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# THE BOCA BEACH REPORT

April 2012

*Privileged  
information about  
your real estate*

## In This Issue

- A Home's Attractive Nuisances Can Lead to Lawsuits
- Dealing With Clouds On Your Title
- The Insurance On The Home
- News From Our Area

*This publication is not a solicitation but is an information service from this real estate office.*

## A Home's Attractive Nuisances Can Lead to Lawsuits

All property owners beware. You had better be prepared for the latest in a long line of lawsuits. Children from the neighborhood might enter your property lured by a potentially dangerous manmade object, building, or hole. If they are injured you could be sued for having an “attractive nuisance” which caused the uninvited problem. You might try to blame their parents for lack of supervision but you are still liable for providing an “irresistible” lure and have left yourself open to litigation.

The attractive nuisance can be any manmade object that presents an irresistible attraction and hidden danger to young children. It is your responsibility to see that your property is properly secured and maintained so that a curious child does not get hurt.

Attractive nuisance liability is extremely broad. These laws are meant to protect children from flagrant abuses of property ownership, such as those yards that are poorly maintained or stocked like junkyards with rusting jagged metal, broken glass, and tomb-like refrigerators. It also extends to the

hapless property owner who is guilty of posing temporary dangers, such as leaving a ladder on the side of a house while taking a break from painting. If a child climbs the ladder and then falls from the roof, the do-it-yourselfer is considered at fault.

Since children do not fully realize some dangers, a property owner is liable if a child is injured when proper precautions and safety measures are not taken, which means the property owner is either not aware of a potential danger or is in flagrant disregard of that potential for danger. Whether or not a child would know an object is dangerous and whether the property owner took reasonable precautions to prevent injuries are the issues that are heavily debated in court. This means that the property owner who accidentally leaves his tool shed door unlocked is as liable as the junkie who defiantly leaves an old refrigerator in the yard with the door still connected.

Before you build that swimming pool and leave a big hole in the





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- Purchasing a home or second home
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- Selling a home or second home
- Other \_\_\_\_\_
- Purchasing or selling investment property
- Please contact me between these hours \_\_\_\_\_
- Checking on current value of my property

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

E-mail \_\_\_\_\_

If your property is now listed with a broker, please disregard this offer. We will cooperate with other brokers.

### **Nuisances**...(continued)

ground, make sure you have a fence around your property. And that may not even be enough. Some local laws insist that the property owner go to the expense of erecting pool enclosures above and beyond the fencing of the yard.

Beware of everyday objects, too. Don't leave your car idling and unlocked in the driveway while you go back inside for something you forgot. Your neighbor's child may pick that exact moment to take a joyride right into a tree. And don't leave that lawnmower running or your power tools out while you skip indoors to use the rest room. You could return to a missing foot or hand that will bankrupt you.

It's now a world in which many place blame instead of taking responsibility. No longer are parents required to raise children to respect other people's property and

its boundaries. First, today's parents would have to raise children to mind them and respect what they tell them. Then they would actually have to be around to supervise them. Since that doesn't happen in many families, they must be able to pass the blame along to someone else, should the worst occur. Now there is a legal fail-safe to bail them out in case they don't do their jobs as parents and neighbors.

The unspoken issue is where parental responsibility lies. What is the matter with this society in which many so willingly abdicate responsibility for children, expecting unsuspecting neighbors to anticipate their curiosity and daring and take the appropriate measures? In many cases those measures are necessary, but what about taking them at home, with our children first? But we are a nation that already expects day-care centers and schools to educate our children and teach them family values and

common sense. People are too busy working to support homes that are too large for their needs and to support a consumerism that will never satisfy their wants. With all of those distractions, many parents can't seem to be bothered with training children to use good judgment themselves.

Since the abdication of parental responsibility is legally defensible in court, your best course of action as a property owner is prevention. If you are in doubt as to whether something constitutes an attractive nuisance, then secure it or get rid of it. If this article has made you paranoid enough, find out what are considered attractive nuisances in your community, ask your insurance agent, and rely on your common sense about safety.

