leftover cooling water and inject it thousands of feet underground, deep below the water South Florida uses for drinking, into an isolated geological pocket known as "the boulder zone." That leftover aquifer water, with a higher concentration of salt, is now sent into a 5,600-acre system of canals that cool

the two nuclear units on the site but also have been blamed for an underground salt plume that could taint underground fresh water supplies.

The utility is three years into its 10-year cleanup process for the saltwater plume, and the latest report suggests its strategy is working: the plume is smaller and doesn't extend as far west, where its leading edge threatened well fields drawing drinking water from the shallow Biscayne Aquifer.

Miami-Dade still has a ways to go to meet its federal deadline, but diverting millions of gallons of its wastewater to Turkey Point is an attempt to address two problems at once.

Environmentalists seem tentatively on board with the plan, at least as an improvement to the status quo.

"On the one hand, it's about levels of better. It might be better than putting wastewater into the ocean, but on the other hand, it's not using this water for anything beneficial. Instead, we're sticking it into the ground," said Rachel Silverstein, Miami Waterkeeper. "And the risk is that it could always leak."

"The downside for me is that they didn't seize this opportunity to do more."

A SCALED-DOWN SOLUTION

The notion of using Miami-Dade's wastewater at Turkey Point has been around for years, ever since FPL proposed building two new nuclear reactors at its bayfront plant. The utility needed a whole lot more water to cool down the potential new reactors, and a new way to handle it after its 50-year-old cooling canal system proved problematic.

The mutual solution would have allowed Turkey Point to use 50% of Miami-Dade's wastewater, almost completely meeting the county target of re-using 60% of its water by 2025. And it would have allowed FPL to use freshwater in its cooling canals, combating the saltwater plume.

But then, the cost estimates came out. The price to clean Miami-Dade's wastewater enough to use it in the leaky canals was higher than anyone was interested in paying, so the idea fizzled. And FPL indefinitely paused its plan to build two new reactors.

"Municipal wastewater has a lot of pollutants in it, and also high nutrients. They would have to significantly clean up that water to use it," said Lee Hefty, head of Miami-Dade's division of environmental resource management.

However, wastewater injected into the boulder zone does not have to be as clean. And that's the key to Miami-Dade's plan to meet its responsibility to the federal government. The county already has 26 deep injection wells to shoot its wastewater into the boulder zone, but it still needs to build 14 more by 2025 to meet its deadline, according to Marisela Aranguiz, deputy director of Miami-Dade's water and sewer department.

FPL and Miami-Dade seem confident that the injection wells will be approved since they've already begun work on other parts of the plan.

Along with the new injection wells, FPL would build an 8-mile pipeline to move treated wastewater from the county's south district water treatment plant to Turkey Point. FPL and Miami-Dade are building a new water treatment plant at Turkey Point to treat the water a second time before its used on the natural gas unit.

The plant is designed to treat up to 60 million gallons of wastewater a day, producing 45 million gallons of water suitable to use for cooling down the power plant. In addition to the 15 million gallons a day of treated wastewater used for the natural gas unit, the plant will have the capacity to produce another 30 million gallons of wastewater for the cooling canals, which would sharply decrease the amount of aquifer water used by FPL.

Construction on the new wastewater plant, approved by Miami-Dade's commission in the summer of 2020, is expected to begin in late 2022 and be completed by 2024. Miami-Dade taxpayers are on the hook for \$182 million of the total cost, and FPL ratepayers are funding the additional \$300 million-plus in construction costs.

There's no timeline for when DEP will rule on the injection well permits, which would each pump up to 18 million gallons a day into the boulder zone. Public comment ended Tuesday night, and the next step is for the state to respond with a yes or no.

FPL already has one deep injection well at Turkey Point. They use it to suck up super salty water from the underground plume and shoot it into the boulder zone.

As the final public comment meeting for the well permit, Danielle Hall, a manager in environmental services for FPL, said the new injection wells and wastewater agreement would result in FPL drawing less water from the Floridan aquifer.

If DEP approves the plan, it would be FPL's first concrete shift away from its cooling canals, a win for environmentalists that have been complaining (and suing) the utility over them for years.

"It's the lesser of evils," said Laura Reynolds, an environmental consultant and board member of Friends of Biscayne Bay. "Miami-Dade County has a lot of wastewater. We need to use a certain amount of it so that we're being more efficient. FPL is the natural user of this. This is a good thing." Reynolds said advocates for cleaner water in Biscayne Bay would like to see FPL use more injection wells or technologies like mechanical draft towers for its remaining nuclear power units, rather than continuing to use the leaky canals. Turkey Point is the only nuclear power plant in the world that uses cooling canals.

