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THE BOCA BEACH REPORT

April 2014

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

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When ideas in tax and other legal areas in this publication seem to fit your situation, it is recommended that you discuss them with your professional advisor before taking action.

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 ➤

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as liable as the neighbor 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 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. ❖

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. ➡

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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. ❖

Keep Records On Home Improvements For Taxes

In keeping records on your home, first and foremost, adopt the principle that nothing will be left to memory. Trying to recall, from unwritten memory, at age 65 or so, the cost of a new roof that was put on your home some 20 or 30 years ago is virtually impossible. So use a book. Probably best is an accounting-paper (lined and ruled) hard-backed book to which pages cannot be inserted or substituted. Here are the entries that should be made:

- Enter the exact address (street, city and state) of the residential property.
- Record the date of purchase and your costs, including fees and closing costs.
- Insert the date on which the home improvement project was started (such as, the date on which a contract was signed with an electrician, plumber or roofer).
- Describe the project. It is wise to put an envelope or pocket in the book so that you can file a copy of the contract or a written estimate provided for the job.
- Insert the date on which the home improvement project was completed. This detail is particularly important when a project takes a long time, covering periods in two different years.
- Enter the costs paid. These figures may be segregated by labor and materials. Costs should show the contractually agreed upon amount, and additional expenses that were paid as the project actually proceeded.

- Keep receipts, canceled checks, and similar written evidences of payments made. It is essential that you be able to "prove" the capital expenditure payments made and that calls for more than simply the entry of a dollar amount in a record book or a ledger.

- Start a new page for the next home you own and repeat the same kind of entries.

Why The Records

If you live in a home for many years, the increase in value may exceed the \$250,000 or \$500,000 that is allowed to be forgiven in taxes on the gain.

The owner will have to pay tax on the gain he or she realizes over that figure and the purchase price at the time of the sale. At selling time, the amount of gain might be overstated because the homeowner's basis will be undervalued unless the owner has records that (1.) substantiate the original cost of the home, and (2.) *prove the capital improvement expenditures made over the years.*

Although most homeowners have good records to establish what they paid for their homes, very few have records (or even have given thought to keeping records) to determine the amounts spent for improvements. The lack of proof generally means big trouble with the Internal Revenue Service; the homeowner could lose badly in the amount of taxes that must be paid.

The Solution: That is why we recommend creating the ongoing, permanent, written record. Set up a special, separate book in which to record the details of each and every outlay of money for home improvement. It will save money. ❖

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	1	25.0%	175	3.2M	3.2M	0
2066	Ocean Reef Towers	55	3	5.5%	100	549K to 825K	659K	0
2000	Brighton	39	0	0.0%	0	SOLD OUT	N/A	0
S/T	North Beach	106	4	3.8%	101		1.294M	0

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	13	9.4%	275	275K to 1.3M	762K	3
310	Boca Mar	38	2	5.3%	67	189K to 265K	227K	0
350	Beresford	53	0	0.0%	0	SOLD OUT	N/A	0
400	Excelsior, The	27	5	18.5%	455	3.125M to 4.999M	4.104M	0
500&550	Chalfonte, The	378	8	2.1%	80	425K to 895K	665K	2
600	Sabal Shores	125	10	8.0%	106	399K to 995K	750K	1
700	Sabal Point	67	4	6.0%	144	529K to 1.75M	1.202M	0
750	Sabal Ridge	31	0	0.0%	0	SOLD OUT	N/A	1
800	Presidential Place	42	0	0.0%	0	SOLD OUT	N/A	1
1000	One Thousand Ocean	52	5	9.6%	161	3.95M to 13.95M	7.259M	0
S/T	Boca Beach	968	47	4.9%	193		1.804M	8

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	4	4.2%	95	375K to 999K	643K	1
1200	Cloister Beach	128	1	0.8%	13	374K	347K	2
1400&1500	Addison, The	169	8	4.7%	358	775K to 3.95M	1.795M	3
1800	Placide, The	54	2	3.7%	209	659K to 1,299M	979K	1
2000	Whitehall	164	3	1.8%	46	499.9K to 950K	750K	2
2494	Aragon, The	41	6	14.6%	133	1.95M to 6.495M	3,464M	0
2500	Luxuria, The	24	2	12.5%	391	3.995M to 6.99M	5.493M	1
2600	Stratford Arms	120	2	1.7%	42	800K to 850K	825K	1
2800	Whitehall South	256	5	2.0%	62	795K to 1.149M	946K	3
3000	3000 South	80	1	1.3%	53	1.25M	1.25M	1
S/T	South Beach	1132	34	3.0%	172		1.792M	15

Totals	April 2014	2206	85	3.8%	180		1.775M	23
Totals	April 2013	2206	105	4.8%	251		1.666M	28

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 FlexMLS on February 25, 2014. This representation is based in whole or in part on data supplied by FlexMLS.
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