And never turn your back on your neighbors or their children. ❖

## Dealing With Clouds On Your Title

At closing time, the seller will be asked to provide good and marketable title to the property, a title which is free of any liens or judgments, or "clouds on the title". A lien is a claim to property for the payment of a debt, and the lien holder could foreclose on the property if the debt is not paid off. Liens can generally be removed by the payment of the amount owed. This payment can occur before the closing takes place, or at the time of closing.

There are several types of liens, all of which could cloud the title and prevent the seller from conveying marketable title to the buyer. A mechanic's lien, or a construction lien, is a claim made by contractors or subcontractors who have performed work on the house who have not been paid. A supplier of materials delivered to the job may also file a mechanic's lien.

In some states, contractors and subcontractors must notify the home owner when they intend to

file the lien, but in other states they can file the lien without any prior notification to the owner. An owner could face a mechanic's lien if his contractor fails to pay a subcontractor or a materials supplier. To insure that your property is free of any mechanic's liens, an owner should obtain a release of lien form signed by all subcontractors and material suppliers before making the final payment to the contractor.

Another type of lien which may occur is one related to a divorce. Often in a divorce, one or the other spouse may be awarded the right to live in the house. When that spouse sells the property, for instance, the ex-spouse may be entitled to half of the equity. If things don't go as they should, the ex-spouse could file a lien for his share of the sales proceeds.

There are liens which exist in connection with condominiums and a homeowner's association dues. At closing, the title or

escrow company will request a certificate of payment from the homeowner's association to be sure that all due and assessments have been paid and are current.

Some states allow a lien to be placed on property of divorced parents for unpaid child support payments. This is a lien which would have to be paid off before the property could be sold. Court judgments for unpaid debts, such as credit card judgments or unpaid legal fees, is a type of lien which would have to be paid and removed before closing.

If you find a lien on your property, contact the lien holder and negotiate to pay off the debt, or if there is a question as to whether the debt is your responsibility, contact a lawyer to determine how to remove the lien from your property. If you are advised to pay off the lien to clear the title, be sure to have the lien holder sign a release of lien form and file this at the county recorder's office to clear the title in the official records. ❖

## The Insurance On The Home

When you are buying a home, the close of the transaction is the moment when all parts come together and the deed will record. There may be one more question: Do you have evidence that you have homeowner's insurance.

All of what it takes to finalize a real estate transaction will be handled at closing. The escrow officer or settlement agent will take in money from the buyer and the lender and pay out money to the seller, tax collectors, and any others who should be paid. But sometimes, homeowner's insurance will be shown as "POC" on the settlement form or "paid out of closing".

When buying a home, you must obtain homeowner's insurance on your own. This means you can shop for rates, terms, and

coverage. When you have chosen the company and policy, you then provide evidence at closing to show that you have adequate coverage.

The lender is interested in homeowner policies because they will be named as the "mortgagee." Later, if you have a claim this little bit of paperwork will become important to you and the lender.

A few years down the line, you have a minor fire or other damage. Now you have a claim. The insurance company is there just about instantly and your check arrives very quickly. But the check is made out to you, *and the lender*. To cash that check the lender must sign off.

So, under the terms of the insurance policy, the house is the lender's security, something to assure that the loan will be re-paid.

If there is a fire or other damage at the property, the lender's security could be devalued. Therefore, lenders require borrowers to have homeowner's insurance.

Different lenders handle claims in different ways. Some will merely sign off on the check, while others will only release money as receipts come in.

The time to pre-plan is before you close on the house. Sit down with a local insurance broker then to get your answers. Find out about costs, coverage, limits and exclusions. Ask about replacement cost coverage, generally the sale price of the property less the value of the land. Is there an automatic adjustment for inflation?

