

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

IN RE:

CASE NO.: CACE 24-005243

HERON POND CONDOMINIUM
ASSOCIATION, INC.

Petitioner.

v.

HERON POND CONDOMINIUM
ASSOCIATION, INC.,

Defendant/Respondent

**NOTICE OF FILING ACG ENGINEERING SERVICES, INC. ENGINEERING
REPORT DATED JULY 22, 2024**

Daniel J. Stermer, not individually, but solely in his capacity as Court Appointed Receiver (the “Receiver”), over the Heron Pond Condominium Association, Inc., (the “Association”) by and through its undersigned counsel, hereby gives notice of filing of the attached ACG Engineering Services, Inc. Engineering Report dated July 22, 2024, advising that “all 19 buildings should be vacated” due to structural damages and deficiencies.

Dated: July 24, 2024

Respectfully submitted,

BERGER SINGERMANN LLP
Counsel for Receiver
201 East Las Olas Blvd.
Suite 1500
Fort Lauderdale, FL 33301
Tallahassee, FL 32301
Tel. (954) 525-9900

By: /s/ Brian G. Rich
Brian G. Rich

Florida Bar No. 38229
brich@bergersingerman.com
Jeffrey S. Wertman
Florida Bar No. 003093
JWertman@bergersingerman.com
Michael J. Niles
Florida Bar No. 107203
mniles@bergersingerman.com

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I HEREBY CERTIFY that on this 24th day of July 2024, the foregoing was filed electronically through the Florida Court's E-Filing Portal, which will send notice of electronic filing to all electronic service parties.

By: /s/ Brian G. Rich
Brian G. Rich



Date: July 22nd, 2024

To: Board of Directors
Heron Pond Condominium Assoc., Inc.
8400 SW 1st Street
Pembroke Pines, FL 33025

Building Officials
Pembroke Pines Building Department
601 City Center Way
Pembroke Pines, FL 33025

Re: Heron Pond Condominium
Buildings 1 through 19
Update on Structural Status

Dear Directors/Building Officials:

Almost a year ago Andres Caicedo and I, representing ACG Engineering Services, Inc. (ACG), attended a meeting that included representatives from the City of Pembroke Pines, the property manager for Heron Pond at the time, and several owners from Heron Pond. During that meeting, as we discussed our initial findings as detailed in our initial reports for Buildings #2, #3, and #10 and the procedures to be followed to repair all nineteen (19) buildings, we laid out our position that there were individual units that needed to be evacuated based on our findings and that access to all balconies needed to be eliminated. Our position allowed for unit owners residing in units where no signs of interior deterioration had been observed to remain in their units without access to their balconies except in the case of emergencies.

During that part of the meeting, we were asked by the Fire Department what our recommendations would be should a storm be forecast to make landfall at the property. The ACG response was that we did not have enough information regarding the true conditions of the concealed structural elements to allow us to recommend that the buildings were safe for sanctuary in the case of an impending storm event. Therefore, ACG would recommend that all buildings be temporarily evacuated in the event of a tropical storm or hurricane warning that included the Heron Pond property within the warning area.

At the time of the meeting, the understanding between ACG and Heron Pond was that the buildings would be repaired expeditiously and in accordance with the Florida Building Code. Given the original intent and the pace with which the Contractor eventually commenced his work, the repairs would have been completed on at least 12 of the 19 buildings by now. Given the fact that we were addressing the buildings in order of worst to best structural conditions, and based on our conception of the damages, we expected to be repairing the buildings with the least number of deficiencies by this point in time. The storm warning evacuation procedure stated above would have remained in place for those buildings not yet repaired, with the understanding that the first dozen buildings already repaired, with any deficiencies discovered having been addressed, would be structurally sound.

The initial pace of the repair project lasted for less than a month, with the amount of work done per day being drastically reduced as the December holidays approached. The initial pace was never matched, or even closely approached, again. As things stand today, the structure of only one of the 19 buildings (Buildings #2) has been completely repaired and two others (Buildings #3 and #10) have been repaired to a level above 50%. None of the first six buildings (Buildings #2, #3, #10, #5, #14, and #16) has been completed and turned back over to the unit owners.



In addition to the change in pace which has resulted in most of the buildings remaining in their damaged, unrepaired conditions, we have discovered existing conditions, as part of our repair process, that speak to the concern regarding the lateral load resistance of the buildings in the case of a storm event. While the damages to the structure that affect the building's vertical (gravity) load support strength were in line with our initial findings, much about the building's lateral (wind) load support has been discovered as part of the repair process we have designed and observed and as part of discoveries made by an independent engineering firm, Specialty Engineering Consultants, Inc. (SPEC).

We observed and corrected deficiencies in the lateral load resistance structural components that were discovered during the repair processes in Buildings #2, #3, and #10. SPEC has discovered a number of deficiencies in Building #9 as well. The lateral load deficiencies are different from the structural damages that have been the focus of the year-long repair project. While the repair details in the permit documents include proper connections for the lateral load conditions, and while those connections have been applied throughout the first three buildings where the absence of proper connections were discovered, the other 16 buildings, where repairs have not yet started, likely have the same wind load resistance deficiencies.

The structural damages, discovered during our survey and described in our reports, are a result of long-term exposure to the elements (moisture, termites, etc.). However, the lateral load deficiencies, such as the absence or under-sizing of necessary connections, are the result of some combination of inadequate design and inadequate construction practices. The lateral load deficiencies, hidden in the structures, the "bones" of the buildings, are not detectable by visual examination of the buildings' interiors or exteriors and they are not the cause of the visual signs of damage that led to the concerns about the structures and the commencement of the repair project.

Nevertheless, based on the fact that we are now aware of a consistency of lateral load deficiencies noted in all four buildings that have had the support structures significantly exposed to date, it is my professional opinion, to the best of my knowledge, that all 19 buildings should be vacated, at least until the end of "hurricane season," or until the required repairs have been completed and the buildings are once again deemed to be habitable.

If you have any questions, comments, or concerns, please let us know. Thank you.

Respectfully submitted,

Henry S. Kreh, P.E.
Vice President
ACG Engineering Services, Inc.
FL P.E. No. 39539/FL S.I. No. 736