And those canals are basically at sea level. With about one foot of sea rise, which is expected by 2030, they could be completely swamped. "They should be replacing technology with something that works. This is a failed experiment," she said.

FPL CLEANUP STATUS

As of a November status report, FPL said it had reduced the saltwater plume 42% from the 2018 level — about 18 billion gallons of super-salty water and 7 billion pounds of salt. It also found that the plume has stopped moving west toward Miami-Dade's well fields, where it could have threatened South Florida's drinking water. Aranguiz, from Miami-Dade's water and sewer department, said, "there is no concern that Miami-Dade's western drinking wells will be impacted by FPL."

The utility's computer model shows that at this rate, it will not completely remove the saltwater plume from the aquifer by the year 10 deadline. The lower third of the aquifer will still have some super salty water, potentially from natural sources, FPL said.

"At this point, it is not clear whether the incomplete retraction is a result of a physical phenomenon or inaccuracies in the model," the report read. FPL didn't suggest any changes to its strategy other than maybe tweaking the way it models the saltwater in the aquifer. Hefty, from DERM, said he's encouraged by the progress FPL has made in its \$200 million cleanup.

"Saltwater intrusion is a complex issue. While we think Turkey Point is a component of it, it's not the only component," he said. "So far the evidence indicates that they're compliant with our consent agreement and the evidence so far is indicating that we're seeing improvements in the aquifer."

<https://www.miamiherald.com/news/local/environment/article257231257.html>

Miami Herald

After Surfside collapse, condo dwellers who shirk fixes may reap a redevelopment windfall.

BY ANDRES VIGLUCCI AND ALLIE PITCHON



A Miami Beach condo tower, built in 1964, was vacated by city order and faces demolition and a developer buyout after failing for years to complete required repairs.

Faced with a deadline to make major repairs, and resistance from residents unwilling or unable to pay spiraling maintenance bills, the majority of condo board members at Miami Beach's aging La Costa tower elected to take the easiest way out: They punted.

Year after year, former residents and board members say, the La Costa board majority — with practically no financial reserves and little will to raise millions of dollars for seriously overdue repairs — authorized only minimal patchwork while longstanding and severe structural, concrete and electrical deficiencies visibly worsened.

The city of Miami Beach, one former board member says, was content to look the other way. The city issued extension after extension, he said, even though the board skipped the required 40-year recertification for the 1964 oceanfront building entirely, then failed for years to undertake the necessary work to complete it after sailing past its 50-year anniversary.

In the end, 17 years of neglect and deferred maintenance and the cost of massive repairs proved too much for La Costa's 120-plus condo owners to overcome.

Last month, the 15-story building was vacated by emergency order of the city of Miami Beach and now faces demolition. A developer who bought out most of the condo's owners has plans to build an ultra-luxury tower in its place, and is now suing a group of holdouts to force them to sell.

The consequences that unspooled at the mid-Miami Beach tower could serve as an object lesson for the scores of older condos up and down the South Florida coastline that face emergency inspections and potentially steep repair bills in the wake of the catastrophic collapse of the Champlain Towers South condo in Surfside, which claimed 98 lives.

The experience at La Costa offers some potential solutions to those issues, including the advantages of buyouts of outdated condos whose market value may not justify the imposition of large special assessments. Even before the collapse, some developers successfully bought out older condos to redevelop on prime waterfront locations in Brickell, Edgewater and Surfside, while many of the supersized towers in Sunny Isles Beach were the result of buyouts and dissolution of small, obsolete condos.

Real estate experts say such deals will likely become far more common, especially if Miami-Dade County ends up requiring more frequent inspections and earlier recertification for condos, or insurance companies worried about another Surfside jack up rates or drop coverage altogether for buildings whose owners fail to properly maintain them.

If Hurricane Andrew in 1992 led to sweeping changes in building codes and quality of construction across Miami-Dade, the Champlain Towers collapse will force an equally consequential reckoning for scores of older condos like La Costa, said prominent Miami condo-market analyst Peter Zalewski. Many of these properties sit on valuable land on barrier islands and Biscayne Bay and developers are eager to buy them out, he added.

"This is the next inflection point," said Zalewski. "The scrutiny, regulations and guidelines that will follow Surfside will change the condo market in South Florida dramatically."

La Costa's buyout illustrates one way in which these forces could play out in South Florida's aging condos.

