

Significant Cases: Construction

November 22, 2012

The Firm has been a leader in Construction law in Florida as evidenced by serving as counsel of record in many of the leading appellate cases involving construction law including, but not limited to, the following:

Moransais v. Heathman, 749 So.2d 973 (Fla. Supreme Court): This Florida Supreme Court overturned its previously held view of the Economic Loss Doctrine providing that any aggrieved party may recover damages from a design professional based on negligence, without the economic loss rule acting as a bar to such claims. This historic case reversed a trend in the courts that prohibited those not in privity with homeowners, including condominium associations, from suing design professionals for damages resulting from their negligent conduct.

Edward J. Seibert, A.I.A., Architect & Planner, P.A. v. Bayport Beach & Tennis Club Association, Inc., 573 So.2d 889, 892 (Fla. 2d DCA): The Court held that design professionals that acquire approval before construction are considered to have complied with the applicable standard of care. However, this approval may be successfully challenged if it can be demonstrated that the approval was “clearly erroneous.” This case’s significance is that design professionals are held liable for damages when their building plans contain details that fail to comply with the applicable building code.

Grossman Holdings Ltd. v. Hourihan, 414 So.2d 1037 : When construction or design defects in real property cannot be corrected, or when the cost of remedying such defects would be greater than the value of the property, the measure of damages is the “diminution of the value of the property.” This case is important because it provided for a measure of damages that a homeowner could recover for defective construction.

Munder v. Circle One Condominium, Inc., 596 So.2d 144 (Fla. 4th DCA): In this critical case, the Court found no basis for piercing the corporate veil where developer made a conscious business decision not to renew a fire insurance policy on the condominium clubhouse as opposed to neglecting to pay the premium. This case confirmed the duty of a condominium developer to ensure that appropriate insurance coverage would be acquired for condominium associations.

Drexel Properties, Inc. v. Bay Colony Club Condominium, Inc., 406 So.2d 515 (Fla. 4th DCA), disapproved in part 620 So.2d 1245: The Court affirmed an award of damages based on a breach of implied warranty. This case firmly established the rights of condominium unit owners for breach of common law implied warranties by developer/builders in Florida and is one of the most widely cited cases in condominium construction law.

Stone's Throw Condominium Association, Inc. v. Sand Cove Apartments, Inc., 749 So.2d 520 (Fla. 2d DCA): Condominium association has cause of action to recover economic damages from design professional based on cause of action for negligence. This case is significant because it was the first appellate decision to be issued after the Florida Supreme Court issued its decision in *Moransais v. Heathman* dealing with the application of the Economic Loss Doctrine.

Vantage View Inc. v. Bali East Development Corp., 421 So.2d 728 (Fla. 4th DCA): In this case, the Association successfully stated a cause of action against developer parent corporation for the acts of its subsidiary where subsidiary was found to be without any separate interests of its own, functioning solely to achieve the parent corporation's purposes and to mislead creditors and avoid liability. This case affirmed that the pleadings successfully established a viable cause of action against condominium developers for breach of implied warranties.