When you settle on the coverage and sign up for the policy, the insurance agent will send the escrow officer or settlement agent a confirmation the home is covered by insurance as soon as the deed is recorded. ❖

# Boca BEACHFRONT Availability

The following is a summary of the available and pending residences located on the East (BEACH) side of OCEAN Blvd. (A1A) in Boca Raton. 0.1% to 3.9% is Low Inventory \* 4.0% to 6.9% is Balanced Inventory \* 7.0% to 9.9% is High Inventory \* 10.0% + is Excessive Inventory

## North Beach

(North of Palmetto Park Road on North OCEAN Blvd. - Listed from North to South)

Address	Condo Name	TA	AA	%A	ADOM	Price Range	Average	PC
2150	Aegean	8	0	0.0%	0	SOLD OUT	N/A	0
2070	Athena	4	0	0.0%	0	SOLD OUT	N/A	0
2066	Ocean Reef Towers	55	2	3.6%	1454	599K to 899.9K	750K	1
2000	Brighton	39	2	5.1%	444	1.275 to 1.3M	1.288M	1
<b>S/T</b>	<b>North Beach</b>	<b>106</b>	<b>4</b>	<b>3.7%</b>	<b>949</b>		<b>1.019M</b>	<b>2</b>

## Boca Beach

(South of Palmetto Park Road to the Boca Inlet on South OCEAN Blvd. - Listed from North to South.)

Address	Condo Name	TA	AA	%A	ADOM	Price Range	Average	PC
250	Marbella	155	7	4.5%	151	645K to 1.995M	839K	0
310	Boca Mar	38	0	0.0%	0	SOLD OUT	N/A	0
350	Beresford	53	2	3.8%	446	795K to 1.05M	923K	0
400	Excelsior, The	27	4	14.8%	430	2.6M to 3.15M	2.849M	0
500&550	Chalfonte, The	378	5	1.6%	93	450K to 1.425M	758K	5
600	Sabal Shores	125	12	9.6%	350	314K to 999K	543K	0
700	Sabal Point	67	4	5.9%	248	339K to 665K	471K	0
750	Sabal Ridge	31	3	9.7%	269	1.098 to 1.499M	1.299M	0
800	Presidential Place	42	4	9.5%	192	3.495M to 6.99M	4.619M	1
<b>S/T</b>	<b>Boca Beach</b>	<b>916</b>	<b>41</b>	<b>4.5%</b>	<b>266</b>		<b>1.289M</b>	<b>6</b>

## South Beach

(South of the Boca Inlet on South OCEAN Blvd. - Listed from North to South)

Address	Condo Name	TA	AA	%A	ADOM	Price Range	Average	PC
1180	Cloister del Mar	96	5	6.3%	104	285K to 695K	400K	0
1200	Cloister Beach	128	7	5.5%	157	275K to 795K	425K	3
1400&1500	Addison, The	169	17	10.1%	347	685K to 2.85M	1.347M	2
1800	Placide, The	54	7	13.0%	167	575K to 895K	736K	0
2000	Whitehall	164	6	3.7%	166	267K to 649K	473K	3
2494	Aragon, The	41	2	4.8%	164	2.195M to 2.45M	2.323M	1
2500	Luxuria, The	24	3	12.5%	274	3.0M to 4.9M	4.033M	2
2600	Stratford Arms	120	6	5.0%	71	590K to 929K	689K	2
2800	Whitehall South	256	2	0.1%	53	425K to 899K	662K	4
3000	3000 South	80	5	6.3%	207	499K to 679K	556K	0
<b>S/T</b>	<b>South Beach</b>	<b>1132</b>	<b>60</b>	<b>5.3%</b>	<b>207</b>		<b>1.014M</b>	<b>17</b>

<b>Totals</b>	<b>April 2012</b>	<b>2154</b>	<b>105</b>	<b>4.9%</b>	<b>258</b>		<b>1.121M</b>	<b>25</b>
<b>Totals</b>	<b>April 2011</b>	<b>2154</b>	<b>134</b>	<b>6.2%</b>	<b>227</b>		<b>1.055M</b>	<b>21</b>

### Key:

**TA** = Total Number of Apartments in Development \* **AA** = Number of Apartments Available For Sale  
**%A** = Percent of Apartments in Development For Sale \* **ADOM** = Average Number of Days on Market per Listing  
**PC** = Number of Apartments SOLD and Pending Closing

This information is compiled from RMLS, Inc., on February 28, 2012. This representation is based in whole or in part on data supplied by the RMLS, Inc. RMLS, Inc. does not guarantee or is not in any way responsible for its accuracy. Data maintained by RMLS may not reflect all real estate activity in the market.