But it's also a warning that there are few easy fixes and numerous legal, human and economic hurdles to clear for owners of deteriorated condos. It's uncertain, for instance, what recourse unit owners whose boards have neglected repairs may have under current condo law, though owners in one building vacated for safety reasons after the Surfside tragedy are now suing their condo association.

Meanwhile, complicated and confusing changes to condo regulations and court rulings on condo terminations can make such bulk buyouts a fraught and uncertain undertaking for developers and unit owners alike, experts say. Developers who pay over-market prices but fail to persuade enough owners to sell may get stuck with units not worth what they paid for them. And buyout offers can exacerbate tensions among residents already in disagreement over paying for repairs.

"It's a very complicated process that takes a substantial amount of time," said condominium law expert Martin Schwartz, of the Miami firm Bilzin Sumberg. Schwartz has handled terminations in the past, but is not involved in the La Costa case. "It's a bit like what happened at Champlain Towers. There are people who want to pay an assessment and people that don't want to pay the assessment. That's condominium life. You can't get anyone to agree on anything."

At La Costa, the end came just as a newly elected board majority finally decided to get serious about repairs, hired an engineer, instituted a special assessment and borrowed several million dollars — an amount former board members and residents said was nonetheless clearly insufficient for all the work that needed to be done.

Then, following the Surfside collapse, the city of Miami Beach belatedly took firm action: Its building official ordered emergency inspections of La Costa in July. In August, the city ordered everyone out after troubling reports from a pair of engineers working for the condo. One report indicated a portion of the garage and pool deck, structurally separate from the residential tower, was in danger of falling in. Both engineers concluded extensive repairs at the residential tower needed to be undertaken within 30 days and the building was vacated while the work was completed.

But it was too late for La Costa.

By then, a developer offering big money had swooped in to buy most of the units from sellers eager to get out from under impending assessments and the prospect of units rapidly losing their market value. The 116 willing sellers made out unusually well, cashing out by May, just before the Surfside calamity. Some sold their units for as much as twice the market value.

But it has left a mess for others. Some 15 holdouts who refused to sell, now effectively evicted by city order, had to find a place to live without receiving anything in return for their former homes. Now they have been taken to court by Miami developer Mast Capital and principal Camilo Miguel to force them to sell. The holdouts say in court filings that Miguel improperly sought to terminate the condo to force them out.

Dania Valdes, 65, has owned a one-bedroom unit at La Costa since 2002. Valdes claims that she and other holdouts have been victims of “bullying” by the developer. Valdes said she feels she and other unit owners were pressured into selling for less than the overall condo property is worth. “They made life impossible for those who didn’t want to sell until they became desperate and had no other solution,” Valdes said. One former longtime La Costa resident and board member, Emilio Canasi, 60, says he reluctantly opted to sell his unit to Mast at a substantial premium. He contends the condo association and Miami Beach share in the blame for what happened.

After skipping the required 40-year recertification, the condo board decided to embark on a 50-year recertification instead in 2016, two years after the building passed its half-century mark, Canasi said — a sequence confirmed by city records. A repair plan was approved in 2017, city records show, after the city belatedly cited the building for failing to complete its 40-year recertification. But it was never completed. The board did only minor work to keep the recertification permit going, Canasi said.

“The old condo association was playing this game with the city of not really doing anything, and asking for extensions, extensions, extensions,” Canasi said. “The building deteriorated, and I was part of that board. And I got out of the board, because I saw that I was being overruled on everything. I said, you know what, I don’t want to be part of the board because, if sh-t hits the fan, and it will hit the fan, I don’t want to be accused that I was part of the decision-making.”

After the Surfside collapse, he said, “our city of Miami Beach started looking around at all the buildings and La Costa had an open permit to do the 50-year certification for about six years. I think they said, ‘Where are you

with this?' And nothing had been done. Zero. Nothing. Nothing." The building's worrisome condition and the prospect of ever-mounting repair costs meant that, like him, many owners saw no better option than selling when Mast came knocking, he said.

"I never intended to sell. But, unfortunately, the building deteriorated in such a way that it would have required an enormous amount of money to put it together. And the offer that came in was substantially higher than it was worth," said Canasi, who moved in June to a smaller but newer condo at the 20-year-old Blue and Green Diamond towers on the beach just to the north with the proceeds of the sale of his La Costa unit to Mast. "I loved my old unit. I wish I still had it. But I'm happy that I sold. I got quality of a building in exchange for the size of my unit."

Miguel, meanwhile, is not waiting for the courts to decide the ultimate fate of La Costa.

He has already submitted to the city a plan by OMA, the firm of Dutch superstar architect Rem Koolhaas, to replace La Costa and its modestly valued units with an ultra-luxury tower that will boast creative design features to make it highly resistant to rising seas and larger storm surges — two of the biggest threats to the longevity of older, low-lying condos along South Florida's coastline.

The plan by OMA's New York office for the narrow lot calls for an elongated building composed of seven interlocked, diamond-shaped towers that present a slim profile to Collins Avenue and the beach. In one of several innovative features designed to adapt to climate change, the building's first floor would be placed at 13 feet over base flood elevation, higher than rules now require, and the second at 29 feet. That would allow for the first floor to be raised if the city lifts Collins Avenue in response to higher seas. But its 100 units — fewer but larger than La Costa's 131 units — will be financially far out of reach of the vast majority of Miamians.

The plans for the new tower, which meet existing zoning rules and require no variances, will get only one public review, before Miami Beach's Design Review Board, which has final approval power barring an appeal. City planning and zoning officials have recommended approval. On Sept. 10, the developers received a deferral from the board until Oct. 5.

At La Costa, the situation has gotten so sticky that few people involved, with the exception of some willing sellers, will talk publicly about it. The city released a series of public records after a request from the Miami Herald, but its building official, Ana Salgueiro, declined a request for an interview through a city spokeswoman. Miguel, the developer, issued a terse "no comment" through a public relations representative and did not allow two prominent attorneys representing him to speak to reporters. Miami engineer Denis Solano, who prepared a troubling evaluation last year for the condo board, did not return a message left at his office. The lawyer for the holdouts also declined an interview request and asked reporters not to contact his clients. The one holdout interviewed, Valdes, spoke with the Herald before the lawyer advised his clients not to speak to the press.

Experts in real estate and condo law say the difficult circumstances at La Costa are likely far from unique. Already, post-collapse inspections have led to the emergency evacuation of a handful of condos and apartment buildings in Miami-Dade. As Miami-Dade County and municipal building officials respond with extreme caution to even the smallest threat of structural and other safety hazards in older residential and commercial buildings, there are likely more evacuations to come.

Half of the 139 condos that Zalewski found sit on barrier islands in Miami-Dade will be facing recertification within the next decade, the analyst said. He predicts that many of them, deteriorating and occupied by older people, will find it financially taxing if not unfeasible to do the work necessary to bring them up to code amid sharpened scrutiny by insurers and municipal building departments. As more condos where maintenance and repairs have been put off face often-staggering bills and assessments, the experts also expect they will increasingly become targets for developers looking to buy everyone out, especially at a time when demand for condos has skyrocketed but supply is sharply limited given that South Florida coastlines are all but built out.

Developers who had turned away from the coast because they thought there was no land left to build on will come back in droves in search of deals with a potentially huge profit margin, Zalewski predicts. And cities will likely be happy to help them so as to rid themselves of deteriorating buildings and the enforcement headaches they represent, Zalewski added, as well as to glean the higher taxes new towers will bring.

“They will put the gun to condo owners’ heads and say, either bring it up to code or we’re going to force everyone out,” he said. “People will be forced to sell.”

That won’t mean buyouts are an easy way out, however. The buyout tactic until now has been relatively uncommon in part because of the difficulty of persuading large numbers of residents to sell, which typically requires negotiating individually with unit owners. But shifting and often unclear targets set under state law for dissolving condos have made it even more complicated in recent years, experts say. Three different condo termination thresholds have been in place since 1976, but which standard applies can depend on when and how condo declarations were written. A recent court decision in a Sunny Isles Beach case only further muddied the waters, experts say.

“We’re living with a statute that makes it very difficult to terminate. It’s a ridiculous standard,” said Schwartz, who stressed he’s not familiar with the particulars of the case at La Costa. Schwartz is among a number of condo lawyers urging the state Legislature to ease and clarify rules on condo dissolutions. “It’s unfortunate because it’s really the best way out for these people,” said Schwartz, who wrote an op-ed piece for the Miami Herald on the subject. To be sure, a buyout can handsomely reward longtime condo owners with large premiums over the usually modest market values for units built decades ago in buildings that lack the space, design pizzazz or range of amenities common in newer towers. At La Costa, many of the owners were investors renting out units who were happy with Mast’s offer and what they saw as a winning business proposition.

Mast and a high-profile investment partner, Miami Beach-based Starwood Capital, created an affiliate for the buyout, 5333 Collins Acquisitions LP, and spent a median of \$950,000 on the one- and two-bedroom units in the condo, according to figures on the Miami-Dade property appraiser’s website. Mast’s total purchase cost, including common areas, came to just over \$100 million. While the individual purchase prices may have represented a premium over market values, Valdes contends the total buyout figure represents a “ridiculous” underpayment given the underlying land value of the condo’s nearly 2.5 acres.

By comparison, she notes that the smaller Champlain Towers site, which depending on how it’s measured is 1.27 acres or 1.88 acres, has been valued at \$120 million. One seller said Mast began approaching unit owners as long as four years ago, but didn’t find many takers until it significantly upped its offer last year. That’s just as a newly elected condo board was embarking on developing a plan to finally make some critical repairs, said Paul Siska, a business executive who with his wife owned a unit at La Costa since 2000 until selling to Mast.

With recertification overdue, little in the way of condo cash reserves to cover the cost, “major issues” with the building and a substantial offer on a unit they bought when it was relatively cheap, the financial calculation was practically a no-brainer for the couple. Siska and his wife, Tatiana, who live in a house they bought on nearby Normandy Isle in 2009, sold the unit they kept as an investment rental for \$1.1 million to the Mast affiliate earlier this year, the Miami-Dade tax assessor’s website shows. They paid \$289,000 for the unit in 2001, the records show. “One of the problems that we had, historically, is that it didn’t have any reserves,” said Paul Siska, who served on the condo board for several years. “And so it was always an issue with repairs and maintenance in La Costa. And the repairs, and the issues that were not addressed, were building up all the time.

“The building needed a major amount of repairs to meet the 50-year certification. We made an assessment for about, I think, six or seven million. But that didn’t include a lot of things. So, on the one hand, you had this offer that was probably 60%, 70% above market at the time. And on the other hand, you had the prospect of continuing to own a condo that was going to be a money sinkhole.”

Unlike Valdes, Siska had only good things to say about Mast. “I will say that the buyer, Mast Capital, was extremely transparent. And extremely ... forthcoming and professional in the way they presented everything,” he said.

One issue, he and other willing sellers said, is that older units and buildings may never recoup the value of money invested in repairs because of outdated facilities, layouts and lack of amenities.

Then there is the impact of rapidly worsening climate change, one of the factors investigators are looking at in the Champlain Towers collapse, where some have questioned whether saltwater intrusion could have accelerated foundation deterioration. Low-lying buildings along the beaches and waterways, often with underground or partly underground parking garages, are increasingly vulnerable to rising seas and increased storm surge due to the warming climate, and retrofitting them would be massively costly, if even physically possible or feasible.

The choice to sell wasn’t easy for Lucia Delgado, 60, an owner and resident of La Costa for two decades. She and her husband, Celso Delgado, were sorry to leave friends of many years behind, she said. But when the percentage of owners who agreed to sell rose above 50%, she added, their attorney advised them to do so as well. And facing a collective multi-million-dollar special assessment already in place and more likely to come, and an offer more than twice what they paid for their condo, they took it.

After renting at La Costa for several years, the Delgados paid \$500,000 for a two-bedroom, 1,500-square-foot unit at the condo in 2014, Miami-Dade tax records show. They sold to the Mast affiliate for nearly \$1.23 million and purchased a 1,490-square-foot, two-bedroom unit at the 20-year-old Green and Blue Diamond towers just north on the Beach oceanfront. “We kind of saw the writing on the wall,” Lucia Delgado said. “So we sold and, lucky for us, we were able to buy at a place that is 40 years newer. The numbers spoke, you know?”

John Pabone, 68, hesitated about selling at first, and still has mixed feelings about doing so. He wishes he could have stayed at La Costa and Miami Beach. But though he believes the Surfside collapse likely helped Mast get the city to vacate the building, he’s in hindsight certain he made the right financial decision and is glad he had already agreed to sell by then.

Pabone had the unit under a sale contract with Mast for a year and a half, closed in March and moved out in early August, he said. Although the developer had given everyone six months to find a new place to live, he said the Surfside collapse and the new inspections precipitated his moving out faster than planned. He ended up in Fort Lauderdale, in a place he bought with the proceeds of the La Costa unit sale.

“I was selling because I got the right price for it,” he said, but added: “We had to move out abruptly. ... I think it was an opportune time to get rid of everybody all at the same time due to the collapse of the other building ... [But] I wanted to sell. Thank God that I sold before this. I think it was a godsend that we were out at that time.”

But real-estate experts caution that the formula really only works well for condos on waterfront sites in sought-after areas — like La Costa, which sits at the southern end of the famed condo canyon along Collins Avenue. Demand for waterfront luxury living by wealthy buyers means developers can readily afford generous buyout offers because they can realize mammoth profits from redeveloping. The sellout for a building like Mast is proposing in place of La Costa is likely to be in the hundreds of millions of dollars. It’s a different story in inland areas or places where local zoning rules sharply limit the scale of new construction.

In areas where the formula can work, experts and affordable-housing advocates note, there is another problem. The multi-million prices for new luxury towers contribute to the ultra-gentrification of the Miami-Dade shoreline, where older buildings are usually the only ones most people can afford to live in. At a time of a worsening affordable housing crunch in Miami-Dade, the demolition of older condos for new luxury buildings reduces affordable options and pushes lower-income people inland, sharpening geographic inequality.

The buyout trend could in some cases also offer a perverse incentive: Some owners in older buildings, hoping to sell to a developer, may band together to lure one, and would have little reason to support special assessments for repairs that other owners may favor.

A complication comes from the complex, even bewildering rules that apply to condo terminations. Applicable rules depend on language in a condo’s declaration — the laws that govern the condo — and what version of Florida’s condo termination law was in effect when a declaration was written, among other factors.

Florida condo laws first adopted in 1976 established a threshold of unanimous, 100% agreement of owners to terminate, unless a declaration stated otherwise. That was lifted in a brief-lived 2007 reform designed to make such buyouts easier, which lowered the threshold to 80% of condo ownership.

That is calculated based not on how many units a buyer holds but on the percentage of interest in the condominium assigned to each individual owner. Just 10% of naysayers could block termination. The reform applied retroactively, even if a condo’s declaration carried a different threshold.

In 2014, though, that reform was largely reversed by the Legislature after many condo owners were forced into bulk sales at prices lower than what they owed the bank on units during the real estate crash, Bilzin’s Schwartz said. Rules now in place tighten the standard so that just 5% of naysayers can block a termination.

But a subsequent court decision blurred the lines. The court ruled that the 2007 rule could not override the standard laid out in a condo’s declaration, making it difficult to determine in many cases which threshold applies, Schwartz said.

Just which rules apply is the gist of the litigation between Mast Capital and the 15 holdouts. The developers' lawyer, John Shubin, argues in court filings that what applies is the condo's own declaration from 1997, which says 80% of ownership is sufficient for termination, and that termination is automatic given that Mast controls nearly 90%. Mast filed a notice of termination with the county dated July 27. Since May, according to the attorney for the holdouts, Mast created a new board to wind down affairs.

But attorney N. Fraser Schuh of Hallandale Beach argued for the holdouts that it's current law that applies, with 5% of no votes holding just over 11% of ownership constituting a legal veto of the proposed termination. Schuh also argues in a court filing that Mast flouted legal requirements that a plan for termination be filed and approved by the state.

The La Costa tower, built as rentals and converted to condos in 1997, was typical of the basic concrete construction of its day, but boasted some relatively large two-bedroom units, typically at 1,500 square feet. Though squeezed in between two other high-rises on a narrow lot, it sits directly on the beach and offered unimpeded views across Indian Creek because no buildings occupy that opposite side of Collins. Miami-Dade property appraiser records show someone could score a place on the beach for a relatively modest \$300,000 as recently as 2017.

The problem was the maintenance, said Canasi, the former board member and La Costa owner, who bought his condo in 2012. There was spalling and cracking in concrete columns and exterior walls that became more alarming by the year. Elevators that didn't work for weeks at a time because they were so old parts were hard to find. An electrical system that needed full replacement. Canasi said he stepped down from the board in frustration after several years of service because he was consistently voted down when he pushed for repairs to be addressed comprehensively. The La Costa board could not buck residents and investor-owners who balked at any increase in maintenance fees, he said — a dynamic experts say is a common one.

"When you live in a building that is old, and most of the people there lived on fixed incomes, and you want to continue to run to be on the board — how do you make those people happy? By not raising their maintenance fee," Canasi said. In 2020, after Canasi opted not to run again, a mostly new board came in determined to change that old dynamic, he said.

The association hired a Miami engineer, Denis Solano of SolVer Structural Partnership, who found the residential tower riddled with serious concrete and structural deficiencies. Another engineer found similar deterioration in La Costa's parking garage, which is structurally separate from the condo tower and supports the pool and amenities deck, Solano wrote in a letter to the city earlier this year. He did not respond to a phone message left with an assistant. So extensive was the work needed that Solano said the tower would have to be vacated while repairs were under way. The letter doesn't mention cost. But former board members and residents say the amount raised by the new board was not nearly enough. Facing rising costs and attractive offers from the developers, most owners decided to sell.

"No matter how much money you were going to put into it, it was still a 60-year-old building, it still didn't have the amenities of these new Brickell buildings, and was never going to appreciate in order to put in \$100,000," Canasi said. For Canasi and many others, it was a happy ending despite lingering reservations. But it has not been so for others, he concedes.

“The people who didn’t sell are not happy with the rest of us. I understand them,” he said. “They don’t want to sell, but now the city closed the building. And I think they think that the people who bought it instigated all of this. Now, I don’t think they’re looking at it intelligently, or they’re looking at it with an emotional eye. I feel sorry for those people who didn’t sell because I think they’re going to get the short end of the stick here.”

The condo brought SolVer back in July when the city ordered inspections after Surfside. Solano found the situation had only deteriorated further since the previous year. Though he found the tower was safe to occupy, he recommended that repairs start immediately and the tower be vacated in the meantime. At the time, he noted, only 16 units out of 124 were still occupied.

Two weeks later, the new, Mast-appointed board hired a second engineering firm, the Miami office of national powerhouse Thornton Tomasetti, which is working with OMA’s architects on a Washington, D.C., project. The second engineer largely concurred with Solano, but urged evacuation by Aug. 16. A Thornton Tomasetti engineer also found a corner of the pool and recreational deck over the separate parking garage was in danger of partial collapse. Shortly after, the city posted orders to vacate at La Costa’s lobby entrance.

The Surfside collapse, Zalewski said, will likely lead to more cases like La Costa and a new boom in condo development east of Interstate 95. But those condos will be purchased not by locals but by wealthy investors, part-time residents or foreign buyers looking to capitalize on the location. The flip side, he said, is that as developers focus east again, the development that has fueled the resurgence but also the gentrification of neighborhoods like Little Havana or Little Haiti may wane. “Developers will focus back east, on the barrier island and the bay,” he said. “The good news is, everyone who thought there was no more oceanfront land now realize there is more land to be had, in the form of condo terminations. “It’s going to be busy,” he said. “Real busy.”

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Miami Herald

Judge backs permit for FPL's Turkey Point canals, rejects concerns about Keys well fields.

BY JIM SAUNDERS

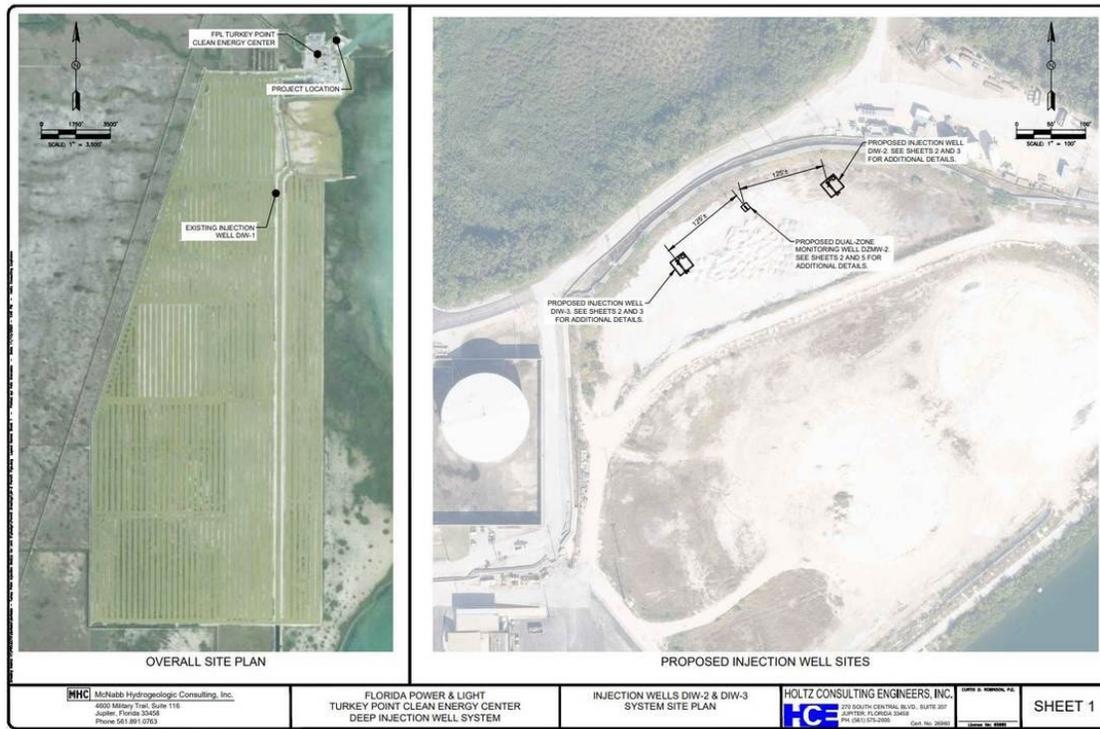


A Tallahassee backed a decision by the Florida Department of Environmental Protection to renew the permit for FPL's Turkey Point cooling canal system.

TALLAHASSEE Rejecting arguments about threats to Monroe County's water supply and Biscayne Bay, an administrative law judge has ruled the state should renew a permit for a massive canal system at a Florida Power & Light plant in Miami-Dade County. Judge Cathy Sellers on Friday issued a 125-page recommended order backing a decision by the Florida Department of Environmental Protection to renew the permit for FPL's Turkey Point site. The Florida Keys Aqueduct Authority, which supplies drinking water to the Keys, and the Florida Keys Fishing Guides Association challenged the permit renewal and were joined by Monroe County.

In part, the case focused on a wellfield that the authority operates about 9.5 miles west of the canal system to draw water from the Biscayne Aquifer and supply water to the Keys. The challenge contended that continued operation of the canal system would lead to increased salinity in groundwater that would threaten the drinking-water supply in the future. But Sellers wrote that FPL has taken steps, including entering a 2016 agreement with the Department of Environmental Protection, that have halted what she described as a "hypersaline plume"

from the Turkey Point site. She also pointed to the role of the canal system in cooling heated water from two nuclear generating units at Turkey Point.



A judge rejected objections to the state issuing a new permit for the cooling canal system at the Turkey Point nuclear power plant along southern Biscayne Bay. The Florida Keys Aqueduct Authority, which supplies drinking water to the Keys, and the Florida Keys Fishing Guides Association challenged the permit renewal and were joined by Monroe County. FLORIDA POWER & LIGHT

“Issuance of the renewal permit for the CCS (cooling canal system) is in the public interest,” Sellers wrote. “As discussed ... the Turkey Point electrical generating facility, and, specifically, Units 3 and 4 (the nuclear units), are an essential source of electricity for South Florida. Thus, (a section of state law) provides authority for issuance of the renewal permit.”

Sellers also disputed that renewal of the permit could hurt the fishery or other natural resources in Biscayne Bay, which is east of the power plant. She wrote that “the evidence did not demonstrate significant, if any, seepage from the CCS into Biscayne Bay, and the areas of the bay near the CCS are meeting the applicable water quality standards.”

The unique 5,900-acre canal system has operated since 1973, after FPL and the federal government reached an agreement to prevent direct discharges of heated power-plant cooling water into Biscayne Bay. Sellers likened the canal system to a “radiator,” with heated cooling water circulating through the system and ultimately being reused as cooling water for the nuclear reactors.

The canal system is unlined and includes an average of 4.5 billion gallons of water, which also includes water from other sources, Sellers wrote.

But FPL and state and local officials have grappled with problems of high-salinity water moving west from the site, resulting in the 2016 agreement, known as a consent order. Among other things, FPL was required to install wells to withdraw hypersaline water and inject it deep underground, Sellers wrote.

The Department of Environmental Protection in April 2020 published a notice of intent to issue a permit for the continued operation of the canal system, drawing the legal challenges.

In a proposed recommended order filed last year, attorneys for the challengers disputed that renewal of the permit was in the public interest.

“It is not in the public interest to perpetuate an adverse impact to a sole source aquifer relied on by Monroe County and others, in the absence of evidence that no other possible means exists for FPL to continue operations,” the document said. “Moreover, testimony presented indicates that CCS discharges to the bay have caused permanent changes to the bay’s flora and fauna, harming FKFGA (Florida Keys Fishing Guide Association) members’ ability to use the resource and changing their fishing patterns.”

But FPL attorneys, in a proposed recommended order last year, disputed such arguments.

“Petitioners (the challengers) have presented no evidence that ongoing discharges to groundwater from the CCS constitute a nuisance,” the document said. “Petitioners have not presented evidence that any specific person’s use of groundwater will be affected by continued operation of the CCS. As discussed ... operation of the CCS is not currently affecting the FCAA (Florida Keys Aqueduct Authority) wellfields and will not affect those wellfields for decades, if at all.”

Under administrative law, Sellers’ recommended order will go to the Department of Environmental Protection for final action.

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